

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

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In Re:)	Case No. 10-43400-dml-11
)	Chapter 11
TEXAS RANGERS BASEBALL)	
PARTNERS,)	Fort Worth, Texas
)	Tuesday, July 20, 2010
Debtor.)	9:00 a.m. Docket
)	
)	EXPEDITED JOINT MOTION OF
)	LENDER PARTIES FOR
)	RECONSIDERATION OF COURT'S
)	ORDER ADOPTING BIDDING
)	PROCEDURES
)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE D. MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE.

APPEARANCES:

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1 FORT WORTH, TEXAS - JULY 20, 2010 - 9:02 A.M.

2 THE COURT: Please be seated. All right. This is the
3 Texas Rangers Baseball Partners case. I'll call the telephone
4 roll first. Mr. D'Apice for the Commissioner of Baseball?

5 MR. D'APICE: Present, Your Honor.

6 THE COURT: Mr. Seltzer for Major League Baseball?

7 MR. SELTZER: For the Players Association. Good
8 morning, Your Honor.

9 THE COURT: I'm sorry. Okay. We got you wrong on
10 that. I apologize.

11 And Mr. Baer for Finn Dixon Herling, LLP, an interested
12 party?

13 MR. BAER: Good morning, Your Honor.

14 THE COURT: All right. Could I have appearances in
15 the courtroom, please?

16 MR. SOSLAND: Good morning, Your Honor. Martin
17 Sosland, Vance Beagles and Yolanda Garcia for Texas Rangers
18 Baseball Partners.

19 THE COURT: All right.

20 MR. AVERCH: Good morning, Your Honor. Craig Averch
21 and Glenn Kurtz with White & Case on behalf of Rangers Baseball
22 Express.

23 THE COURT: Welcome back, Mr. Kurtz.

24 MR. KURTZ: Thank you, Your Honor.

25 THE COURT: I imagine you're just thrilled to be in

1 Fort Worth in late July.

2 MR. KURTZ: It's as warm as I remember, Your Honor.

3 THE COURT: Yes.

4 MS. KIPPES: Meredyth Kippes for the United States
5 Trustee.

6 MR. ESSERMAN: Good morning, Your Honor. Sandy
7 Esserman of Stutzman Bromberg Esserman & Plifka, and Steve
8 Shimshak of Paul Weiss, for Major League Baseball.

9 THE COURT: All right.

10 MR. STRUBECK: Good morning, Your Honor. Louis
11 Strubeck and Mike Steindorf from Fulbright & Jaworski on behalf
12 of the Rangers Equity Holdings entities.

13 MR. STEWART: Dan Stewart of Vinson & Elkins and Andy
14 Leblanc of Milbank Tweed on behalf of the Ad Hoc Group of First
15 Lien Lenders.

16 MR. PROSTOK: Jeff Prostok and Bobby Forshey,
17 conflicts counsel for the Debtor.

18 MS. O'NEIL: Good morning, Your Honor. Holly O'Neil
19 with Gardere Wynne and David Sullivan with Clifford Chance on
20 behalf of GSP Finance, the Second Lien Agent.

21 While I'm at the podium, Your Honor, I wanted to comment
22 that one of the witnesses that the Court requested be in
23 attendance is one of the lender's principals. Mr. Sal
24 Galatioto is on a plane -- actually, I think they just landed
25 -- and he will be here shortly. I just wanted to let the Court

1 know. He is unable to stay tomorrow, but can come back on
2 Thursday. But we are going to end up or try to present him to
3 the Court today.

4 THE COURT: Thank you.

5 MS. O'NEIL: Thank you.

6 MR. ROBERTS: Good morning, Your Honor. Ian Roberts
7 of Baker Botts on behalf of the Major League Baseball Players
8 Association.

9 MR. DEWOLF: Good morning, Your Honor. Scott DeWolf,
10 Rochelle McCullough, and Joe Fabiani, Latham & Watkins, on
11 behalf of JPMorgan Chase.

12 THE COURT: All right.

13 MR. JESSUP: Good morning, Your Honor. Clifton Jessup
14 and Bruce White of the firm Greenberg Traurig on behalf of an
15 undisclosed potential bidder. Pursuant to Page 4 of the
16 bidding procedures, we're not permitted to announce who that
17 is, but we'd be happy to announce it to the Court in chambers
18 if the Court would like.

19 THE COURT: No. That's fine.

20 MR. JESSUP: Thank you, Your Honor.

21 THE COURT: Anyone else?

22 (No response.)

23 THE COURT: All right. This is the Lenders' Motion to
24 Reconsider the Order Establishing Bidding Procedures. Mr.
25 Leblanc, am I correct in assuming that you'll be lead counsel

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1 for the Bank Group?

2 MR. LEBLANC: Your Honor, that is correct.

3 THE COURT: All right. Call your first witness.

4 MR. LEBLANC: Your Honor, I actually believe Mr.
5 Strubeck is going to call Mr. Snyder as the first witness.

6 THE COURT: All right. Mr. Strubeck?

7 MR. STRUBECK: Yes, Your Honor. I'd call William
8 Snyder as the first witness, Your Honor.

9 THE COURT: Okay. Mr. Snyder, step over here, the
10 court reporter will swear you in, and then you may be seated.

11 WILLIAM K. SNYDER, LENDERS' WITNESS, SWORN

12 MR. STRUBECK: Your Honor, we only have two exhibits
13 for Mr. Snyder's testimony, that I don't think are
14 controversial, as we disclosed it on our witness and exhibit
15 list yesterday evening. One is the engagement letter, and the
16 second is Your Honor's order that authorized the employment of
17 Mr. Snyder. I'd approach the bench now if you'd like to get
18 copies of it. It might be simpler to do it --

19 THE COURT: I presume that the order is part of the
20 Court's record and that therefore it need not be offered as an
21 exhibit. The Court will take judicial notice of it.

22 MR. STRUBECK: Thank you, Your Honor.

23 THE COURT: If you wish -- does any party object to
24 the engagement letter being introduced?

25 MR. SOSLAND: No, Your Honor. You know, we've never

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1 seen a fully executed version, and so we'd like to have a copy
2 of it.

3 THE COURT: All right. Mr. Kurtz?

4 MR. KURTZ: Your Honor, we have no objection, but I
5 did want to raise -- because there are timing issues here --
6 that our understanding is the CRO produced documents last
7 night to the Debtor and perhaps others. We have requested
8 copies of those documents, and that request has been refused.
9 So we have an objection to, really, any evidence that's
10 submitted by the CRO if they refuse to produce the documents
11 he was in connection with this proceeding.

12 THE COURT: I'll keep that in mind. Thank you, Mr.
13 Kurtz.

14 MR. STRUBECK: All right. Your Honor, would the
15 Court --

16 THE COURT: I will admit the exhibit. You will
17 provide a copy to Mr. Kurtz.

18 (Rangers Equity Holdings Exhibit 1 is received into
19 evidence.)

20 MR. STRUBECK: Sure, Your Honor. I thought that we
21 have provided a copy yesterday, but -- I'm referring to the
22 production that was made last night.

23 THE COURT: Yes. Well, --

24 MR. STRUBECK: Well, we have some issues to discuss
25 in connection with that, Your Honor. I'm happy to do it now

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1 or when the Court thinks it's appropriate.

2 THE COURT: Just proceed with your witness, Mr.
3 Strubeck.

4 MR. STRUBECK: May I approach, Your Honor? I have
5 some extra courtesy copies of these.

6 THE COURT: Yes.

7 (Pause.)

8 DIRECT EXAMINATION

9 BY MR. STRUBECK:

10 Q Good morning, Mr. Snyder.

11 A Good morning.

12 Q Would you please state your full name for the record?

13 A William Knight Snyder. K-N-I-G-H-T is the middle name.

14 Q And Mr. Snyder, what do you do for a living?

15 A I'm what's termed normally a crisis manager or turnaround
16 manager. I work for CRG Partners Group, LLC.

17 Q All right. And what is your role in the case? Why are
18 you here testifying today?

19 A Well, I was chosen to be the CRO about June 23rd of the
20 equity holder, the parent of the Texas Rangers baseball team.
21 And so that -- and then on June the 24th, I hired you after
22 you cleared call conflicts. And then spent that weekend
23 defining my role as CRO. You know, that scope was defined.
24 And then the order defining my scope was entered on June the
25 28th, I believe.

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1 Q And Mr. Snyder, you haven't testified before the Court in
2 this case yet, have you?

3 A No, I have not.

4 Q This is your first appearance, correct?

5 A In this case, yes.

6 MR. STRUBECK: Your Honor, may I approach?

7 THE COURT: Yes.

8 BY MR. STRUBECK:

9 Q Mr. Snyder, I'm going to hand you what's been marked, I
10 think, as Rangers Exhibit 2. And is that the order that you
11 referred to with respect to your retention or the Court's
12 approval of your retention as the Chief Restructuring Officer
13 for the Ranger Equity Holding entities?

14 A Yes.

15 Q All right. And if you would, would you describe for the
16 Court the process that you went through in order to be engaged
17 by the Texas -- or, by the Rangers Equity Holding entities?

18 A Um, --

19 Q And let me help you a little bit, to speed up the
20 testimony. You had said that you were retained -- you were
21 retained pursuant to the Court's direction around June the
22 22nd, correct?

23 A Correct.

24 Q And what process did you go through to actually get
25 formally engaged by the Ranger Equity Holding entities?

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1 A Well, once you were engaged, the big issue was just
2 defining the scope and my employment agreement. So that --
3 that was actually pretty laborious. I would say it's probably
4 the most difficult scope I've ever had to negotiate in 22
5 years.

6 Q And why was that?

7 A Well, I think there was a huge dispute amongst the Lenders
8 and the Debtor as to what my scope and authority would be.
9 And so there was a lot of nitpicking to the Judge's -- from
10 the Judge's comments, trying to decipher what was meant. And
11 so there was -- we finally did reach an agreement that weekend
12 amongst the parties. And we ended up actually, I think,
13 trying to put together two forms of an order, and then having
14 the Judge enter one or one of his own so I could get working.

15 MR. STRUBECK: May I approach, Your Honor?

16 THE COURT: Yes.

17 (Pause.)

18 BY MR. STRUBECK:

19 Q Mr. Snyder, I'm going to -- Mr. Snyder, I've just handed
20 you what's been marked as Exhibit 1, Rangers Equity Exhibit 1.

21 A This is the engagement letter between CRG and Ranger
22 Equity Holdings, GP and Ranger Equity Holdings, LP.

23 Q All right. Just so that we can eliminate any confusion
24 and hopefully make for a clear record, if I were to refer to
25 the Ranger Equity Holding entities, do you know what I mean by

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1 that?

2 A Yes.

3 Q And what do I mean by that?

4 A Those are the entities that sit above the Ranger baseball
5 team.

6 Q Are those the entities that hold the equity interest in
7 the Rangers?

8 A Yes.

9 Q And are those the entities for which you act as the Chief
10 Restructuring Officer?

11 A Yes.

12 Q All right. Exhibit 1 is the engagement letter, and it is
13 between you and which entities?

14 A Oh, the Ranger Equity Holdings, GP and Ranger Equity
15 Holdings, LP. My firm and those two.

16 Q All right. I'm --

17 A The Ranger Equity.

18 Q Sorry.

19 A I'm sorry.

20 Q On behalf of the Ranger Equity Holding entities, who
21 executed the engagement letter?

22 A Oh, that was executed by Tom Hicks.

23 Q All right. Would you describe for the Court your
24 understanding of what you're supposed to be doing as the Chief
25 Restructuring Officer for the Ranger Equity Holding entities?

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1 A Well, three primary issues. One is evaluating the plan of
2 reorganization that had been filed, trying to understand it
3 and determine, you know, everything involved with it. Also,
4 voting on -- I had to vote the stock. And then advising the
5 Equity as needed as to issues.

6 Q Was part of the scope of your authority, as contained in
7 Exhibit 1, advising the Court as to your findings and as to
8 your conclusions regarding the plan of reorganization?

9 A (no immediate response)

10 Q If you'll look at the second paragraph, --

11 A Yes.

12 Q -- Romanette, --

13 A Yes. Advising the Ranger Equity and the Court --

14 Q All right.

15 A -- on my views and of the plan. Yes.

16 Q Okay. You mentioned that at the time that you were
17 appointed -- and the order that appointed you was entered on
18 the 28th of June. Is that correct? That would be Exhibit 2.

19 A That's correct.

20 Q All right. You said that there was a plan on file.
21 Generally describe your understanding of what the plan
22 provided for.

23 A Well, the plan provided for a sale. It was a sale of the
24 team to the Greenberg Group. I'll just call them that. And
25 it was for approximately \$520 million of total consideration.

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1 And it was being sold pursuant to a plan of reorganization,
2 rather than a 363 sale. And it also provided a -- the APA was
3 cross-linked to an APA to purchase basically the parking lots
4 from Baseball Rangers Real Estate. I guess BRE Group, we call
5 them. And so that was a -- approximately a \$70 million
6 transaction. So BRE is not in bankruptcy, but the APA did
7 reference it. And that -- and then that's basically it. It's
8 a sales-through.

9 Q All right. And the sale that you just described in the
10 plan that was on file at the time you got appointed, it didn't
11 provide for any kind of an auction of the Rangers, did it?

12 A No. It was sold on an exclusive basis to Mr. Greenberg.
13 So there was no auction.

14 Q All right. And at the time you got appointed, when was
15 the confirmation hearing scheduled on that plan? Do you
16 recall?

17 A Oh, yeah. The -- I had to vote, I think, on July the 8th,
18 and the confirmation was on July the 9th. So I had about two
19 weeks.

20 Q All right. Since this is the first opportunity you've had
21 to tell that Court what you've done since you were appointed
22 as the Chief Restructuring Officer, --

23 MR. SOSLAND: Objection, Your Honor. This question
24 in several preceding it, --

25 MR. STRUBECK: All right.

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1 MR. SOSLAND: -- there's a fact not in evidence that
2 this -- the appointment of Mr. Snyder. In fact, Mr. Snyder
3 was retained by the two equity partners, and the Court's order
4 authorized, then, the retainment. I don't think -- believe
5 the Court appointed Mr. Snyder to do anything. And it's
6 misleading in the record.

7 THE COURT: All right. You're objecting to form,
8 then?

9 MR. SOSLAND: Yes, Your Honor.

10 THE COURT: I'll sustain the objection. Proceed --

11 MR. STRUBECK: All right.

12 THE COURT: -- accordingly, Mr. Strubeck.

13 BY MR. STRUBECK:

14 Q Mr. Snyder, following your retention as the Chief
15 Restructuring Officer by the Ranger Equity Holding entities,
16 tell the Court generally what you did.

17 A Well, I mean, immediately we just tried to meet with all
18 the parties. I think even before the Judge entered the order,
19 I had already met with Marty and his group. I've spoken to
20 the Ad Hoc Group, the Agent for the First Lien Lenders. I
21 spoke to the mediator several times, at length. And I think
22 when the order was entered, I was in New York with you, you
23 know, meeting with the MLB, the Ad Hoc Group, and meeting with
24 the First Lien Lenders and their advisor.

25 So I spent the first four days just vivacious, literally

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1 meeting everybody and gathering documents and trying to
2 understand the -- you know, what was all involved, because
3 this took a long time to put this deal together, and just
4 trying to understand all the pieces and getting the data rooms
5 was, you know -- just trying to absorb all the data. It was
6 like drinking out of a fire house.

7 Q All right. And based upon that initial due diligence that
8 you just described, did you have any concerns as to whether
9 July the 8th was going to give you enough time to formulate an
10 opinion as to whether to vote in favor as to the plan?

11 A Well, after the -- by the time I met with Greenberg, I was
12 -- you know, at that point, with everything, I only had a week
13 to go before I voted, and I -- at that point, after that first
14 week of the diligence, I was probably inclined not to vote for
15 the plan. I had a lot of concerns. You know, there was just
16 a lot of issues involved in that plan that -- you know, for
17 instance, the prepetition process, there was still arguing
18 over what was really the best and highest offer. There's a
19 lot of argument amongst the parties as to what was the best
20 deal. There was -- it was sold pursuant to a plan, and so
21 there were a lot of things wrapped up in that plan. There are
22 indemnities and such that, you know, was there really adequate
23 consideration? There was transfers of debt and items into the
24 Debtor right prior to the sale.

25 So there were a lot of issues that tainted it. You know,

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1 like a stinky process. It was a tainted process.

2 So, at that point, I had to decide: Are we going to get a
3 fair price or a fair process? That's what it came down to:
4 Can we get a fair price or a fair process? And because of the
5 way the deal was structured -- and I think Judge Nelms was
6 going to have a very, very hard time getting a fair price. I
7 think the mediator was going to struggle mightily to try to
8 get a fair price under the structure of the deal.

9 So I started focusing on a fair process. Is there a way a
10 process could be derived, whatever the outcome, that everybody
11 agreed they would live with it? So that's where I was after
12 the first week.

13 Q All right. And you said that in the days that immediately
14 followed your retention as the Chief Restructuring officer,
15 that you went to New York and you met with the Lenders, you
16 met with Major League Baseball, and you met with the Second
17 Lien Holders as well, correct?

18 A Correct.

19 Q And following those meetings, did you have a chance to
20 meet with anybody who represented or who spoke for RBE, the
21 purchaser under the plan?

22 A Well, when we came back from New York, I did meet with the
23 Ranger Baseball Express. Greenberg. I'll call them
24 Greenberg's Group, because that's who -- that's really the
25 face of that group, of Chuck. And so that following

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1 Wednesday, I did go out and met with the Debtor first. I met
2 with the Debtor, and then that afternoon Greenberg came out
3 with his counsel. And it was Mr. Lauria. It was like old
4 home week. So, Tom Lauria was there, and Averch, and they --
5 and he had retained them.

6 So we had a meeting with Greenberg and Lauria, and we
7 broke, and we took time to meet with the mediator and talked
8 to the mediator about how we could get something going in the
9 construct of a fair process.

10 Q And then you testified earlier about your focus being on
11 whether there be a fair process or a fair price. As a result
12 of that meeting with Mr. Greenberg and his group that you just
13 described, did you and Mr. Greenberg reach any agreement in
14 terms of proceeding with a process to sell the Rangers?

15 A Well, after talking to the mediator about --

16 MR. SOSLAND: Your Honor, I object to discussions
17 with the mediator being made. I believe the Court's order has
18 provided that all discussions in mediation be confidential.

19 THE COURT: Mr. Strubeck?

20 BY MR. STRUBECK:

21 Q Let me phrase it this way, Mr. Snyder. After your meeting
22 with Mr. Greenberg, did you and Mr. Greenberg's group agree to
23 a procedure that involved the sale of the Rangers?

24 A Yes. Yes. So what we did is, after meeting with Mr.
25 Greenberg that afternoon and Tom Lauria, agreed that a sale

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1 process would at least have a definitive beginning and end,
2 and might be the best way to resolve the issue. So, yes, we
3 -- that was the -- that was -- at the -- by the end of the
4 day, that's where we were, was trying to find a sale process
5 that we could all agree on.

6 Q And again, at the time that you were having your meeting
7 with Mr. Greenberg and his group, at that point in time the
8 confirmation hearing on the plan was still scheduled for July
9 the 9th, correct?

10 A That's correct.

11 Q And your vote was due on July the 8th?

12 A Correct.

13 Q As part of the discussions that you had with Mr.
14 Greenberg, did you reach an agreement with him that provided
15 for a continuance of the confirmation hearing and also the
16 date on which you would have to vote on the plan?

17 A Yes. That, I believe, got moved to the 22nd or 23rd --

18 Q All right.

19 A -- and allowed for a different process. So part of that
20 agreement on that day was to not move forward on the 9th.

21 Q And you referred to this agreement that was reached with
22 Mr. Greenberg's group. Other than the extension or
23 continuance of the time for the confirmation hearing and your
24 vote, what else did the agreement with Mr. Greenberg entail?

25 A Well, what it did was entail trying to come up with a sale

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1 process that would incorporate his timelines and also
2 incorporate that the other bidders could participate in. So I
3 got Greenberg's timelines, and then I called Mr. Beck and I
4 called Mr. Crane and asked them if they could live with those
5 timelines.

6 Q Okay. Let's take a step back. Just so the record is
7 clear, who is Mr. Beck and who is Mr. Crane?

8 A I'm sorry. Mr. Beck and Mr. Crane were two of the parties
9 that had participated earlier, prepetition, in the sale
10 process. They were the other, quote, "bidders" that -- well,
11 there were other bidders, too, but they were the final. There
12 were three final bidders. There was the Beck Group.
13 Remember, these are groups. They'll have a face. And then
14 you had -- Jim Crane was a group and Mr. Greenberg was a
15 group. Those three groups. And those were the three groups
16 that went into the quote "auction process" and, you know,
17 prepetition. And so they are the ones that I had called back
18 and talked about this process with Greenberg and asked them if
19 they could participate on those timelines, after we had laid
20 out the timeline that Greenberg said he needed to get
21 completed by to get the sale done. And --

22 Q What did you do next after you had that conversation or
23 those conversations with Mr. Beck and Mr. Crane?

24 A Well, at that point, I went back and we worked through the
25 night. Lauria and -- we worked through the night with -- and

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1 we called Marty Sosland. We called Marty. And Marty started
2 drafting the sale agreement, the sale procedures motion. So
3 Marty worked on that. And then we have several drafts of it
4 and we had arguments over, you know -- well, maybe I'd call
5 them discussions, I guess, over the different processes. And
6 so we reached an agreement, I think, Sunday night or Monday,
7 the day before the mediation, because we were having a
8 mediation on the 6th.

9 Q And just so that we've got the right timeline in mind
10 here, would that have been over the July 4th weekend? Is that
11 the weekend that you're talking about now --

12 A Yes.

13 Q -- in terms of these discussions?

14 A It was the July 4th weekend, yes.

15 Q All right. And you said that on July the 5th, which was a
16 Monday, that a motion got filed?

17 A That's correct.

18 Q Now, did you file that motion? Did you -- or did you
19 cause me to file that motion?

20 A No, no. We asked Marty to file it, and Marty filed the
21 motion.

22 Q Okay. Why did you ask Mr. Sosland to file the motion?

23 A Well, in my retention agreement, if I'm going to file
24 anything, I have to ask for permission to do it. So it's
25 easier just to ask Marty to file that motion, which he did.

1 Q And so that motion filed on July the 5th, correct?

2 A Correct.

3 Q And the following day was the mediation?

4 A Correct.

5 Q All right. Did anything happen at the mediation that
6 affected your willingness to go forward with those sale
7 procedures?

8 A Yes.

9 Q And what was that?

10 A Well, the mediation occurred that Tuesday, and --

11 THE COURT: Just a minute.

12 MR. SOSLAND: Objection, Your Honor. I mean, a
13 mediation is confidential. You're not supposed to come out of
14 a mediation and say, "Something happened in there that I want
15 to talk about as a basis for my activity."

16 THE COURT: Mr. Strubeck?

17 BY MR. STRUBECK:

18 Q Well, Mr. Snyder, let me ask it this way. The mediation
19 was on July the 6th, correct?

20 A Correct.

21 Q On July the 6th, did you inform the BRE Group, Mr.
22 Greenberg, that you were no longer supporting the bid
23 procedures?

24 A On the 6th? I did, yes.

25 Q And why did you do that?

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1 A Well, after meeting --

2 MR. SOSLAND: Your Honor, if he's about to testify
3 that his reason concerned something that happened in the
4 mediation, then I renew my objection.

5 THE COURT: All right. Mr. Kurtz and Mr. Strubeck,
6 come over here. You are welcome to join, Mr. Sosland, or, in
7 reason, anyone who wants to who's a lawyer.

8 (Sidebar conference.)

9 THE COURT: All right. My understanding is that the
10 discussions that Mr. Snyder is going to testify to were not
11 before the mediator and therefore were not, in my judgment,
12 subject to the confidentiality requirements. And therefore
13 I'm going to overrule the objection and allow Mr. Snyder to
14 answer.

15 BY MR. STRUBECK:

16 Q And let me rephrase it to make it easier for you, Mr.
17 Snyder, I hope. Did anything happen on July 6th that caused
18 you to withdraw your support for these procedures you
19 testified you had agreed to with Mr. Greenberg's group?

20 A Yes.

21 Q And what happened?

22 A Well, I had -- I met with Mr. Greenberg -- Mr. -- well, I
23 met with Mr. Crane and Mr. Beck. They came to the -- to
24 Dallas. They came to the mediator. I met with them
25 individually, and it was clear that, what they told me on

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1 Thursday and Friday, they could live with those timelines, was
2 wrong, that they could not. And they had worked over the
3 weekend trying to get prepared to live with that timeline,
4 and, for instance, Mr. Beck, even though he'd participated in
5 the process prepetition, he wasn't really yet qualified. I
6 mean, he thought he had, but he wasn't.

7 Now, he has been since. I mean, the MLB has been working
8 with us, I mean, trying to help us out. But at that point, he
9 wasn't even qualified, had been cleared, you know. He thought
10 he had been, but he hadn't. He wasn't. And so we had issues
11 where, you know, people that thought they were in a position
12 to bid were not, and they could not. And he didn't know how
13 long that would take to get cleared.

14 And then we also had an issue where the financing that
15 some of the -- that people thought they had, some of those
16 lenders were also in the Greenberg deal and so they had to go
17 through a process where those lenders could be allowed to be
18 bidding on two deals. You know, financing two deals. So the
19 buyer that thought that he could just pick up the pieces on
20 his financing over the weekend discovered that he could not do
21 that because there was a -- so, we had a financing issue, we
22 had an approval issue.

23 And so it became apparent that that time frame wouldn't
24 work, and so we would have a one-legged auction. We'd have an
25 auction with one guy showing up, and then not a true market

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1 test. And they needed a few more weeks. And I went back and
2 met with Greenberg and told him I couldn't live with those
3 time frames and is there another time frame he could live with
4 so that these guys could get prepared and could bid for real?
5 And we couldn't come to an agreement, so I pulled my support
6 because having a one-legged auction was not my idea of a fair
7 process.

8 Q Okay. Now, you said you pulled your support. Did you
9 file anything to cause the motion that you testified to
10 earlier involving these procedures with the Greenberg Group to
11 be withdrawn?

12 A No. No. I asked Mr. Sosland to pull that support, and he
13 did.

14 Q And he did?

15 A He did. Yeah.

16 Q When was the first time that you learned that Mr.
17 Sosland's clients were proposing new bid procedures that would
18 involve the Greenberg Group as the stalking horse?

19 A Oh, that was last Tuesday morning, I think. Last Tuesday
20 morning, you called me and the Debtor had filed new bidding
21 procedures.

22 Q And prior to the filing of that motion, did the Debtors
23 consult with you? Did the Debtor, Texas Rangers Baseball
24 Partners, consult with you about those bid procedures?

25 A No. I did not know they were going to submit new bid

1 procedures, no.

2 Q And so you learned of them for the first time last Tuesday
3 morning? Is that your testimony?

4 A Correct. And you told me you were -- there was a hearing
5 and you were going over there in four or five hours.

6 Q Now, were you able to attend at that hearing?

7 A No.

8 Q And why not?

9 A I had another hearing in Austin that I was traveling to
10 that day.

11 Q All right. Now, in connection with that hearing, you had
12 instructed me to advise the Court that you in your capacity as
13 the Chief Restructuring Officer for the Ranger Equity Holding
14 entities didn't support those sale procedures. Correct?

15 A Correct.

16 Q And why didn't you support those sale procedures?

17 A Well, I wasn't sure that the other bidders could come up
18 to speed that quickly. You know, I did not -- because I was
19 working -- because one of the bidders from the previous -- you
20 know, we were running a previous sale process. One of the
21 bidders was pulling together his information. And in fact, he
22 was putting together a bid to be the stalking horse in a new
23 procedure. So we were right in the middle of that and had
24 gotten all the way to a marked-up APA and everything else. So
25 we had another bidder that was willing to go forward on a 363

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1 basis, not a plan. A cleaner deal. It didn't involve the
2 airplane. It doesn't involve the land. It didn't involve the
3 parking. Insiders. It was a cleaner deal.

4 So that deal was left over from the previous sale process.
5 And so I did not think that re-filing that sale process under
6 the plan, under the current plan, made any sense when we could
7 get a cleaner deal just under a straight 363 sale, without any
8 insider ever having to sign one piece of paper. So -- and
9 therefore you might end up, once again, where I -- the mistake
10 I made. You end up with a one-legged auction, right?

11 And so, in four hours, in the little time we had, I wasn't
12 sure that I could get the other bidders or anybody could get
13 the other bidders up to speed quick enough to go under those
14 auction procedures. So I was, once again, fair price/fair
15 process is trying to find a bidder that could fit in there.
16 Until you know you've got two bidders, you know, you don't
17 call an auction, because then you don't necessarily have a
18 fair outcome, a fair test.

19 Q Now, if you were presented with a choice of whether to
20 support the auction procedures that are currently in place
21 that we're here talking about today or to revert back to just
22 having a plan go forward that has an exclusive opportunity for
23 Mr. Greenberg to purchase the Rangers, which would you think
24 is the correct course, in your capacity as the CRO for the
25 Ranger Equity Holding entities?

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1 A Well, if there is another bidder that can work with those
2 auction procedures -- and they may have just walked in through
3 that door; you know, they may actually be here right now -- if
4 there's somebody that can work with those auction procedures
5 or tweak them to work, I'm in favor of that sale process.

6 Okay. I think the sale process is a better process.

7 If we can't have a fair auction, then I'd rather go back
8 to the plan with the exclusive bidder. I'd rather go back
9 with Chuck being the exclusive guy, with the threat of vetoing
10 the plan to get his bid up and get Mr. Hicks to throw more
11 money in.

12 So, you know, I think if we can -- we've got to do one of
13 two things. We've either got to get a sale process where we
14 have a true market test -- which may work; actually, what the
15 Judge has out there maybe could work with some tweaking -- or,
16 if we can't get there, just go back to the plan and let Chuck
17 be the exclusive guy and sit down and have a mediation and let
18 Judge Nelms whack everybody over the head and see if we can
19 get the price up. So, I think that -- but right now, today,
20 unless there's another bidder that can come in and work with
21 those procedures, I'd rather go back to the plan and the veto
22 vote.

23 Q Let me ask you a question. You had testified earlier
24 that, you know, in a perfect world, you would like for there
25 to be a sale that ran separately from the plan under Section

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1 363 of the Code. Is that correct?

2 A Yes. Under --

3 Q All right.

4 A In this case, I would prefer to sell it under 363 rather
5 than through a plan. That's --

6 Q And why is that?

7 A Well, the plan, there's so much stuff in there. There are
8 -- after looking at this case, you know, I think you could
9 argue -- there might be a sub-con argument and some other
10 arguments. So there could be some serious causes of action
11 that are barred from the plan. You know, if the plan goes
12 through, then there are some causes of action that could be
13 barred, and there could be some serious recoveries after a
14 sale.

15 So it seems to me like, with those things lingering out
16 there -- you've got transfers, you've got a possible sub-con,
17 you've got possible things that can be -- Chapter 5 actions --
18 so it seems to me, with all of that out there, that the
19 smarter thing is just to have a straight-up 363 sale. 363.
20 Clean. And then file a -- you know, get a plan done after
21 you've researched all these possible causes of action and make
22 sure you're not leaving something on the table. Because once
23 the plan goes through, I think you're sort of barred. You
24 know, there -- you're sort of barred from going back and
25 fixing some of the stuff that was done prepetition.

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1 Q And from your perspective as someone who's had a fair
2 amount of experience as acting as a chief restructuring
3 officer in other cases, do you see that there would be any
4 prejudice to a potential bidder if it were to purchase the
5 Rangers pursuant to a Section 363 sale as opposed to under a
6 plan?

7 MR. KURTZ: Objection. Foundation.

8 MR. STRUBECK: That's --

9 THE COURT: Well, I think it calls for a legal
10 conclusion. And while I recognize Mr. Snyder is a well-versed
11 layman in the law, I'm going to sustain the objection.

12 BY MR. STRUBECK:

13 Q All right. Mr. Snyder, let me ask you a question. You
14 had made it known earlier that you thought, if an auction
15 process were approved, that August the 6th might be an
16 appropriate date for an auction to be held. Do you remember
17 that was your view at one time?

18 A Yes.

19 Q Is that still your view?

20 A Well, yeah. I mean, it's -- the guy, the other stalking
21 horse deal, was set for that date. I mean, so -- when we were
22 going through the previous sale process, the guy that said he
23 wanted to be the stalking horse, before this new process was
24 filed, had sort of targeted August the 6th as the date for a
25 close.

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1 Q And you had referenced a second ago an attempt to
2 substantively consolidate the Debtors in this case. Have you
3 filed a motion asking the Court for authority to file a
4 substantive consolidation motion?

5 A Last night, yes.

6 Q And why did you decide to file that motion?

7 A Well, I thought there was some important facts that I had
8 uncovered in the last two weeks that I think it was important
9 for the Court to know. That I think if there's really a
10 possible sub-con action and recoveries out of that, then you
11 would not want to do anything to bar those potential
12 recoveries down the road.

13 Q In your view, what is the effect, if any, of that
14 substantive consolidation motion on a sale of the Rangers?

15 A Well, if it's sold through a 363 sale, without indemnities
16 and the like, that sub-con actually isn't going to be
17 affected. But if it's sold through the present plan, with all
18 the indemnities and releases under the plan, and the plan is
19 confirmed, I don't think you can substantially consolidate a
20 reorganized debtor. I may be wrong. That's a legal issue.
21 But I don't think you can do it.

22 Q All right. I've got, I think, one last question for you
23 for now, and that's this. If Judge Lynn were to say to you,
24 as the Chief Restructuring Officer that's been retained at the
25 Ranger Equity Holding levels, "You can propose whatever sale

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1 procedures you want to propose that you think maximize value
2 for the Equity," what sale procedures would you propose?

3 MR. KURTZ: Objection.

4 THE COURT: Basis?

5 MR. KURTZ: Legal conclusion. It's not relevant what
6 this witness -- it's not within his authority to propose
7 sales. This is a motion to reconsider the bidding procedures
8 that have been implemented by Your Honor, --

9 THE COURT: Okay.

10 MR. KURTZ: -- and Mr. Snyder's views on what he
11 would do if he were able to control the case is just not
12 relevant.

13 THE COURT: Overruled. You may answer.

14 THE WITNESS: What I would do is take those
15 procedures that the Judge outlined and I'd have Judge Nelms
16 get those bidders in and this undisclosed guy sitting in the
17 audience and say, "Guys, is it the 6th? Is it the 4th? Is it
18 the 13th? But which one of you, in all honesty, can close a
19 deal and tell us if you can live with these procedures?" And
20 share them with the four bidders. And say, "Well, Your
21 Honor," -- and let the mediator come up with the date and the
22 milestones that are effective and ensure that when you have
23 that process that you can close it.

24 So the procedures that are out there right now are pretty
25 good, the one that Judge proposed. I think we've just got to

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1 get another party to agree. I don't even know if Chuck has
2 agreed to those, you know.

3 But if we could get two parties to agree on a date and to
4 move forward, then I think you would have a real auction,
5 you'd have a real market test, and you could say, "Guess what?
6 It was a fair process." Whatever the outcome is.

7 BY MR. STRUBECK:

8 Q When you just referred to "Chuck" a second ago, were you
9 referring to Mr. Greenberg?

10 A Yeah. I'm sorry. Yeah, Mr. Greenberg.

11 MR. STRUBECK: Your Honor, pass the witness.

12 THE COURT: All right. Anyone else on this side of
13 the room? Mr. Leblanc?

14 MR. LEBLANC: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. LEBLANC:

17 Q Mr. Snyder, good morning. Andrew Leblanc on behalf of
18 Milbank Tweed -- of Milbank Tweed Hadley & McCloy on behalf of
19 the Ad Hoc Group of First Lien Lenders.

20 What effect, if any, do you believe that the transactions
21 that happened right leading into the bankruptcy -- we've
22 called them the eve-of-filing transactions or the midnight
23 transactions -- what effect do you think those have had on the
24 ability of other parties to bid on these assets?

25 A Well, --

1 MR. KURTZ: Objection. Foundation.

2 THE COURT: Explain

3 MR. KURTZ: On what basis is this witness able to
4 testify as to the impact of the transfers on willingness of
5 any particular party to bid? Have they had conversations, in
6 which it's hearsay? What's his basis for this testimony?

7 THE COURT: All right. I'll let you ask that if you
8 want, Mr. Leblanc.

9 MR. LEBLANC: I'm sorry, Your Honor?

10 THE COURT: If you wish, you may lay a foundation.

11 MR. LEBLANC: Is the objection sustained?

12 THE COURT: Yes.

13 MR. LEBLANC: Okay.

14 BY MR. LEBLANC:

15 Q Mr. Snyder, do you believe that the transactions that
16 happened on the eve of filing have an effect -- just a yes or
17 no question. Do you believe they have an effect on the
18 willingness of parties to bid?

19 THE COURT: Mr. Sosland?

20 MR. SOSLAND: Objection, Your Honor, as to
21 foundation, that Mr. Snyder even knows what transactions Mr.
22 Leblanc is referring to. It's also an objection as to form as
23 to vague.

24 THE COURT: Okay. Do you understand the term "eve-
25 of-filing transactions," Mr. Snyder?

1 THE WITNESS: I believe I do, and I think I can tell
2 him what I think it is.

3 THE COURT: Well, why don't you tell me what you
4 think the eve-of-filing transactions were?

5 THE WITNESS: Those eve-of-filing transactions would
6 involve the transfer of a 757 lease, --

7 THE COURT: Yes?

8 THE WITNESS: -- charter agreement. It would involve
9 transferring down debt, over-advanced debt, from HSG down to
10 the Rangers.

11 THE COURT: This is speaking of, for example,
12 Perella?

13 THE WITNESS: No, they're next. This would be debt
14 that was advanced -- debt that wasn't on the books of the
15 Rangers --

16 THE COURT: All right.

17 THE WITNESS: -- but was transferred from the Hicks
18 Sports Group down to the Rangers --

19 THE COURT: All right.

20 THE WITNESS: -- the night before the filing.

21 THE COURT: All right.

22 THE WITNESS: And then you've got the Perella and the
23 other fees, the \$9 million --

24 THE COURT: All right.

25 THE WITNESS: -- that were transferred down. And

1 then you have also the indemnifications that were transferred
2 down.

3 THE COURT: All right.

4 THE WITNESS: I mean, that were implemented the night
5 before the filing. And then the break-up fee that was given
6 -- that was added, the break-up the letter, the \$10 million.

7 Those are the -- those are my understanding of the --

8 THE COURT: Well, also the stadium lease?

9 THE WITNESS: The stadium lease, I don't think is
10 that critical. It is one of the midnight things, --

11 THE COURT: All right.

12 THE WITNESS: -- but I don't believe --

13 THE COURT: We're just talking about what they are
14 now, not --

15 THE WITNESS: Yes. And then there was also the
16 transfer of a -- the lease on an office building, too.

17 THE COURT: All right. All right.

18 THE WITNESS: So there's an office building, the
19 stadium, the professional fees, the over-advance, the 757, and
20 the indemnities.

21 THE COURT: All right. All right. You may answer
22 whether you believe that those -- but I don't know. I mean, I
23 honestly don't know that it's relevant, because there's no
24 requirement under the existing bidding procedures that those
25 assets be taken, just as there is no requirement that the

1 property not be sold under a 363 motion as opposed to a plan.

2 Finally, with all due respect to Mr. Snyder, the way I
3 read Section 1123, causes of action can be carved out of a
4 plan and preserved. In fact, isn't that really what the
5 *United Operating* case teaches us, is not only that you can
6 lose them, but that you can preserve them if you specify them?
7 So, am I mistaken, Mr. Leblanc, about the law?

8 MR. LEBLANC: No. You're not mistaken about anything
9 that you just said, Your Honor. The question that I'm trying
10 to lead to, that I started with that I'm now trying to lay a
11 foundation for, is whether the fact of those transactions have
12 an impact on the ability of other parties to come in and bid
13 on these assets, even those that did their diligence back in
14 December. That's the question. It's a timing question, in
15 large part.

16 THE COURT: All right. All right. Let me see if I
17 can phrase it to your satisfaction in a fashion that will not
18 too much offend Mr. Kurtz or Mr. Sosland. Is it your view
19 that eve-of-filing transactions so changed the situation that
20 they will be an impediment to other offers? Is that a fair
21 statement of what you're trying to get to, Mr. Leblanc?

22 MR. LEBLANC: I think -- that's a fair statement of
23 Question 1. I'll ask a follow-up, if okay with Your Honor.

24 THE COURT: All right. Go ahead and answer.

25 THE WITNESS: Well, it depends on the form of the

1 sale procedures. Okay? If the sale procedures, those people
2 are allowed to pick and choose, you know, what they take, then
3 I don't think they're that concerned about it. And the only
4 concern they may have is the break-up fee. Because if they're
5 going to bid, they have to overbid the break-up fee. Right?
6 So that would affect them.

7 So out of those issues, the only one that has a direct
8 effect that they have no control over -- because they can pick
9 the jet or not, right? They can pick whether or not -- and
10 the fact that the fees and the debt get paid that were
11 transferred down doesn't affect a sale in a sense of what they
12 pay. It affects what goes to the Lenders, but it doesn't
13 affect the buyer.

14 So the only thing I think that's a huge concern to them
15 would be the amount of the break-up fee, because they have to
16 overbid that.

17 THE COURT: All right.

18 THE WITNESS: And so that could be an impediment.

19 THE COURT: All right. All right. You may proceed,
20 Mr. Leblanc.

21 MR. LEBLANC: Thank you, Your Honor.

22 BY MR. LEBLANC:

23 Q Do you understand what the amount of the break-up he is
24 under the Court's bidding procedures?

25 A Well, I've read that. From what I understand, it can --

1 it's up to -- up to \$10 million, as long as they prove it's --
2 you've got to prove that you spent that -- 125 percent of that
3 spending. So if Mr. Greenberg spent \$7.5 million, then he
4 could get up to \$10 million. That's my understanding.

5 Q Do you understand it to be --

6 THE COURT: It's incorrect. And what they are, I
7 will -- I mean, the document will speak for itself, Mr.
8 Leblanc. But go ahead.

9 MR. LEBLANC: Well, Your Honor, and the document
10 speaks for itself. But I wanted --

11 THE COURT: I think for purposes of this hearing we
12 can assume that it's going to be \$10 million.

13 MR. LEBLANC: Well, I would want to -- that's the
14 question I want to ask, because I want to know if the witness
15 has an understanding.

16 BY MR. LEBLANC:

17 Q Do you understand whether Mr. Greenberg has incurred fees
18 in excess of \$8 million?

19 A He has told me he has, so -- but I have not seen the
20 bills. But he has informed me. And just hiring Tom Lauria
21 alone would add to that.

22 (Laughter.)

23 THE COURT: You know, I can't help but think -- and
24 Mr. Averch, I hope you'll pass this on -- that when Mr. Lauria
25 speaks about vacationing at his villa in Tuscany, that he was

1 once a baby associate working for me. In fact, you were a
2 year senior to him, were you not, Mr. Averch?

3 MR. AVERCH: That's correct, Your Honor.

4 THE COURT: Yes. Ah, how times have changed in a
5 world where success is measured by income.

6 BY MR. LEBLANC:

7 Q Now, so it was your understanding that he had incurred in
8 excess of \$8 million in fees, and that was even before Mr.
9 Lauria had been retained by Mr. Greenberg's group. Is that
10 right?

11 A That's what I was told.

12 Q Now, let me represent to you -- and anyone can take issue
13 with this -- but let me represent that the bid procedures that
14 have been proposed by the Court order \$10 million or 125
15 percent of the fees and expenses that have been incurred,
16 whichever is greater.

17 A That's right. It's whatever is greater.

18 Q Greater? Okay.

19 A That's correct.

20 Q So, as you sit here today, do you know what number you
21 would advise a bidder he needs to overbid to be the winning
22 bidder in that auction process?

23 A Well, he'd have to cover that, plus the minimum overbid,
24 right, which is --

25 Q Okay.

1 THE COURT: Again, with all due respect, I wrote
2 those and it says \$15 million is the overbid, period. And if
3 it turns out that you've got to pay \$16 million to Mr.
4 Greenberg for some reason or other, so be it. That comes out
5 of your pocket, not theirs. But please, let's not -- we get
6 enough misinformation in this case without misunderstanding
7 the agreement. That is, as I indicated to you in yesterday's
8 e-mail, the overbid is \$15 million, period.

9 MR. LEBLANC: Your Honor, just to be --

10 THE COURT: And I might add that the expenses are
11 subject to my review.

12 MR. LEBLANC: And I understand that point quite
13 clearly, Your Honor. But to the extent that the break-up fee
14 payable to Mr. Greenberg is \$16 million, a \$15 million overbid
15 is not the winning bid. That's --

16 THE COURT: No, this \$15 million overbid is at that
17 point the winning bid because I haven't determined the break-
18 up fee yet. So, just that's the way the procedures read.
19 That's the way they're intended to be read. I recognize it
20 makes an ugly dent in your case, but please proceed.

21 MR. LEBLANC: Understood, Your Honor.

22 BY MR. LEBLANC:

23 Q Mr. Snyder, do you have -- have you -- you mentioned
24 earlier the questions or discussions you had with bidders
25 about their ability to gain financing. Is that right?

1 A Yes.

2 Q Do you expect that other bidders will be able to get third
3 party financing in advance of an August 6th auction date?

4 MR. KURTZ: Objection. Hearsay.

5 THE COURT: Or speculation. Mr. Leblanc, any
6 response?

7 MR. LEBLANC: I think it's an appropriate question.
8 He's already answered the question about having discussions
9 with other bidders about their financing. It's a question of
10 whether the timing is appropriate. It doesn't -- what his
11 views are as to whether the timing is appropriate. Whether in
12 fact they can get financing, that's going to be determined at
13 some other point.

14 THE COURT: Mr. Kurtz?

15 MR. KURTZ: If -- in the first place, this witness
16 has no foundation for having knowledge about whether other
17 bidders can or can't finance a deal. If he does, then it's
18 either documentary and that's the best evidence, or he's being
19 told it, in which case it's hearsay. The bidders are free to
20 come in here and speak to whether or not they can finance the
21 transaction. They are not free in a way where they can't be
22 cross-examined to get the same information out through Mr.
23 Snyder.

24 THE COURT: I will allow you to give your opinion,
25 Mr. Snyder. To that extent, the objection is overruled.

1 THE WITNESS: This is from talking to these bidders,
2 is --

3 THE COURT: Now, just -- all right. Go ahead.

4 THE WITNESS: Yeah. So, in my opinion, --

5 THE COURT: This is a bench trial.

6 THE WITNESS: In my opinion, --

7 THE COURT: This is a bench trial.

8 THE WITNESS: Yeah. In my opinion, talking, is that
9 some of them, in the compressed time frame, would require the
10 existing banks to bridge some kind of loan, because they could
11 not get third party financing in time. So I think, to answer
12 your question, some of them, talking to them, they would
13 require -- they could not get third party financing in time to
14 close this deal. They would require a bridge.

15 BY MR. LEBLANC:

16 Q When you say "the existing banks," to whom are you
17 referring?

18 A The people you represent, and the Second Lien Lenders.
19 So, the entire Bank Group. They would require them to bridge
20 some kind of transaction.

21 MR. LEBLANC: Nothing further, Your Honor, at this
22 time.

23 THE COURT: All right. Anyone else on this side?

24 (No response.)

25 THE COURT: All right. Then who's going to take him

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1 first on the other side of the room? Mr. Sosland, --

2 MR. SOSLAND: Me, Your Honor.

3 THE COURT: -- please proceed.

4 By the way, while Mr. Sosland is getting up, just to give
5 you an idea of scheduling, we will continue until
6 approximately 10:30, when I have a *Pilgrim's Pride* hearing,
7 which should be very brief, and we will recess then so that I
8 can hear them. We will also recess at noon, when I must go
9 out to meet with the consumer debtors, and resume at
10 approximately 1:15. We will go until approximately 5:00 p.m.
11 today. And I will let you know as soon as I can what is
12 going on with my trial that is currently scheduled for
13 tomorrow.

14 Please proceed, Mr. Sosland.

15 CROSS-EXAMINATION

16 BY MR. SOSLAND:

17 Q Good morning, Mr. Snyder.

18 A Good morning.

19 Q Do you still have Rangers Equity Exhibit 1 in front of
20 you? It's your engagement letter.

21 A Yes.

22 Q Was -- the copy of Rangers Equity Exhibit 1 that's
23 introduced into evidence has Mr. Hicks' signature on it. You
24 testified that he signed it on behalf of the two equity
25 partners. Is that correct?

1 A That's correct.

2 Q And has this engagement letter ever been executed by CRG?
3 By you or any of your partners?

4 A Not this one. I signed one -- I did not sign one.
5 Epstein did. It was signed, but it got e-mailed, and I don't
6 know what happened to the signature page, but it -- it was
7 countersigned, but not when -- with Mr. Hicks' signature on
8 there.

9 Q Okay. But you believe that it was signed and the
10 signature was delivered to Mr. Hicks?

11 A The what, now?

12 Q Do you believe that Exhibit 1 was signed by someone with
13 authority at CRG?

14 A Yes. I believe Mr. Epstein signed --

15 Q Okay.

16 A -- a copy, but it was not -- it wasn't countersigned. In
17 other words, there's a signed copy somewhere in our files, but
18 it doesn't have Tom's --

19 THE COURT: He signed it in counterpart?

20 THE WITNESS: Yes.

21 BY MR. SOSLAND:

22 Q Would that have been on or around either the date of the
23 letter or the date of Mr. Hicks' signature --

24 A I think it was --

25 Q -- on the signature page?

1 A I think it would've been the following -- it would have
2 been on the Monday, I believe.

3 Q On Monday, June 28th?

4 A Correct.

5 Q That's the -- also the date that the order was entered
6 that's Rangers Equity Exhibit 2. Is that correct?

7 A Correct.

8 Q And do you believe that Exhibit 1 is an agreement between
9 yourself and CRG and the two equity partners?

10 A Yes.

11 Q Now, you testified that it was difficult -- the
12 negotiations of the sale were difficult, right?

13 A Yes.

14 Q Because the Lenders wanted one scope of your retention,
15 and the Equity Partners wanted a different scope of your
16 retention? Am I correctly characterizing your testimony?

17 A Well, we never really negotiated with Tom on this much.
18 It was we were negotiating, I think, more with you and --

19 Q But, well, actually, my question is: The difficulty --
20 didn't you testify that the difficulty was because Rangers
21 Equity Holdings wanted one scope and the Lenders wanted
22 another scope, --

23 A (no immediate response)

24 Q -- a broader scope. Is that correct?

25 MR. STRUBECK: Your Honor, I object to that question

1 because I think it mischaracterizes the testimony. I thought
2 Mr. Snyder testified that he wanted a broader scope and he
3 thought a broader scope was intended.

4 THE COURT: Well, I'm not sure that I care because,
5 despite the importance and significance of Tom Hicks in the
6 world, in this courtroom I am the most important guy, and I
7 entered an order that specified what I think is the key part
8 of the scope of Mr. Snyder's duties.

9 So you can go ahead and ask the question, and I'm not sure
10 I care what the answer is. Go ahead.

11 BY MR. SOSLAND:

12 Q Can you answer the question?

13 A I forgot what the question was. What was it? What was
14 it?

15 Q I'll ask a different question.

16 A Okay.

17 Q You did testify that on Sunday, June 27th -- the date
18 wasn't clear, but I believe the date was June 27th -- that you
19 or you caused your counsel to send two forms of order to the
20 Court. Is that right?

21 A Correct.

22 Q Okay. And one of the forms of order reflected the
23 agreement that had been reached between you and CRG on the one
24 hand and Mr. Hicks and the equity partners on the other hand.
25 Correct?

1 A (no immediate response)

2 Q One form of order --

3 A Yeah.

4 Q -- matched the engagement letter?

5 A Right. And one form -- there was one that was broader in
6 scope and one more narrow in scope. Yeah.

7 Q So even though you had entered into an agreement regarding
8 the scope of your engagement, you nevertheless forwarded a
9 different form of order to the Court?

10 A Correct.

11 Q And that was different also than the order that was
12 actually entered by the Court, correct?

13 A Yeah.

14 Q The Court's order was neither of the two orders --

15 A Correct.

16 Q -- that was delivered on Sunday? Okay. And then -- so
17 that was on -- and the order was entered on Monday, June 28th,
18 correct? It's on Exhibit 2 in front .

19 A Yes.

20 Q So, two days later, on Wednesday, June 30th, was the date
21 of the meetings at the ballpark that you testified about. Is
22 that correct?

23 A Uh, cor...

24 Q So, Wednesday before --

25 A Yes.

1 Q -- July 4th?

2 A That was a meeting with the Debtor. And then I also met
3 with Mr. Greenberg later that day.

4 Q Okay.

5 A On Wednesday.

6 Q And that evening, you and Mr. Strubeck -- by that evening,
7 you and Mr. Strubeck had reached agreement with Mr. Lauria and
8 his client regarding bidding procedures, or at least the term
9 sheet for bidding procedures. Is that correct?

10 A I think we had a general agreement, but those -- you know,
11 the final form of that was not finished until Sunday. So --
12 but by Wednesday night, we had an idea of what -- you know,
13 some general guidelines on how it would work, yes.

14 Q Okay.

15 A But I don't -- we didn't actually have agreed-on final
16 wording until Sunday night.

17 Q Right. But the evening of -- in fact, on the evening of
18 June 30th, you and Mr. Strubeck and Mr. Lauria, perhaps Mr.
19 Prostok, I don't recall, were in a room together out at the
20 ballpark and you called me, right?

21 A Yes. Correct. Correct.

22 Q And you said, "We've reached agreement on bidding
23 procedures, and please start preparing the motion." Is that
24 correct?

25 A Correct.

1 Q And I asked you to affirm that that agreement -- that the
2 agreement that you discussed with me was something that you
3 wanted us to file in the TRBP case, correct?

4 A That's correct.

5 Q In fact, I told you that I wouldn't file it in the TRBP
6 case unless I knew that you supported it. Isn't that correct?

7 A I believe that's right. No, and you did -- you did ask me
8 if I supported it, and I told you I did support the bidding
9 procedures.

10 Q And then we, my law firm, prepared a draft. Then, after
11 we prepared the -- and there were discussions about that, I
12 believe, Thursday and Friday. But then throughout the
13 weekend, drafts went back and forth between you on the -- you
14 or your counsel on the one hand and Rangers Baseball Express
15 on the other hand. Correct?

16 A That's correct.

17 Q Weil Gotshal and TRBP were not involved in the discussions
18 over the weekend. Is that correct?

19 A Well, I wouldn't know that. I don't know if you had
20 talked to Greenberg or Strubeck. I don't know. But I know
21 that there was numerous conversations between my counsel and
22 Greenberg's counsel.

23 Q Okay. And then -- and on -- and you testified that on --
24 by Monday, July 5th, you had reached the final form of
25 agreement and you requested that TRBP file a motion, and TRBP

1 filed the motion. Is that correct?

2 A That's correct.

3 Q Okay. And then the next day you changed your mind,
4 correct?

5 A That's correct.

6 Q Okay. Now, you also testified that the bidding procedures
7 that were filed with the Court last week, you didn't see until
8 the day they were filed on last Tuesday, the 13th of July. Is
9 that correct?

10 A Correct.

11 Q But on the previous Friday, you had -- you had a meeting
12 with, among other people, Mr. Greenberg's -- Mr. Greenberg and
13 his counsel and me, correct?

14 A Here in Fort Worth? Yes.

15 Q Yes.

16 A Yes. We did.

17 Q And do you recall at that meeting being advised that the
18 Debtor thought they could get Mr. Greenberg to improve his
19 bid, even though he had told you that he would not increase
20 his bid, and enter into bidding procedures that we thought
21 would allow other parties to bid? Do you recall that
22 conversation?

23 MR. LEBLANC: Objection, Your Honor. Hearsay. If
24 Mr. Sosland wants to testify, we can cross-examine him. If he
25 doesn't want to testify, then he shouldn't introduce it

1 through a witness.

2 THE COURT: Mr. Sosland?

3 MR. SOSLAND: It's -- Mr. Snyder testified that he
4 didn't know anything about the -- that -- about bidding
5 procedures prior to Tuesday, and this shows that there was at
6 least a discussion of them several days earlier.

7 THE COURT: You mean the ones filed by the Debtor?

8 MR. SOSLAND: Right.

9 THE COURT: Yes. All right. I'll allow the
10 question. Overruled. Go ahead.

11 THE WITNESS: Yes. There were discussions on Friday
12 about a possible sales process that would work, timing,
13 changing bids. We talked about a lot of stuff, and there was
14 -- and some of it was pretty heated. I mean, so, I mean, we
15 discussed a range of issues, and one of them was what sales
16 process would work. We did discuss that.

17 BY MR. SOSLAND:

18 Q Okay. Now, at last Tuesday's hearing, are you aware that
19 your counsel told the Court that he thought you would oppose
20 the procedures that were first circulated with a July 22nd --
21 or, July 21st and 22nd auction and confirmation date, that you
22 would support an auction on August 6th? Are you aware of
23 that?

24 A So, he said that I said that I would support an auction
25 that ended on August the 6th?

1 Q Correct.

2 A Yeah. If it had two bidders, I would, yes.

3 Q And one that would allow a 363 sale?

4 A Yes.

5 Q And is there a material difference between an auction that
6 ends on August 4th and one that ends on August 6th?

7 A Only if you have two bidders. That's the only difference.

8 Q Okay. And the current auction procedures -- the auction
9 procedures you're asking the Court to reconsider today allow
10 for an auction on August 4th and a 363 sale, don't they?

11 A Yes, although -- that's my understanding, yes.

12 Q So what is it that you're asking the Court to reconsider
13 today? Is it just the break-up fee?

14 A No. No. What I'm asking the Court to do, I think I
15 testified earlier, is to let Judge Nelms grab these three
16 bidders or four bidders, put them in a room, and get them to
17 commit that they can bid by a certain date, and go forward.

18 Q So your counsel was authorized last week to tell the Court
19 that you would auction procedures on August 6th and a 363
20 sale, and the Court entered it, and you've changed your mind
21 again. Is that your testimony?

22 A No. I -- no. I --

23 MR. STRUBECK: Excuse me one second. I'm going to
24 object to that question because I think it mischaracterizes
25 what I told the Court at the hearing last week. I guess I'd

1 let the transcript speak for what I specifically said, but I
2 think Mr. Sosland is taking some liberties with exactly what I
3 represented to the Court and what I said at the hearing this
4 week.

5 THE COURT: All right. Do you want to take a copy of
6 the transcript and read it to Mr. Snyder?

7 MR. SOSLAND: I can do that, Your Honor.

8 THE COURT: I thought you probably could..

9 (Pause.)

10 MR. SOSLAND: And for the parties in the courtroom,
11 Your Honor, this is the transcript of the August 13 -- I mean,
12 I'm sorry, of the July 13th hearing. It is also Lenders'
13 Exhibit F for this hearing, Your Honor. So, on the following
14 discussion that took place at the July 13th hearing, I'm
15 reading from Page 17 of the transcript at Line 11. The Court
16 asked, "How long does he want?" Mr. Strubeck said, "I think
17 he would like to until about August the 6th, Your Honor, for
18 an auction, which is one week longer than what Your Honor has
19 been talking about."

20 So, was Mr. Strubeck authorized to tell the Court that you
21 wouldn't want an auction until on August the 6th?

22 THE WITNESS: Well, what do I say about that?

23 BY MR. SOSLAND:

24 Q I'm asking whether Mr. Strubeck had been authorized by you
25 to express that the to the Court.

1 A Yeah, if there was a bidder that could bid in that time
2 frame, that -- which we thought we had, as a stocking horse,
3 that that date worked. But I also told him, if there's not
4 two bidders, you're better off just going with Chuck as the
5 exclusive person under the plan. So maybe -- I don't know the
6 context of that one statement, but if there is two bidders, if
7 it's August 4th, August 6th, August the 3rd -- I don't care
8 what the date is -- if there are two bidders that can bid and
9 come to the table, then I'm totally in favor of that.

10 Absolutely.

11 Q But you don't know as you sit here today whether there are
12 any bidders or not, correct?

13 A No, I don't.

14 Q But you have been negotiating an asset purchase agreement
15 with another bidder, right?

16 A Correct.

17 Q In fact, you were negotiating an asset purchase agreement
18 with another bidder the weekend before the July 13th hearing,
19 correct?

20 A That's correct.

21 Q And Mr. Strubeck also said at the hearing on July 13th,
22 when the date was August 4th -- this is on Page 74 beginning
23 at Line 1 -- "And so when I said earlier that a sale by August
24 4th is something that earlier Mr. Snyder thought perhaps could
25 take place, his mindset was that there would be a sale under

1 Section 363." And that's consistent with your testimony today
2 also, right?

3 A That's correct.

4 Q And so Mr. Strubeck was authorized to advise the Court of
5 that on September -- on July -- at the hearing on July 13th,
6 correct?

7 A That's correct.

8 Q And you'd been negotiating a 363 sale the weekend before
9 this hearing, correct?

10 A Correct, but with a different stalking horse.

11 Q Right.

12 A So, --

13 Q But my -- so I ask the question again. If there's a
14 bidding procedure that allows a 363 sale offer being made on
15 August 3rd with an auction on August 4th, where you asking to
16 reconsider today?

17 A Just to reconsider that there is another bidder that can
18 meet that timeline. That's all.

19 Q Now, the asset purchase agreement that you were negotiating
20 the weekend before the July 13th hearing, you didn't share that
21 with Texas Rangers Baseball Partners, did you?

22 A I think we sent that to you. Only to you.

23 Q At about midnight last night, right?

24 A Yeah. Well, --

25 Q Subject to attorney's eyes only?

1 A That's correct.

2 Q And it's a bid for -- it's a bid for the assets of Texas
3 Rangers Baseball Partners, correct?

4 A Correct.

5 Q But there's no way we could have -- the Debtor could have
6 known anything about it, the Debtor in this case could have
7 known anything about it if you didn't share it, was there?

8 A That's correct.

9 MR. SOSLAND: Just a second, Your Honor.

10 THE COURT: All right.

11 (Pause.)

12 MR. SOSLAND: I'd pass the witness, Your Honor.

13 THE COURT: All right. Who's next on this side? Mr.
14 Kurtz?

15 MR. KURTZ: Thank you, Your Honor.

16 THE COURT: All right. Mr. Kurtz, we're going to go
17 for about 10 or 12 more minutes, and then give you about three
18 minutes to go out into the hall -- I mean, all of you -- and go
19 off to get coffee or whatever you want while I take the
20 *Pilgrim's Pride* case. So go ahead and I'll let you know when I
21 want you to stop. Okay?

22 MR. KURTZ: Okay. Thank you very much.

23 CROSS-EXAMINATION

24 BY MR. KURTZ:

25 Q Good morning, Mr. Snyder.

1 A Good morning.

2 Q First place, I didn't have the opportunity to depose you in
3 this matter, right?

4 A Correct.

5 Q And you have not provided any documents for me, right?

6 A Well, I think they give you my contract. I think that's
7 the only thing you got.

8 Q Okay. But you've made a production of documents in this
9 case to the Debtor, right?

10 A I'm not aware of that, no.

11 Q Okay. You're not aware that your counsel produced, after
12 midnight last night, a number of documents to the Debtor?

13 A They were working on it. I didn't know if they got it out
14 in time or not.

15 Q All right. Are you aware that those documents have not
16 been produced to RBE and your counsel says that he won't
17 produce them?

18 A That's what I just heard him say --

19 Q Okay.

20 A -- in the court. But he said there are some issues he had
21 to discuss.

22 Q Let me start with your testimony about the sale process and
23 what a sale process should look like. You have never actually
24 run a sales process to sell a Major League Baseball team, have
25 you?

1 A No.

2 Q You've never had a role in the sale of a Major League
3 Baseball team, have you?

4 MR. LEBLANC: Your Honor?

5 THE COURT: Yes?

6 MR. LEBLANC: Your Honor, I'm going to object to any
7 questioning by Rangers Baseball Express. We raised a question
8 as to their standing.

9 THE COURT: Yes, and it's overruled. The case law
10 that you've cited involved bidders who were involved in a
11 postpetition agreement. As far as I can tell, Rangers Baseball
12 Express is a party to a prepetition contract. Whatever force
13 and effect that contract will have, nonetheless, it gives them
14 the right either to assumption of the contract or to a claim in
15 the event of a rejection. If they have a claim in the event of
16 a rejection, they clearly would be a party in interest in that
17 they would be a creditor. As a contingent creditor, which I'll
18 call them for purposes of this hearing, I think that they have
19 the same right to be heard as a party in interest under Section
20 1109(b).

21 You may proceed, Mr. Kurtz.

22 MR. KURTZ: Thank you, Your Honor.

23 BY MR. KURTZ:

24 Q Mr. Snyder, you've never had a role in connection with the
25 sale of a baseball team before this case, right?

1 A Correct.

2 Q You have never valued a Major League Baseball team, right?

3 A No.

4 Q Have you performed a valuation of the assets at issue in
5 this case?

6 A Oh, I haven't performed -- I haven't performed one myself.

7 I have looked at several documents that were produced to me
8 from lenders and from the Debtor, the Debtor themselves.

9 Q My question is whether or not you have performed a
10 valuation of the assets at issue in this case.

11 A No. I've just looked at other people's.

12 Q Okay. Have you retained an expert to perform a valuation
13 of the assets in this case?

14 A Oh, not in the three weeks, no.

15 Q Okay. And have you ever been involved in any way in the
16 operation of a Major League Baseball team?

17 A No.

18 Q Have you ever run a sales process with respect to the sale
19 of any sports team?

20 A Let me think. (Pause.) The only thing I was involved in
21 was selling some companies that had -- Kiladores (phonetic),
22 and they had some teams in Mexico, and that's the only thing I
23 can recall.

24 Q Okay. Have you ever been involved in any role in the sale
25 of a sports team in the United States?

1 A No. No. Huh-uh.

2 Q And have you value a sports team before?

3 A No.

4 Q All right. And have you ever had any role in connection
5 with the operation or the assisting of the operation of a
6 sports team?

7 A No.

8 Q And you have not retained any experts to assist you in
9 reviewing the operation of the Texas Rangers, correct?

10 A No.

11 Q And although you spoke about your interest in fair price,
12 you've taken no steps to hire anybody to supply you with a
13 valuation of the assets that are being sold, right?

14 A Correct.

15 Q Now, you do understand, of course, that RBE has agreed to
16 provide aggregate consideration of around \$570 million?

17 A \$570 [million]?

18 Q Aggregate consideration, including the assumption of
19 liabilities.

20 A (Pause.) Well, let's see. The sheet that I have was \$520
21 million. There's \$304 million of cash, and there's \$220
22 million of assumed liabilities. And that doesn't add up to
23 \$570 [million].

24 Q All right. We'll go through that. But you understand it's
25 a committed deal to purchase the assets at issue, right?

1 A Correct.

2 Q And you understand that all of the contract terms have been
3 negotiated and agreed to, right?

4 A Correct.

5 Q And you understand that RBE has, of course, been approved
6 by Major League Baseball, right?

7 A Correct.

8 MR. LEBLANC: Objection, Your Honor.

9 MR. KURTZ: And that's important, isn't it?

10 MR. LEBLANC: Objection, Your Honor. That assumes
11 facts not in evidence.

12 THE WITNESS: Well, they've been --

13 THE COURT: Well, I think they are now. Overruled.
14 Go ahead, Mr. Kurtz.

15 BY MR. KURTZ:

16 Q Well, that's --

17 A Well, they've been cleared.

18 Q That's --

19 A They've been cleared. I guess "approved" is -- in other
20 words, they've been cleared to bid --

21 Q To buy the team, right?

22 A Yeah. The 75 percent --

23 THE COURT: He's correct. You --

24 THE WITNESS: -- people haven't voted yet.

25 THE COURT: Yes. There has not been the vote of 75

1 percent of Major League owners.

2 MR. KURTZ: Okay.

3 THE COURT: So that issue remains open.

4 MR. KURTZ: Okay.

5 BY MR. KURTZ:

6 Q But the approval to date is obviously an important aspect
7 of a transaction in this case, right?

8 A The clearing? Yes. Absolutely.

9 Q Because Major League Baseball enjoys the right to not
10 approved a particular bidder, which would bar the sale of the
11 team, right?

12 MR. STRUBECK: Yeah, I object to the form of that
13 question. It calls for a legal conclusion.

14 BY MR. KURTZ:

15 Q Is it your understanding, sir?

16 THE COURT: Well, well, it also is inconsistent with
17 the bidding procedures that we are discussing today. Why
18 don't you try rephrasing your question or move on to something
19 else, Mr. Kurtz?

20 BY MR. KURTZ:

21 Q You understand that if Major League Baseball does not
22 approve a particular bidder, then no sale can take place,
23 subject, of course, to whatever this Court chooses to do in
24 response to that?

25 A Well, I think it's being cleared, right? I think -- you

1 keep saying approved. MLB, all they do is they clear
2 somebody. They do a pre-clearing of them to make sure, you
3 know, they don't have criminal offenses or what-all, whatever.
4 So they do a pre-clearing, and so they are -- they are cleared
5 to bid. But when you say they've been approved, I don't
6 believe that happens until after the sale. So you could
7 possibly have a sale and have the MLB vote someone down. So
8 --

9 Q Mr. Snyder, a bidder has to be ready, willing and able to
10 close on the transaction to have any value in this case,
11 right?

12 A The what?

13 Q A bidder has to be ready, willing and able to close the
14 transaction, right?

15 A Right.

16 Q And to be able to close the transaction, among other
17 things, you need the approval of all of the owners of the
18 baseball teams, right?

19 MR. LEBLANC: Objection.

20 THE COURT: Yes?

21 MR. LEBLANC: Same objection that was just raised by
22 Mr. Strubeck and sustained by the Court.

23 THE COURT: I'm going to sustain it, because your
24 statements are of -- the factual basis of your question is
25 inaccurate. Rangers Express does not have the approval of

1 Major League Baseball at this point. Rangers Express has the
2 approval to bid. It's been cleared. It's Major League
3 Baseball-cleared, as the term is used in the bidding
4 procedures.

5 MR. KURTZ: I understand that, but my question was
6 just whether this witness understands that, ultimately, in
7 order for a bidder to be able to close, they will need to be
8 approved --

9 THE COURT: All right. So --

10 MR. KURTZ: -- by the baseball owners.

11 THE COURT: Do you understand that any bidder,
12 ultimately, to close, is going to have to receive the 75
13 percent vote required by the Major League Constitution?

14 MR. LEBLANC: Your Honor, if I may, I think that
15 issue is one that has expressly been left open.

16 THE COURT: Well, my understanding -- yes, I
17 understand that, that that issue has not been -- let's put it
18 -- let's rephrase that. That Major League Baseball claims
19 that it has the ability to veto any buyer of the Rangers under
20 the Major League Baseball Constitution if 75 percent of the
21 owners do not approve the sale.

22 THE WITNESS: I agree with that.

23 THE COURT: Do you understand that to be true?

24 THE WITNESS: I agree with that.

25 THE COURT: All right.

1 THE WITNESS: Yeah.

2 THE COURT: And you understand no bidder has received
3 that approval as yet. Is that true?

4 THE WITNESS: That's correct.

5 THE COURT: All right. You may proceed, Mr. Kurtz.

6 MR. KURTZ: Okay.

7 BY MR. KURTZ:

8 Q And it is important to understand whether or not a bidder
9 will receive such approval, right?

10 MR. LEBLANC: Your Honor, I'm going to object to the
11 line of questioning as to relevance. I think we're now
12 getting into whether or not the Greenberg-Ryan bid should be
13 approved as a plan. We're happy to get to that. That's,
14 frankly, what we want. But if that's the purpose of today,
15 it's going to be a very different hearing than what I expected
16 we would have.

17 THE COURT: Well, --

18 MR. KURTZ: Your Honor, that's not at all what I'm
19 getting at. I'm trying to explore with this witness his
20 understanding of what has to happen for there to be bidders,
21 because there is a question now as to whether a committed deal
22 should be allowed to expire, potentially, in the hopes that
23 some other bidder will come along and that that bidder will be
24 able and willing to close.

25 THE COURT: Well, but I think -- Mr. Kurtz, I think

1 the problem is that you're confusing two things, the approval
2 of the Office of the Commissioner -- that is, the approval to
3 be a bidder at all -- and then the approval of the new
4 ownership in the event that the bidder is selected. And no
5 bidder, not your client or any the other bidder, has received
6 the 75 percent vote, and I don't see how the 75 percent vote
7 is relevant to this discussion. It raises a number of issues,
8 some of which send chills up and down the spines of Major
9 League Baseball's counsel, and some of which are factual and
10 would ultimately be subject to being presented to this Court,
11 at least under the existing bidding procedures.

12 So I don't see that the 75 percent and the ultimate
13 approval necessary to closing is relevant.

14 MR. KURTZ: All right.

15 THE COURT: All that's relevant at this point is
16 whether a person can bid, which your client can, and which,
17 subject to the other members of their group, as I understand
18 it, Crane and Beck can. As I understand it, Major League
19 Baseball has undertaken and has so far kept its undertaking to
20 promptly review any request to be approved to bid.

21 MR. KURTZ: Your Honor, my understanding is there is
22 a qualification issue that basically looks to see whether you
23 have been convicted of a felony and matters like that. That
24 makes you qualified. Then it goes to Baseball for a
25 recommendation approval, which has been provided, as I

1 understand it, to RBE. Then it goes to all of the owners for
2 the 75 percent vote.

3 All of those requirements to the successful closing of a
4 transaction are relevant. I am simply trying to explore with
5 this witness whether he understands that's relevant, because
6 whether you get through qualification, approval, or ultimate
7 approval is important. Any one of those three steps would bar
8 a bidder.

9 THE COURT: All right. Well, go ahead, Mr. Leblanc.
10 Then we're going to take a recess for *Pilgrim's Pride*.

11 MR. LEBLANC: Your Honor, personally, I think I see
12 Mr. DuPuy in the back of the courtroom. He testified as to
13 these issues yesterday. There is a process that happens after
14 a bidder is -- in this process, after a bidder is selected,
15 that goes through three different steps. There's a Membership
16 Committee, Executive Council, and then there is a vote of the
17 owners. Those three processes, to the best of our
18 understanding, have not started -- if Mr. DuPuy wants to take
19 the stand, we can question him about it today -- with respect
20 to any bidder, including Mr. Greenberg.

21 And I think Your Honor is absolutely correct in separating
22 those two elements.

23 THE COURT: All right.

24 MR. LEBLANC: And my understanding is the purpose of
25 the provisions of the bid procedures that Your Honor imposed

1 last week, which with respect to this point we agree with,
2 were to allow for the Court to investigate or to consider
3 whether the denial in any of those processes was not in good
4 faith. And that's something that is totally irrelevant to the
5 question of the bid procedures. It doesn't -- again, it's an
6 effort to try to get Greenberg over the finish line.

7 THE COURT: I understand. I'm going to sustain the
8 objection. We'll be in recess until approximately 15 minutes
9 of 11:00.

10 THE CLERK: All rise.

11 (A recess ensued from 10:27 a.m. until 10:47 a.m.)

12 THE COURT: Please be seated. All right. Where is
13 Mr. Kurtz? (Pause.) Okay. Mr. Kurtz, you may proceed.

14 MR. KURTZ: Thank you, Your Honor.

15 CROSS-EXAMINATION, CONTINUED

16 BY MR. KURTZ:

17 Q Mr. Snyder, you're aware that the Commissioner of Major
18 League Baseball has said that he will recommend the approval
19 for the RBE deal, right?

20 A I have been told -- I've been told that. I have not
21 spoken to the Commissioner myself, but I have been told that
22 he would recommend them.

23 Q Okay. And you certainly haven't been told that Major
24 League Baseball said that they would -- that the Commissioner
25 said that he would recommend bids by either Beck or Crane,

1 right?

2 MR. LEBLANC: Objection, Your Honor. Calls for
3 hearsay.

4 THE COURT: I'm going to sustain that objection. You
5 may proceed, Mr. Kurtz.

6 BY MR. KURTZ:

7 Q You understand that the RBE financing expires on August
8 12th, correct?

9 A Unless they pay the commitment fee. Unless they pay the
10 fee, yes, it will.

11 Q I'm sorry. Is it -- do you -- are you operating under the
12 misunderstanding that RBE is entitled to extend its financings
13 beyond August 12?

14 THE COURT: Just a minute.

15 MR. LEBLANC: Objection, Your Honor, to the form of
16 the question: --

17 THE COURT: Okay.

18 MR. LEBLANC: -- "Are you operating under the
19 misunderstanding?"

20 THE COURT: Sustained.

21 BY MR. KURTZ:

22 Q Is it your understanding, are you operating under an
23 understanding that the RBE financing can be extended beyond
24 August 12th by paying a fee?

25 A It goes hard. If you pay -- if he pays the fee -- I think

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1 it's 1.75 percent; it's a lot of money; it's like \$2.6 million
2 plus \$45,000 -- the financing goes hard. But then he has a
3 loan, you know, at that point. But it's -- the commitment
4 cannot be extended beyond the 12th, but the loan can go hard
5 on the 12th, but he'd have to -- you have to pay the fee.

6 Q All right. So you have an understanding -- in the first
7 place, do you understand RBE has raised \$260 million in equity
8 financing?

9 A The what?

10 Q Do you understand that RBE has raised \$260 million in
11 equity financing?

12 A \$260 [million]? Well, the numbers I saw were slightly
13 less than that, but it's close, yes.

14 Q Are you aware that the equity financing expires on August
15 12th?

16 A Now, that I have not seen. The only document I saw that
17 expired on the 12th was the credit commitment.

18 Q You --

19 A That's the only thing I've seen.

20 Q You have no idea, therefore, whether the equity
21 commitments expire on August 12th. Is that right?

22 A I have no idea.

23 Q Okay. And you're operating on the assumption that, so
24 long as RBE is willing to pay money, they can extend their
25 financing beyond August 12th?

1 A The bank financing, if they pay the fee, yeah.

2 Q Okay. Your understanding is the bank financing is
3 available even if the equity financing is not funded?

4 A I would have -- I would not have any visibility on that.
5 I've not seen the equity agreements, --

6 Q Okay. You --

7 A -- so I don't know.

8 Q You have no idea, therefore, whether or not the equity --
9 whether any of RBE's financing can be extended beyond August
10 12th, right?

11 A Okay. Let me see if I can answer your question. The only
12 thing I've read is the financing agreement, okay, from the
13 banks. And it can be extended if they pay the fee.

14 Q It --

15 A But the -- I have not seen any of the equity financing
16 agreements, so I don't have any visibility on that side.

17 Q And it's your testimony that the debt financing can be
18 extended even if the equity financing expired. Is that right?

19 MR. STRUBECK: Your Honor, I object to the form of
20 the question. That's not what he testified to.

21 THE COURT: I think what he's testified to is -- I
22 think the question has been asked and answered. As I
23 understand it, he says he doesn't know anything about the
24 equity financing. And if I understand your question, which I
25 think you asked before, and I'm not sure he didn't duck the

1 question, whether intentionally otherwise, is: Does the
2 financing commitment from the lenders depend upon the equity
3 financing? Is that correct?

4 MR. KURTZ: I have asked him, though, since he has
5 testified that he believes it can be extended, --

6 THE COURT: Well, I understand that. Do you
7 understand that the agreement with the lenders contains a term
8 that requires that the equity financing remain in place for
9 the lenders to be obligated to lend?

10 THE WITNESS: You know, I --

11 THE COURT: Do you just not remember?

12 THE WITNESS: I just don't remember that.

13 THE COURT: All right.

14 THE WITNESS: I just don't.

15 MR. KURTZ: Okay.

16 THE COURT: That's your answer, then, Mr. Kurtz.

17 MR. KURTZ: Okay.

18 THE COURT: Proceed.

19 BY MR. KURTZ:

20 Q Well, you've made a lot of your notion that there needs to
21 be a number of bids, or at least two bids, in order to have a
22 process that you're comfortable with. Is that correct?

23 A That's correct.

24 Q Okay. One of the bids right now is RBE, right?

25 A Correct.

1 Q In fact, that's a committed deal, right?

2 A Correct.

3 Q And if that deal expires on August 12th, then that's one
4 of the bids that you want that is been lost, right?

5 MR. LEBLANC: Objection, Your Honor, to the form of
6 the question.

7 THE WITNESS: Well, --

8 THE COURT: Overruled that time. Go ahead and
9 answer, if you can.

10 THE WITNESS: Can I go ahead and answer, or --

11 THE COURT: Yes.

12 THE WITNESS: Oh, okay. Well, you know, you don't
13 know. You don't know if Chuck would -- Mr. Greenberg, I'm
14 sorry; I keep calling him Chuck -- would extend, could extend
15 it or not. I don't know if that bid is lost or not. But if
16 he doesn't pay, you know, I'm saying, a substantial amount of
17 money just to keep the financing in place, if he can't get
18 extended, his bid could be lost. Yeah. I totally understand
19 that.

20 BY MR. KURTZ:

21 Q Sir, you've already testified that you don't understand
22 whether his financing expires on August 12th, right?

23 A No, I just told you I understood it could expire, yes.

24 Q Okay. And you don't understand -- you don't have enough
25 familiarity with the debt documents to know whether or not

1 even the debt could stay around after August 12th, right?

2 A No. The only provision I read in there is that if he pays

3 --

4 Q Sir, I'm just asking whether you know or not. Do you --

5 MR. LEBLANC: Objection. Asked and answered.

6 THE COURT: Sustained.

7 BY MR. KURTZ:

8 Q Could RBE close a transaction without equity financing?

9 A No, I don't believe they could. Absolute not.

10 Q Okay. And so if the equity financing, in fact, expires on

11 August 12th, then that puts the Debtor at great risk, correct?

12 A Well, it puts that deal at risk. I don't know what it

13 puts the Debtor at risk, but it puts the deal --

14 Q Well, you've --

15 A -- with Mr. Greenberg at risk, yes.

16 Q You've just testified for some period of time about the

17 importance of having bidders, right?

18 A Yes.

19 Q So, clearly, it's a problem if this bid expires, right?

20 A Well, no one wants to lose a bidder, no.

21 Q So it's a problem if the bid expires, right?

22 A Yes. Losing a bidder is a bad thing.

23 Q That's right. It's bad for the Debtor, right?

24 A Well, it's bad for the sale process. I mean, if they come

25 -- if this Debtor did not sell for three months, I don't know

1 if it's the end of the world. Okay? So --

2 Q So let me stop you there. You don't know because --

3 MR. LEBLANC: Objection, Your Honor.

4 MR. KURTZ: -- you don't have the requisite
5 experience --

6 THE COURT: Okay.

7 MR. KURTZ: -- or informa...

8 THE COURT: Let's -- one at a time.

9 MR. LEBLANC: I just think the witness should be
10 permitted to finish his answer.

11 THE COURT: If the Greenberg-Ryan Group went away,
12 you would consider that a negative effect on the case. Is
13 that true?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: All right. Go ahead, Mr. Kurtz. Move
16 on.

17 BY MR. KURTZ:

18 Q And as it stands today, of course, the RBE agreement is
19 being used as a stalking horse, right?

20 A Correct.

21 Q And a stalking horse is a positive for a sale process,
22 correct?

23 A Corr...

24 MR. LEBLANC: Objection, Your Honor. If he's -- is
25 he asking for an expert conclusion, just generally? I don't

1 -- I don't understand the question.

2 MR. KURTZ: Your Honor, I'm finding these objections
3 to be, you know, basically without legal foundation, more of
4 an opportunity to argue. They are disruptive, and I would ask
5 that counsel be limited to raising an objection with a legal
6 ground and not to continue to treat this like it's a
7 deposition.

8 THE COURT: Well, --

9 MR. KURTZ: It's cross-examination.

10 THE COURT: Well, if I understood Mr. Leblanc's
11 objection, it was that you're treating Mr. Snyder as an
12 expert. I'm not sure that you are, and I'm going to overrule
13 the objection. But I'm not going to constrain any lawyer from
14 making an objection that he thinks he needs to make to protect
15 the record.

16 I would hope, and I would ask all of you to keep this in
17 mind -- and Mr. Leblanc, in particular, as you've pointed out
18 to me many times -- your clients are paying for this, and I
19 suspect it's costing them many, many thousands of dollars per
20 hour. And the longer this takes, the more that they will wind
21 up paying. So I would ask you to keep that in mind and make
22 objections both that have foundation and that really matter.
23 And I'm not saying that you haven't been doing that. I'm just
24 saying keep that in mind. And I would ask all the parties to
25 keep that in mind.

1 This is a bench trial, again.

2 Mr. Kurtz, I remember a seven-day hearing in which you
3 were on your feet objecting to form about every third
4 question, so that's --

5 MR. KURTZ: I was actually recalling Your Honor
6 restricting me to identifying the evidentiary rule by number
7 without argument.

8 THE COURT: I tried that, and it didn't work for a
9 well.

10 (Laughter.)

11 THE COURT: So it didn't work for the lawyers, and I
12 found that I spent more time looking up the rules than I did
13 ruling on objections. So you're just going to have to have
14 faith in me that this is a bench trial, and I am going to take
15 that into account when I review the transcript.

16 You may proceed.

17 MR. KURTZ: Thank you, Judge.

18 BY MR. KURTZ:

19 Q A stalking horse is a positive transaction to have in
20 connection with trying to realize the best possible value for
21 the assets in a sale process, correct?

22 A In -- well, not all sale processes. In this sales
23 process, I think having a stalking horse with other potential
24 bidders is a positive, yes.

25 Q Right. It's enough of a positive that you're looking to

1 put together one yourself, right?

2 A Well, I mean, the banks -- really, the Ad Hoc Committee
3 negotiated most of that, because they were going to have to
4 bridge the financing. But, yeah, they -- having two people
5 want to be the stalking horse is even better.

6 Q All right. So you agree: A stalking horse is positive
7 for the sale process in this case, right?

8 A I agree.

9 Q And stalking horses set a floor on value, don't they?

10 A Yes.

11 Q And -- because another bidder can't prevail unless it
12 exceeds the amount that's provided for in a stalking horse,
13 right?

14 A Correct.

15 Q And a bidder cannot prevail unless it comes forward with a
16 committed transaction with all terms, correct?

17 MR. LEBLANC: Objection, Your Honor. I think the bid
18 procedures set forth the requirements for a qualified bid.

19 THE COURT: Yes, I believe that that's true. And
20 also they set forth that he doesn't have to come prepared to
21 close if he's prepared to give up \$15 million.

22 Go ahead, Mr. Kurtz.

23 MR. KURTZ: Okay.

24 BY MR. KURTZ:

25 Q Now, if the stalking horse expires, then of course the

1 bidders no longer have to exceed the value provided in the
2 deal, right?

3 A If the stalking horse expires, then what?

4 Q Then the other potential bidders no longer have to exceed
5 the amount that was set forth in the stalking horse, right?

6 A Oh, yeah. They can bid whatever the Debtor is willing to
7 take as their stalking horse bid, yes.

8 Q They cannot prevail without providing as much money as the
9 stalking horse provided, right?

10 THE COURT: He's asking you if they no longer have to
11 compete against the stalking horse is a stalking horse goes
12 away.

13 THE WITNESS: That's correct.

14 THE COURT: Okay.

15 BY MR. KURTZ:

16 Q Now, you have no committed transaction at this point with
17 any other potential bidder, right?

18 A That's correct.

19 Q You have no bidder that is committed to a purchase price,
20 correct?

21 A There is no -- there is a bidder committed to a purchase
22 price. That's Mr. Greenberg.

23 Q Correct. Other than Mr. Greenberg, you have no other
24 bidder that has committed to pay a purchase price for the
25 purchase of the assets that are at issue in this motion,

1 right?

2 A Correct.

3 Q And you have no bidder that's committed to nonfinancial
4 terms, either, right?

5 A Correct.

6 Q And so you're placing at risk the one committed deal
7 that's been determined is the highest and best deal to date in
8 order to chase other bidders that potentially will come in and
9 offer more, right?

10 A That's correct. I --

11 Q All right.

12 A I polled the banks and they gave me in writing that they
13 would run the risk of losing Greenberg rather than go forward
14 with the process.

15 Q All right. You agree that your recommendations and your
16 approach in this case are based on what the banks are asking
17 you to do, right?

18 A No. I said that that's one -- that's one point. In other
19 words, up where I am at the parent company, the only money
20 that flows up there is the equity money that goes to the Bank
21 Groups. And I polled them and they actually said that they
22 would risk losing Greenberg and having to start from scratch
23 rather than accept his bid in the form that it was done.

24 Q It was the Lenders that you polled about whether they
25 wanted the sale to go forward, right?

1 A Correct.

2 Q And you've adopted the Lenders' view about whether or not
3 the sale should go forward, right?

4 A I had the what?

5 Q You have adopted the Lenders' view about whether or not
6 the sale should go forward, right?

7 A Well, no. I view that a sale process -- I already said a
8 sale process -- I think if Judge Nelms grabbed the bidders and
9 put together a sales process, I would endorse that. I'm not
10 sure the banks would, but I would.

11 Q By putting -- well, strike that. By permitting
12 potentially the RBE deal to expire, you are putting an
13 enormous amount of faith in the ability to sell the assets at
14 a higher value to a potential new bidder, right?

15 A Correct.

16 Q So let's find out from you who these new bidders are that
17 we're putting so much faith in. Who are they?

18 MR. LEBLANC: Objection, Your Honor. I think this is
19 wholly inappropriate. I think it's inconsistent with the bid
20 procedures. I also think it's inappropriate to air this type
21 of testimony in open court.

22 To the extent that there is any question about whether
23 this process could chill bidding, which is the objection that
24 we had to producing this in discovery to Rangers Baseball
25 Express, asking this witness or any witness to identify the

1 other bidders who he is in discussions with we believe is
2 wholly inappropriate. There is no more chilling prospect than
3 requiring real-time communications with bidders to be aired in
4 open court.

5 MR. KURTZ: Your Honor, I have a number of responses.
6 First, this witness has testified at length about the
7 potential bidders, and I don't know if there's more or not
8 then Mr. Beck and Mr. Crane, but he's already been testifying
9 about potential bidders. So that's been opened on direct.

10 Two, the CRO and the Lenders are taking the position that
11 a committed deal that's been determined to be the highest and
12 best should be permitted to expire in favor of the potential
13 for new bidders, and they have a burden of proving there is a
14 prospect, but beyond a prospect, that there is a probability,
15 maybe a certainty, that there will be new bidders at a higher
16 number, which requires that these new bidders be identified.

17 And at this time, nobody is trying to ask any questions
18 that would chill the process. At this point, the only
19 question on the table is who these bidders are, from an
20 identification standpoint. I don't know what the secret is.
21 There's no secret to RBE.

22 THE COURT: All right.

23 MR. KURTZ: There's no secret to Crane.

24 THE COURT: All right. I'm ready to rule on this.

25 You can answer as to Mr. -- until further questioning gets to

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1 the point where I think you should stop and it's objected to,
2 you can answer with respect to Mr. Beck and Mr. Crane. You
3 may also answer in generalities as to whether there are any
4 other bidders of whom you are aware, without naming them.

5 And the reason why we are doing that is because, under the
6 existing bidding procedures, we don't advertise who the
7 bidders are until Major League Baseball has cleared them. And
8 unless there is someone else that's been cleared that I am not
9 aware of, Beck and Crane are the only two that have been
10 cleared. Is that correct, Mr. Snyder?

11 THE WITNESS: Yes.

12 THE COURT: All right.

13 BY MR. KURTZ:

14 Q Is Mr. Crane one of the potential new bidders that you're
15 relying on in this case?

16 A Yes.

17 Q Is Mr. Beck one of the potential new bidders that you're
18 relying on in this case?

19 A Yes.

20 Q Is there any other potential new bidders that you're
21 relying on in this case?

22 A There's -- there's been another one represented here in
23 the courtroom, but they can't say who they're with, but there
24 is another one that's been pretty public.

25 And I need to correct you on one thing you said. You

1 misquoted me to the Judge. You said that I was relying on a
2 higher bid to let the Greenberg offer expire, and that's not
3 what I said.

4 Q No, I never said that.

5 A Well, yes, you did. You told the Judge that.

6 THE COURT: All right. All right. All right.

7 Again, I'm going to look at the transcript. I'll know who
8 said what.

9 I think I understand what you're saying, which is you'd
10 rather run the risk that there will be a higher bidder than go
11 through with the Greenberg-Ryan deal if you think that the
12 Greenberg-Ryan deal has not been adequately subjected to a
13 market test. Is that a correct statement?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: All right. Please proceed, Mr. Kurtz.

16 MR. KURTZ: All right. The --

17 THE COURT: I don't want arguments between the
18 witness and the lawyer.

19 THE WITNESS: Uh-huh.

20 THE COURT: Okay?

21 MR. KURTZ: Your Honor, I accurately characterized
22 what my question was. It was for a potential higher bidder.

23 BY MR. KURTZ:

24 Q Is Mr. Cuban an interested potential bidder?

25 MR. LEBLANC: Object. Your Honor, I object. I think

1 we may have to -- and what I might suggest, Your Honor, is we
2 clear the courtroom, seal the transcript. I think we're --
3 there's a clear effort. I mean, there's no question, by the
4 person asking the question, they would like nothing more than
5 to chill the bidding, and that's exactly what they're trying
6 to endeavor to do here.

7 MR. KURTZ: Your Honor, that is --

8 MR. LEBLANC: And by airing in open --

9 MR. KURTZ: -- unprofessional and offensive.

10 THE COURT: Shh. One at a time.

11 MR. LEBLANC: By airing in open court -- they're
12 trying to air in open court the process by which other parties
13 may be interested in bidding on the assets. To the extent
14 that the Court doesn't reconsider, then we're living under the
15 bid procedures. To the extent the Court does, --

16 THE COURT: Okay. That's fine. I understand.
17 Response?

18 MR. KURTZ: Your Honor, Mr. Cuban has been identified
19 in the press for weeks as having been a potential bidder in
20 the process. I have seen his name come up in discovery that's
21 been produced in this case. So I -- so the idea that this is
22 a secret is false.

23 THE COURT: Well, it doesn't --

24 MR. KURTZ: The idea that there's a --

25 THE COURT: It doesn't make any difference. We're

1 going to abide by what I said before. You can -- he is aware
2 that there is an actual human being or entity that has
3 indicated an interest in bidding. You can -- he can answer
4 generally to that effect, and not on the basis of "Mr. Jessup
5 is in the courtroom representing someone and I have no idea
6 who it is."

7 If you actually have been contacted by another bidder
8 other than Crane, Beck or their representatives, you may
9 answer that you have been contacted by another bidder.

10 You may further inquire, if you wish, Mr. Kurtz, into
11 whether or not he's done any investigation to determine the
12 financial capability of that bidder and whether he has been
13 convicted or it has been convicted. For example, if it's
14 British Petroleum. If it is someone that we would not want
15 owning a Major League Baseball team.

16 (Laughter.)

17 THE COURT: Or perhaps a drug cartel in Mexico. You
18 may inquire in that vein to the extent that he has knowledge,
19 but we're not going to mention any names in court. And I
20 adjure you that I have not always found that the media is the
21 most reliable source for hard facts in this case.

22 MR. KURTZ: Thank you, Your Honor.

23 BY MR. KURTZ:

24 Q Mr. Snyder, am I correct in understanding that you are
25 relying on three potential new bidders: Mr. Crane, Mr. Beck,

1 and somebody that we're not going to identify at this point?

2 A Well, I think the Judge said in generalities. We have
3 been contacted by somebody that does represent Mr. --

4 Q Sir, I'm just asking whether it's three, four, five or
5 six.

6 A Well, then there's -- I got contacted by another group
7 that said they were interested and -- and I gave them some
8 general parameters, I pointed them to the Web site, they could
9 look up the prices that are out there and whether they were,
10 you know, in the mood to pay over \$500 million for a baseball
11 team.

12 Q So --

13 A And I --

14 Q -- are you saying there are four persons that you have
15 spoken with about potentially bidding?

16 A Four new ones, correct. That's correct.

17 Q "New ones" meaning Mr. Crane, Mr. Beck, and two
18 additional?

19 A Correct.

20 Q All right. We'll refer to the first potential additional
21 bidder as Bidder 1, or Putative Bidder 1, and the second one
22 you referred to as Putative Bidder 2. Is that understandable
23 to you?

24 A Okay.

25 THE COURT: So we have Crane, Beck, and Putative 1

1 and Putative 2, for purposes of your examination. Is that
2 correct?

3 MR. KURTZ: Correct.

4 THE COURT: All right. Go ahead.

5 BY MR. KURTZ:

6 Q Mr. Crane participated in the initial auction process,
7 correct?

8 A Are you talking about the one that culminated in January
9 of this year?

10 Q Are you aware of any others?

11 A Well, there was -- remember, we tried to get another one
12 going and we couldn't, right, the postpetition one. So I
13 guess we're talking about the prepetition one, right?

14 Q Yes.

15 A Okay.

16 Q Yes, Mr. Snyder. Do you understand that there was a
17 process that marketed, negotiated and ultimately documented
18 the sale of the organization that is at issue in this lawsuit?

19 A Yes.

20 Q Okay. And Mr. Crane participated in that sale process,
21 correct?

22 A Correct.

23 Q So he was provided with all of the due diligence that was
24 provided to RBE, correct?

25 A Correct.

1 Q He was provided months of opportunity to take due
2 diligence, correct?

3 A Correct.

4 Q And he was also provided with months of opportunity to
5 negotiate the nonfinancial terms of a transaction, correct?

6 A Correct.

7 Q And he has had months of time to review the purchase
8 agreement with RBE, correct?

9 A Correct.

10 Q And he's had months of time to evaluate and determine
11 whether he's prepared to accept a transaction on the same
12 nonfinancial terms, correct?

13 MR. DEWOLF: Objection, Your Honor. Can I take the
14 witness on *voir dire*, whether he has a foundation as to what
15 Mr. Crane was able to do prepetition in the bidding process?
16 This witness doesn't have any personal knowledge of this and
17 he's being asked to commit to what Mr. Crane was given
18 prepetition. This is not the right witness.

19 MR. KURTZ: This is a witness that is here taking the
20 position in this case, Your Honor, based on his understanding
21 of what the bidding procedures' impact will be on bids and the
22 availability --

23 THE COURT: Okay. Okay. I'm going to overrule the
24 objection, but I understand that at some point Mr. Crane or
25 someone competent to speak to what his involvement in the

1 case, both prepetition and postpetition, has been will
2 testify. But I do think Mr. Snyder's understanding of Mr.
3 Crane's situation, both prepetition and currently, is relevant
4 to the case today.

5 MR. DEWOLF: As long as it's his understanding, Your
6 Honor. Thank you.

7 THE COURT: Yes. I understand that. Go ahead. And
8 you understand. I'm not -- and Mr. Kurtz, you understand.
9 I'm not necessarily accepting this as evidence of what Mr.
10 Crane's position was. I'm accepting it as evidence of Mr.
11 Snyder's assumptions. All right?

12 MR. KURTZ: That's correct, Your Honor.

13 THE COURT: All right. Go ahead.

14 MR. KURTZ: I mean, they are free to call a witness
15 if they dispute the understandings.

16 BY MR. KURTZ:

17 Q Mr. Snyder, Mr. Crane has had months and months to pull
18 together financing if he wants to purchase the assets at
19 issue, correct?

20 A A month. Let's see. He was contacted on the Friday
21 before the mediation, so that's not a month that he's --

22 Q Let me be clear. When Mr. Crane participated in the sale
23 process back in 2009, he had, between then and now, months and
24 months of time to pull together any financing necessary for
25 him to consummate a transaction.

1 MR. DEWOLF: Objection, Your Honor.

2 MR. KURTZ: Correct?

3 MR. DEWOLF: It assumes -- I'm sorry. The question
4 assumes facts not in evidence as to how long the process went
5 prepetition, when Mr. Crane was involved or was not. And the
6 testimony is misleading as to any answer because there has
7 been no evidence put on, through this witness or otherwise, to
8 date as to what Mr. Crane's involvement was and when it
9 stopped. Only Mr. Snyder testifying about when he reengaged
10 in the process with discussions with Mr. Snyder is all we
11 have.

12 MR. KURTZ: Your Honor, there is no basis for a
13 dispute, and we will adduce all the evidence we need that Mr.
14 Crane participated in a process back in 2009. If that's
15 seriously being denied, I think that speaks to --

16 THE COURT: Well, I think that there is -- and I'm
17 going to let Mr. Snyder answer the question, but I think the
18 form is a little bit misleading. It's my understanding that
19 in January of this year the Rangers and your client entered
20 into an agreement, and I would assume at that point Mr.
21 Crane's enthusiasm to pay fees to a bank or anyone else to put
22 up financing would have stopped or ended, at least until the
23 commencement of this Chapter 11 case.

24 So I'm not sure that your question is not a little bit
25 misleading, but I'm going to let you ask it. You understand

1 what I'm saying, Mr. Snyder?

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: All right. So I don't know that --

4 MR. KURTZ: Okay.

5 THE COURT: -- he had those six months.

6 MR. KURTZ: Let me -- let me --

7 THE COURT: Or five months.

8 MR. KURTZ: Okay.

9 BY MR. KURTZ:

10 Q But you understand Mr. Crane had ample time to pull
11 together financing in connection with any bid he was making
12 for the assets at issue back in 2009 and early 2010, correct?

13 A Correct.

14 Q And he could go back and revise any such transaction,
15 potentially, if he's really interested in buying the assets
16 now, correct?

17 MR. LEBLANC: Objection, Your Honor. Calls for
18 speculation.

19 BY MR. KURTZ:

20 Q Your understanding, sir?

21 A That's exactly the problem: It didn't work. That's what
22 I testified to earlier. He thought he could. So when I
23 called him on Friday, he went to New York, he met with the
24 banks, and they had already given -- the same banks who are
25 financing him are financing Mr. Greenberg. They had already

1 given commitments to Greenberg. And so there was a problem.

2 And so that's why, when we convened on the mediation day, just
3 to say he could turn it back on, it didn't work. He thought
4 it could, but it didn't.

5 Q All right.

6 A That did not happen.

7 Q Sir, do you have any personal knowledge of whether or not
8 Mr. Crane is able to raise financing?

9 A Well, the only knowledge I have is I was involved in
10 discussions between the existing lenders and Crane, to see if
11 there would be a way to putting a bridge, because the lenders
12 that were in the group earlier in the year, being that they
13 were backing Greenberg at that point, whether or not they --
14 they would have to go back to Committee and decide whether
15 they could issue two loan agreements to two different parties,
16 and whether that could be done in time. And so the existing
17 lenders, I was involved where they were going to try to step
18 up and see if they could bridge Crane to get a sale done. So
19 I do have personal --

20 Q Who are the existing lenders?

21 A I'm sorry?

22 Q You keep referring to the term "existing lenders." Who
23 are you referring to?

24 THE COURT: Just a minute.

25 MR. LEBLANC: I just want to make sure, Your Honor,

1 that the witness has a chance to finish his answers. There
2 was another interruption there. And I think it's appropriate
3 to let the witness finish his answers.

4 MR. KURTZ: Your Honor, this cross-examination. I'm
5 trying to move this along.

6 THE COURT: Well, I'm inclined to agree. I don't
7 want you interrupting him, just as I don't want the witness
8 interrupting you or lawyers interrupting each other.

9 You may answer the question.

10 THE WITNESS: Okay. The existing lenders, there are
11 two groups. There's a --

12 THE COURT: Whose existing lenders are you speaking
13 up, Mr. Snyder?

14 THE WITNESS: That would be the lenders of my client,
15 the equity -- that guaranteed -- my client that guarantees the
16 debt, and which the sub guarantees for \$75 million. So
17 there's a -- there --

18 THE COURT: Are you speaking of, when you're speaking
19 of the existing lenders, are you talking about Mr. Leblanc's
20 client and Ms. O'Neil's clients?

21 THE WITNESS: Yes.

22 THE COURT: Okay. Thank you.

23 BY MR. KURTZ:

24 Q That's all I'm asking, sir. Is it Monarch and JPM?

25 A Well, Monarch is only one person out of that whole group.

1 There are about --

2 Q Okay.

3 A There's 15 to 20 different banks that are in the first and
4 second lien. But those are the people -- I guess the best way
5 to define it, they are represented by Mr. Leblanc, but also by
6 Holly O'Neil and --

7 Q Okay. I don't need the appearances. Sir, the First Lien
8 Lenders and the Second Lien Lenders are prepared to offer
9 bridge financing to Mr. Crane in connection with a bid to
10 purchase the assets here at issue?

11 A Now, those were the conversations I was involved in, where
12 they were putting together --

13 Q Is the -- is the answer yes?

14 A -- a bridge financing. Yes.

15 Q Okay.

16 MR. LEBLANC: Your Honor, it's -- again, it's just
17 almost constant interruption of the witness's answers.

18 THE COURT: Okay. Go ahead, Mr. Kurtz.

19 BY MR. KURTZ:

20 Q And the existing lenders have told you that they are
21 prepared to provide the financing to Mr. Crane necessary to
22 support his bid for the assets here at issue?

23 A I believe, on the proper terms, they would provide bridge
24 financing, yes.

25 Q Okay. And they can do that quickly, correct?

1 A Well, not as quickly as you might think. That's -- one of
2 the issues was trying to get him up to --

3 THE COURT: Why don't you say about how long it would
4 take?

5 THE WITNESS: It would take several weeks for them to
6 pull that together.

7 THE COURT: Okay. Go ahead.

8 BY MR. KURTZ:

9 Q Why would it take several weeks for this large group of
10 lenders to simply commit to provide financing to Mr. Crane if
11 Mr. Crane is a good credit risk who was worthy of the
12 financing?

13 A I think it has to do with the inter-creditor agreements
14 between the first and second lien, and also the amount of
15 votes they need to extend the credit. So it's not as simple
16 as, you know, two people going to dinner and agreeing to do
17 this. There are several banks in that group, and they have to
18 agree to the terms and conditions. And then, if the second
19 lien participates, what the inter-creditor would look like.
20 So it's a new loan. It's a new loan.

21 Q Yes, I see. I see what you're saying. You're saying that
22 the First Lien and Second Lien Lenders, that any delay that
23 they would have in extending the financing necessary to permit
24 bidding under the existing bidding procedures is as a result
25 of their own inability to reach an agreement among themselves

1 as to their inter-creditor rights?

2 THE COURT: Just a minute.

3 MR. LEBLANC: Objection. Argumentative.

4 THE COURT: I don't find it so. Overruled.

5 What you're saying is it's like herding cats?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Okay.

8 BY MR. KURTZ:

9 Q And the First Lien Lenders and the Second Lien Lenders are
10 the cats, right?

11 A Yes.

12 Q And if they'd simply stop behaving like a herd of cats and
13 instead cooperate, they could easily put together a commitment
14 to backstop or finance Mr. Crane's bid within the time period
15 provided --

16 THE COURT: Okay. Okay, Mr. --

17 MR. KURTZ: -- in the bidding procedures. Correct?

18 THE COURT: Mr. Snyder, wait a minute.

19 MR. LEBLANC: Objection to the form of the question.

20 THE COURT: Sustained.

21 BY MR. KURTZ:

22 Q Your understanding is the only thing preventing the
23 existing lenders from financing a bid for Mr. Crane within the
24 time period allowed in the existing bidding procedures is
25 their own inability to reach an agreement among them about

1 their inter-creditor rights, correct?

2 MR. LEBLANC: Object to the form of the question.

3 THE COURT: Sustained.

4 MR. KURTZ: Your Honor, I'm not sure I understand why
5 I can't adduce this testimony. It seems critical to me.

6 THE COURT: I don't -- your -- the --

7 MR. KURTZ: Under the prevention doctrine and
8 otherwise.

9 THE COURT: Don't interrupt me, Mr. Kurtz.

10 MR. KURTZ: I was just trying to complete the
11 thought, Your Honor. Sorry.

12 THE COURT: Don't interrupt me. Do you understand?

13 MR. KURTZ: I do.

14 THE COURT: Okay. Let me put it this way. Your
15 understanding is it's going to take time to get the various
16 lenders in the First and Second Lienholder Group to agree to
17 terms under which they would lend to Mr. Crane. Is that
18 correct?

19 THE WITNESS: That's correct.

20 THE COURT: And we're talking about about 20
21 entities?

22 THE WITNESS: I believe so.

23 THE COURT: All right. Go ahead, Mr. Kurtz.

24 BY MR. KURTZ:

25 Q And that's the only -- that's the only matter that would

1 prevent them from financing Mr. Crane within the time period
2 provided under the existing bidding procedures, correct?

3 A I believe so.

4 Q And by the way, if the lenders finance Mr. Crane, they
5 will of course obtain fees outside their scope as an equity
6 holder in this case, right?

7 A I had no visibility on that at all.

8 Q You have no understanding as to whether the lenders would
9 charge fees in order to extend credit to Mr. Crane?

10 A Oh, well, I mean, there's -- I don't know -- I never saw
11 the extent of the interest rate. You know, I was not -- I
12 didn't participate in those conversations. So I never really
13 saw, you know, the terms of the -- I've never seen the -- I
14 never saw any paperwork between those two entities on what the
15 terms of the debt would be.

16 Q Do you have an understanding that the lenders would charge
17 interest, which would be a recovery for them outside their
18 scope as equity holders in this case?

19 MR. DEWOLF: Objection, Your Honor. Relevance.

20 THE COURT: Overruled. Go ahead and answer.

21 THE WITNESS: Yes, they were negotiating an interest
22 rate. Absolutely, they would get paid interest, my
23 understanding.

24 BY MR. KURTZ:

25 Q And what's the amount of the loan, if you know?

1 A Well, --

2 MR. LEBLANC: Objection, Your Honor. We're getting
3 now I think necessarily into the terms of competing proposals,
4 which I don't think is ever going to be appropriate to give to
5 White & Case or Rangers Baseball Express, and certainly not in
6 open courtroom.

7 MR. KURTZ: Your Honor, I'm just trying to establish
8 the motivations for the lenders in this case. This is a
9 recovery outside of any position they hold as an equity holder
10 or creditor in this case. It's economics, it's dollars to
11 them, it would explain some of their behavior here, and I
12 think it's relevant.

13 MR. LEBLANC: Your Honor, then with that explanation,
14 I question the relevance of the testimony that's being sought.
15 As well, Your Honor, as the appropriateness of it in a forum
16 with Rangers Baseball Express present.

17 THE COURT: Any response, Mr. Kurtz?

18 MR. KURTZ: I'm sorry, Your Honor. I'll just repeat
19 that I think that the amounts that the Lenders would receive
20 outside of their capacity as a party in interest in this case
21 is relevant to the issue of the bidding procedures and the
22 fairness of the bidding procedures.

23 THE COURT: Okay. I'm going to sustain the
24 objection.

25 MR. KURTZ: Okay.

1 THE COURT: You may proceed.

2 BY MR. KURTZ:

3 Q Do you know who Mr. Crane is?

4 A I'm sorry. Do I know him?

5 Q Yes.

6 A I've met him. I've shook his hand. I talked to him on
7 the phone several times, if that's what you mean.

8 Q Do you have some understanding of his net worth?

9 A No, I do not.

10 Q Do you know what Mr. Crane does for a living?

11 A No. He just invests money, as far as I know. He sold his
12 logistics company.

13 Q Do you know his access -- or, strike that. What's Mr.
14 Crane's ability to raise equity financing in connection with
15 the bid?

16 A Well, I actually spoke to the MLB about this, and their
17 understanding, back -- and I also spoke to Weil about this.
18 When Crane was bidding back in December or January, the amount
19 of equity that he was raising, what I was told, was well
20 within the range of what his financial net worth was and that
21 -- I was told that was never an issue, the amount of equity he
22 would need to bring to the table.

23 Q Okay. So your understanding is Mr. Crane has sufficient
24 net worth to be able to provide himself the equity commitment
25 necessary to bid for the assets at issue in accordance with

1 the existing bidding procedures, correct?

2 A On the equity side, yes.

3 Q And is it your understanding that Mr. Crane's net worth is
4 sufficient to cover any debt that he would otherwise choose to
5 raise?

6 A No. I never was told that, no.

7 Q The second bidder that you identified is Mr. Beck,
8 correct?

9 A Correct.

10 Q Mr. Beck participated in the initial sale process in 2009-
11 2010, correct?

12 A Correct.

13 Q So he too was provided access to the same due diligence as
14 was provided to RBE, correct?

15 A That's my understanding, yes.

16 Q And Mr. Beck also has had sufficient due diligence to put
17 himself in a position to bid on the assets here at issue,
18 correct?

19 A Correct.

20 Q And --

21 MR. DEWOLF: I'm going to object. On this line of
22 questioning, I have the same objection as to Mr. Beck, that
23 it's just Mr. Snyder's understanding, because this witness I
24 don't think has any personal knowledge --

25 THE COURT: I understand. Overruled. You may

1 proceed.

2 BY MR. KURTZ:

3 Q By the way, going back to -- well, I'm sorry. Is the
4 answer yes?

5 A Yes.

6 Q Do we have an answer? Okay. When did Mr. Crane start
7 talking to anybody again about the possibility of making a bid
8 for the assets that are at issue in this motion?

9 A Oh, I don't know. Because I know he had spoken to
10 lenders, but my first conversations with Crane happened -- my
11 first conversations with him were after we had spoken with
12 Greenberg and Marty about going forward with a new sales
13 process. So that's when I spoke to Mr. Crane, at that point.

14 Q You have no information about when Mr. Crane started
15 speaking to the Debtors or Major League Baseball about
16 continuing to try to purchase the assets at issue?

17 A Are you talking about after the filing?

18 Q After the -- an agreement was reached with RBE.

19 A No. I don't know.

20 Q Okay. So let's move back to Mr. Beck. Does Mr. Beck have
21 financing available to bid for the assets at issue?

22 A Not that I'm aware of, no.

23 Q Do you know what Mr. Beck's approximate net worth is?

24 A No, I do not.

25 Q Do you know whether Mr. Beck has any possibility of

1 raising financing to support a bid for the assets at issue?

2 A My understanding with Mr. Beck was that he believed he
3 could get the financing together with third parties. He might
4 not necessarily need the existing bridge. And so he may -- he
5 may need a little more time than Crane, but he -- I don't
6 believe -- from talking to him, he believed he could raise his
7 own third party financing.

8 Q Mr. Beck believes that he can raise his own third party
9 financing, correct?

10 A He could raise it.

11 Q He could? Did he mention who he could raise that from?

12 A No.

13 Q Do you know what Mr. Beck's ability is to raise equity
14 financing?

15 A I do know some. I believe that he had a -- I hate to say
16 the number. I saw it. But it's a huge -- it's a very large
17 number that he personally committed --

18 THE COURT: Why don't you say it's about the same as,
19 more than, or somewhat less than the equity in the Greenberg-
20 Ryan did?

21 THE WITNESS: Okay. It's less -- his -- just, this
22 is his -- just without anybody else, just his own equity was
23 less than the Greenberg deal.

24 BY MR. KURTZ:

25 Q Close, though?

1 A I'm sorry?

2 Q Close, though?

3 A They're both nine-digit numbers. They're big numbers. I
4 mean, it's -- it's pretty close. I mean, --

5 THE COURT: And that's just him personally, as
6 opposed to his partners?

7 THE WITNESS: Correct.

8 THE COURT: Okay. Go ahead.

9 BY MR. KURTZ:

10 Q So Mr. Beck has the ability to raise nearly the same
11 amount of equity financing -- strike that. Mr. Beck has the
12 ability to supply nearly the same amount of equity financing
13 himself as is contained in the RBE agreement?

14 A Well, it's -- it's significant. I wouldn't say close.
15 It's significant.

16 Q More than half?

17 A Yes.

18 Q More than three-quarters?

19 A I'm --

20 THE COURT: I think we've got the picture.

21 MR. KURTZ: Okay. Okay.

22 THE COURT: Keeping in mind that he has partners who
23 he presumably would want more than goodwill from.

24 MR. KURTZ: Okay.

25 BY MR. KURTZ:

1 Q And as Judge Lynn has said, Mr. Beck also has access to
2 third parties with an interest that would provide additional
3 equity financing for him?

4 A Correct.

5 Q All right. And in addition to that, Mr. Beck can receive
6 debt financing, to the extent he wants debt financing, from
7 the existing lenders. Correct?

8 A Well, no. Maybe -- I'm not aware of any discussions with
9 Beck and existing lenders to do a bridge, because I thought
10 Beck -- I thought I already testified that Beck thought he
11 could raise the landing from third -- from third party banks
12 without getting a bridge.

13 Q Okay.

14 THE COURT: He thinks he's got good enough
15 connections with financial institutions that he could raise
16 his additional financing without the requirement of a bridge
17 loan from the existing lenders. Is that correct?

18 THE WITNESS: That's -- that's correct.

19 BY MR. KURTZ:

20 Q And Mr. Beck could do so within the time periods provided
21 for in the existing bidding procedures, correct?

22 A Not -- that's not my understanding.

23 Q Do you know whether or not Mr. Beck could raise financing
24 within the time periods provided under the existing bidding
25 procedures?

1 A Based on my conversations with him, I am not sure he could
2 do it.

3 Q You have no personal knowledge that he could not do so,
4 right?

5 A Correct.

6 Q Do you know who his lenders are?

7 A I do not.

8 Q Do you know whether he's asked his lenders to finance a
9 bid procedure within -- I'm sorry. Do you know whether he's
10 asked his lenders to finance a bid within the time periods
11 provided for in the existing bidding procedures?

12 A I have no knowledge of that.

13 Q And you certainly have no knowledge that he can't raise
14 the debt financing within the time periods provided for under
15 the existing bidding procedures, correct?

16 A Correct.

17 Q Putative Bidder #1, has he indicated -- has he had access
18 to due diligence?

19 A No.

20 Q Has Putative Bidder #1 made any type of an offer?

21 A No.

22 Q Has Putative Bidder #1 indicated it intended to make an
23 offer?

24 A No.

25 Q Has Putative Bidder #1 supplied any information that would

1 suggest that he or his group was financially able to
2 consummate on a bid for the assets at issue?

3 A Yes.

4 Q Okay. But what information was supplied?

5 A It's just, I guess, general knowledge of that person.

6 Q In other words, you're saying that the person is of such
7 high net worth that -- and such strong connections that he
8 could finance any bid that he would make in connection with
9 the assets here at issue?

10 A I believe so.

11 MR. LEBLANC: Objection, Your Honor. That was -- to
12 the extent that was attempting to characterize what Mr. Snyder
13 just answered, I think it mischaracterizes it.

14 MR. KURTZ: It's a question on cross-examination.

15 THE COURT: All right. Do you understand, Mr.
16 Snyder, are you saying that you think this Putative Bidder #1
17 can make an acceptable bid because, like, let us take as an
18 example Bill Gates, he is reputed to have the net worth
19 necessary to do so?

20 THE WITNESS: Yes. In the public.

21 THE COURT: Yes.

22 THE WITNESS: Yeah, in the public eye, --

23 THE COURT: Yes.

24 THE WITNESS: -- reputed to be that wealthy.

25 THE COURT: All right.

1 BY MR. KURTZ:

2 Q In other words, Putative Bidder #1 could finance a bid in
3 the periods provided for under the existing bidding
4 procedures, correct?

5 A Well, I didn't say that. I said --

6 Q Well, I'm asking you that question, sir.

7 A Oh, you're asking that? Okay. No, I -- what I said, I
8 believe they can do it. Whether they could do it in three
9 weeks, I don't know. Maybe four weeks.

10 Q You --

11 A They might be able to do it. I don't know.

12 Q Okay. You have no reason to believe -- well, strike that.
13 You believe that the person has enough net worth to finance it
14 himself, correct?

15 A Yes.

16 Q Is that it? So he can finance himself a bid between today
17 or two weeks from now or any other time because he doesn't
18 have to herd any cats, right?

19 A Well, I didn't say that. I mean, people who have a lot of
20 net worth, they also -- that doesn't mean it's laying around
21 in checking accounts, right? So, --

22 Q Well, you --

23 A You know, I just don't know. Is it -- I don't -- I'm not
24 aware of whether it would take two weeks or three weeks or
25 four weeks for him to garner the money. And they'd also have

1 to put some financing in place. Even if they guaranteed it,
2 they'd still have to put it in place, and that might take two
3 weeks. So, even if they used some bank financing, they even
4 backstopped, that still has to be put together and syndicated.

5 Q Has Putative Bidder #1 told you he cannot come up with
6 adequate financing to support a bid within the period -- the
7 existing periods in the bidding procedures?

8 A They have not said that.

9 Q Okay. And obviously Putative -- well, strike that. Has
10 Putative Bidder #1 provided any form agreement?

11 A No. No.

12 Q Has Putative Bidder #1 commented on the existing
13 purchasing agreement with RBE?

14 A No.

15 Q Has Putative Bidder #1 put a price on the assets?

16 A No.

17 Q Has Crane put a price on the assets?

18 A Who?

19 MR. LEBLANC: Objection, Your Honor.

20 BY MR. KURTZ:

21 Q Has Crane made --

22 THE COURT: Just --

23 MR. KURTZ: -- an offer for the purchase?

24 THE COURT: Just a minute. Well, all right. Finish
25 your existing question --

1 MR. KURTZ: I --

2 THE COURT: -- and then let him object.

3 MR. KURTZ: I was going to make it just a little more
4 precise.

5 BY MR. KURTZ:

6 Q Did Mr. Crane make a specific offer to purchase the assets
7 at issue?

8 THE COURT: Okay. Do you have an objection?

9 MR. LEBLANC: If it's a yes/no question, I don't.
10 But if it goes any -- even an inch beyond that, Your Honor,
11 then I've got a real problem.

12 THE COURT: Well, let's hear the answer, then. Do
13 you have an objection?

14 MR. SOSLAND: I actually agree with Mr. Leblanc on
15 this one, so I'm alone.

16 THE COURT: All right.

17 (Laughter.)

18 THE COURT: Okay. Answer yes or no.

19 THE WITNESS: So that's simply yes or no, right?

20 THE COURT: Yes.

21 THE WITNESS: Yeah. Yes.

22 THE COURT: Okay.

23 BY MR. KURTZ:

24 Q Okay. Has Mr. Beck specific offer?

25 A No.

1 Q Has Mr. Beck indicated an amount he would be prepared to
2 pay for the assets here at issue?

3 A Mr. Beck?

4 Q Yes.

5 A In general terms, yes, but it's not -- it wasn't boiled
6 down to a definitive agreement, no.

7 Q Has Mr. Crane offered a bid with a definitive agreement
8 attached?

9 A No, I wouldn't say that. He gave -- he offered a
10 definitive agreement, but I wouldn't say that was a final bid,
11 no.

12 Q But there is a form agreement for Mr. Crane that's
13 available?

14 A It's been produced to Weil, yes.

15 Q And that sets forth a purchase price?

16 A Yes.

17 Q And it identifies the assets that are subject to the
18 purchase?

19 A Yes.

20 Q Okay.

21 MR. KURTZ: And Your Honor, I'm going to ask the
22 question.

23 BY MR. KURTZ:

24 Q And how much is it?

25 MR. LEBLANC: Objection.

1 THE COURT: Sustained.

2 MR. KURTZ: All right.

3 BY MR. KURTZ:

4 Q Has Putative Bidder #2 performed any due diligence?

5 Actually, let me go back to Putative -- are you sure Putative
6 Bidder #1 has had no access to due diligence with respect to
7 the Texas Rangers?

8 A Who are we talking about? The --

9 Q Putative Bidder #1.

10 A Yeah. What about him?

11 Q Are you certain he has not had access to due diligence
12 with respect to the Texas Rangers organization?

13 A Oh, I don't believe so, no.

14 Q Okay. And you're certain that he did not participate in
15 the initial sale process?

16 A I know, I -- you know, he may have. I don't know.

17 Q And --

18 A It may have initially, because there were like nine people
19 initially, so I don't know.

20 Q Okay. You don't know? So therefore you don't know
21 whether Putative Bidder #1 has had access to the due diligence
22 in this case, right?

23 A Yeah. I really don't know. They have signed a CA.

24 Q Are you aware of the fact that Mr. Cuban has had access to
25 due diligence in connection with the first sales process?

1 THE COURT: Just a minute.

2 MR. LEBLANC: Objection, Your Honor. I think we're
3 -- I thought we had covered this ground, but --

4 THE COURT: Yes.

5 MR. KURTZ: I --

6 THE COURT: What's the basis for your objection?

7 MR. LEBLANC: The basis for the objection, Your
8 Honor, is that I thought the bid procedures were quite clear
9 that we weren't supposed to identify any other potential
10 bidders besides those that have been preapproved by Major
11 League Baseball.

12 THE COURT: Well, I don't think he's identified him
13 as a bidder. But is your objection limited to the bidding
14 procedure requirement?

15 MR. LEBLANC: Well, it's that. I'm not sure of the
16 relevance of this, if there's --

17 THE COURT: Okay. I'll sustain the objection based
18 on relevance. If he is a bidder, then you can't talk about
19 it. If he isn't a bidder, then it's not relevant. So, either
20 way, you go down in flames.

21 MR. KURTZ: But that may leave a misimpression on the
22 Court as to the -- who had access to due diligence.

23 THE COURT: I understand that, and -- but at this
24 point, I'm assuming Putative Bidder #1 is nothing more than a
25 ghost who may or may not take shape, human shape, --

1 MR. KURTZ: Okay.

2 THE COURT: -- before us someday.

3 MR. KURTZ: Okay.

4 THE COURT: Okay?

5 MR. KURTZ: And I'll move on. I was going to ask the
6 question in case Your Honor received this information in
7 camera and would link it together himself.

8 THE COURT: Okay.

9 BY MR. KURTZ:

10 Q Putative Bidder #2, has that person had access to due
11 diligence in this matter?

12 A No.

13 Q Okay. Has Putative Bidder #2 made an offer?

14 A No.

15 Q Has Putative Bidder #2 committed -- strike that. Has
16 Putative Bidder #2 suggested any type of nonfinancial terms
17 that would be agreeable?

18 A No.

19 Q Has Putative Bidder #2 established its financial ability
20 to consummate a transaction?

21 A No.

22 Q Are you familiar with the approximate net worth or
23 standing of Putative Bidder #2 --

24 A No.

25 Q -- or its group? Do you have any information that

1 Putative Bidder #2 will ever have the financial ability to
2 consummate a transaction?

3 A No.

4 Q Would you agree that Putative Bidder #2 was also just a
5 ghost in this process?

6 MR. LEBLANC: Objection, Your Honor.

7 THE COURT: Well, I'm going to have trouble hitting
8 him on form because I used it before. But as I understand it,
9 he's a tire-kicker at this point, right?

10 THE WITNESS: It's two phone calls.

11 THE COURT: Okay.

12 THE WITNESS: That's --

13 THE COURT: So he's a tire-kicker at this point?

14 THE WITNESS: I wouldn't even put it that far. It's
15 two phone calls.

16 THE COURT: Not even a tire-kicker?

17 THE WITNESS: No.

18 BY MR. KURTZ:

19 Q He hasn't even walked up to kick the tires yet?

20 A That's right.

21 THE COURT: He's saying, "Which league is this team
22 in?"

23 (Laughter.)

24 BY MR. KURTZ:

25 Q He watched the car drive by?

1 A Yes. It's a drive-by tire-kicker.

2 (Static.)

3 COURT RECORDER: Somebody has a BlackBerry.

4 THE COURT: Okay. If anybody has a BlackBerry
5 anywhere near a microphone, you need to get it out of there,
6 because the -- aha.

7 MR. KURTZ: I had taken it out before the break and I
8 forgot to take it out this time.

9 THE COURT: Yes. Yes.

10 MR. KURTZ: I apologize, Your Honor.

11 THE COURT: Well, that causes Ms. Maben considerable
12 pain, and I know you don't want that.

13 MR. KURTZ: I took the ringer off, so at least I'm
14 not going to be sanctioned.

15 THE COURT: Well, work on it. You might get there.

16 (Laughter.)

17 MR. KURTZ: Well, if it will result in a *Donde* essay
18 for Mr. Lauria, I'm happy to accommodate.

19 THE COURT: Oh, you want him to have an essay? Good.
20 I'm glad to hear that.

21 BY MR. KURTZ:

22 Q You testified that you would support the bidding
23 procedures as they exist if simply it would result in two
24 bids, right?

25 A Absolutely.

1 Q Okay. And you have one bid in RBE, right?

2 A Yes.

3 Q So you're really just looking for a second bidder. Is
4 that right?

5 A Correct.

6 Q And you say you have an offer from Crane, correct?

7 A Well, it was a stalking horse offer.

8 Q Okay. But it would be a bid, right?

9 A Well, we'd have to go back and talk to him, but it's --

10 THE COURT: Okay. Let me ask you, Mr. Snyder. Is
11 what you're saying that you don't know whether he will make
12 that bid under these bidding procedures?

13 THE WITNESS: Exactly.

14 THE COURT: All right. Go ahead, Mr. Kurtz.

15 MR. KURTZ: Okay.

16 BY MR. KURTZ:

17 Q But you have from Mr. Crane an offer that includes the
18 purchase price amount and the nonfinancial terms, the form of
19 the contract, and matters like that, right?

20 A Correct.

21 Q And so Mr. Crane is certainly in a position to submit that
22 offer as a bid within the time period provided for under the
23 existing bidding procedures, correct? If he chooses to do so?

24 A Well, I don't know that, because that whole -- once the
25 Debtor filed their new motion for the sale process, our whole

1 Crane thing unraveled. So, you know, I honestly can't say.
2 You could bid in the two weeks, so I'd be lying to say -- I
3 don't know.

4 Q Well, Crane's evaluated the assets to an extent that he's
5 been able to offer you a transaction, right?

6 A Correct.

7 Q So he stands ready and willing -- whether or not he's able
8 -- to bid, correct?

9 A Well, I'd have to go back to him under a different
10 circumstance, so I'm saying that I've not gone back to him now
11 and said, "Okay, we have this whole new procedure. What do
12 you want to do?" So --

13 Q Let me be more general. You have Mr. Crane, who has fully
14 evaluated the assets and fully negotiated a transaction which
15 included a purchase price, and that you say he's willing to go
16 forward, at least if it's a stalking horse bid. Correct?

17 A He was, yeah.

18 Q Okay. So that means he had been able to perform enough
19 work to put himself in a position to be able to bid for the
20 assets, correct?

21 A Correct.

22 Q And he's put himself in a position to be able to bid for
23 the assets before August 4th, correct?

24 A No. It was beyond August 4th.

25 Q Well, he -- you're saying he's already bid for the assets,

1 right, to you?

2 A Well, it was never finalized. I mean, I don't have a
3 signed document with the escrow agreement and -- all I have
4 are drafts, preliminary drafts of APAs. I've got preliminary
5 drafts of this, and the financing with the Bank Group never
6 finalized. So I think it would be a mischaracterization -- I
7 think it would be a mischaracterization to say that guy was
8 plugged in, ready to go. I'd have to go back and -- I'd have
9 to go back -- we'd have to go -- the Debtor would have to go
10 back, and Marty's kind, to see if there was a way to make that
11 work.

12 Q I'm not asking whether he will now actually stand behind
13 his offer. What I'm asking you is, wasn't Mr. Crane able to
14 put together an offer and provide it to you for the assets at
15 issue?

16 THE COURT: Okay.

17 MR. LEBLANC: Object to the form of the question.
18 The first half of it was just a -- was just some form of
19 argument, an effort to send a message, I guess, to Mr. Crane.
20 I think that's inappropriate.

21 THE COURT: Overruled. You can answer the question.

22 THE WITNESS: I do not know if Crane could bid and be
23 willing to bid under this bid procedure. I don't know.

24 BY MR. KURTZ:

25 Q Sir, that's not my question.

1 A Okay.

2 Q Mr. Crane was able to assess all the assets and submit a
3 full and complete offer to buy the company and to do so before
4 July 20th, correct?

5 A No.

6 Q He didn't submit a bid to -- an offer to you before July
7 20th?

8 A No. I think -- not -- it was not full. It was a draft of
9 a draft APA, a marked-up APA, and it is -- it's not complete
10 and the financing isn't in place and everything else.

11 THE COURT: To your knowledge, was Mr. Crane prepared
12 to enter into a commitment, a binding commitment, to buy the
13 assets of TRBP at an earlier date than this?

14 THE WITNESS: Possibly.

15 THE COURT: All right.

16 THE WITNESS: Possibly.

17 THE COURT: All right.

18 THE WITNESS: Possibly, we could -- it -- if we -- if
19 the --

20 THE COURT: In other words, what you're saying is you
21 don't know, if you'd finally reached agreement on the form of
22 the contract, that he would have signed it?

23 THE WITNESS: Correct.

24 THE COURT: But you do know that he was working
25 toward the form of a contract that would have committed him.

1 Correct?

2 THE WITNESS: That's correct.

3 MR. KURTZ: And he's indicated --

4 THE COURT: All right. Proceed, Mr. Kurtz.

5 MR. KURTZ: Thank you.

6 BY MR. KURTZ:

7 Q And he's indicated that that's an agreement he'd be
8 prepared to go forward on, correct?

9 A As long as he had financing, yes.

10 Q Okay. So it's still subject to contingencies, right?

11 A And he was a stalking horse. So, I mean, it had other
12 conditions to it, you know.

13 Q Okay. But I'm going to get to the --

14 A Okay.

15 Q -- stalking horse. But certainly, before today's date,
16 Mr. Crane was able to put together a deal that he says he'd be
17 prepared to enter into, right?

18 A As long as it had the proper financing and everything
19 else, yes.

20 Q The financing we could be provided by the existing
21 lenders, right?

22 A Which they were working on.

23 Q Yeah. Okay. And but the real -- the real problem that
24 you're referring to in his commitment is he wants to be a
25 stalking horse, right?

Snyder - Cross

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1 A That was the deal -- that's the deal that he submitted it
2 on.

3 Q Right. In other words, he wants to be paid at this point
4 to put in a bid, right?

5 A He wanted to be in the lead position.

6 Q Yeah. Okay. But it's a little late to be in the lead
7 position, isn't it?

8 MR. LEBLANC: Object to the form. Argumentative.

9 THE COURT: Sustained.

10 BY MR. KURTZ:

11 Q And what -- Mr. Crane, has he said to you that he won't
12 bid unless somebody will pay him to bid?

13 Q He never --

14 MR. LEBLANC: Objection, Your Honor. Calls for
15 hearsay. Argumentative.

16 MR. KURTZ: It's relevant, Your Honor, to this
17 party's underst...

18 THE COURT: Yes. I'm going to let you -- Mr. Snyder,
19 I'm going to let you answer to the extent that you know. And
20 I thought you had answered before that you do not know whether
21 Mr. Crane would bid if he is not the stalking horse.

22 THE WITNESS: I do not know if he would or would not.

23 THE COURT: All right.

24 BY MR. KURTZ:

25 Q But did he tell you that he would not bid unless he was

1 paid to bid?

2 MR. LEBLANC: Objection, Your Honor. It was just
3 asked and answered, and I thought Your Honor formulated a
4 question that was not objectionable and that was answered.

5 THE COURT: I'm going to let you answer again. And I
6 don't -- I understand you're saying, among other things, that
7 that's hearsay, but it isn't introduced for the purpose of
8 proving the truth of the statement; it's for his
9 understanding. So you can go ahead and answer so that we're
10 very clear.

11 THE WITNESS: He -- Mr. Crane never told me he would
12 not bid unless he was paid, although I don't know if he would
13 offer the amount of money he offered unless he was the
14 stalking horse bidder.

15 BY MR. KURTZ:

16 Q Okay. So Mr. Crane certainly indicated to you that he
17 would not offer as high a bid if he wasn't going to be paid
18 for his bid, right?

19 MR. DEWOLF: Objection. That mischaracterizes his
20 answer. He didn't say that.

21 THE COURT: Okay. I think we've covered the ground
22 here, Mr. Kurtz. Why don't you move along?

23 MR. KURTZ: Okay.

24 BY MR. KURTZ:

25 Q By the way, if the RBE deal was underpriced, then the

1 market would show up and bid for the assets even without being
2 paid to do so, right?

3 A Under the current bidding procedure, for someone to come
4 and bid, you're asking if they would require a break-up fee?

5 Q No, I'm asking whether people would come and bid for
6 assets that were underpriced even if you didn't pay them,
7 through a break-up fee or otherwise, to submit a bid.

8 THE COURT: And let's -- yes, Mr. Leblanc?

9 MR. LEBLANC: Calls for speculation, Your Honor.

10 MR. KURTZ: Again, Your Honor, this witness is
11 testifying about how he thinks a sales procedure should go
12 forward, so his understanding as to how a sales procedure can
13 go forward and does go forward is certainly relevant.

14 THE COURT: Whether it's relevant doesn't mean it's
15 not speculation.

16 I am going to allow you to answer whether, in your
17 opinion, leaving aside these bidding procedures, if the
18 Express offer is too low, would other bidders be prepared to
19 come forward, regardless of whether they were the stalking
20 horse? In other words, if the Rangers are worth \$600 million
21 as opposed to let's call it \$520 million, would you -- is it
22 your opinion that, nonetheless, no other bidders would come
23 forward?

24 MR. LEBLANC: Your Honor, can I just make sure the
25 clarification -- your qualification is clear that it's not

1 under these bid procedures but at any point in time?

2 THE COURT: Yes. We're talking about generally.

3 THE WITNESS: Generally, given the right amount of
4 time, I believe you could get another bidder for these assets,
5 yes.

6 BY MR. KURTZ:

7 Q By the way, there's a limited universe of people who are
8 either qualified or willing and able to purchase a
9 professional sports franchise like the Texas Rangers, correct?

10 A Oh, I believe it's a very exclusive club, yes.

11 Q Yeah. And in fact, the same -- the very same people who
12 participated in the first process are back now participating
13 in connection with this motion, right?

14 A Well, there were nine people in the first process, from
15 what I was told, and six dropped out, three stayed in. I have
16 not spoken to the other six to see if they would come back. I
17 don't know.

18 Q There was a broader group of people that were marketed to
19 in the first sales process, correct?

20 A Oh, yes.

21 Q And it included those that are still expressing putative
22 interest in the assets, right?

23 A Yes.

24 Q Okay. And we've been through a month-long sales process
25 that was run by a well-regarded investment bank, Perella

1 Weinberg, right?

2 MR. LEBLANC: Objection. There's a lot in there to
3 object to. I don't -- I'm not sure I know what time it is. I
4 don't think he needs to characterize -- if he wants to ask a
5 question about Perella, he can do so.

6 THE COURT: I'm not sure -- I don't think Mr. Snyder
7 has personal knowledge of that. If you -- it seems to me you
8 can elicit that elsewhere better than you can from Mr. Snyder.

9 MR. KURTZ: Okay.

10 BY MR. KURTZ:

11 Q Do you agree, at least, the sale of the Texas Rangers
12 hasn't been any kind of secret, right?

13 A Oh, it has not been a secret, no.

14 Q It's been very well publicized, correct?

15 THE COURT: Okay.

16 THE WITNESS: Yes.

17 BY MR. KURTZ:

18 Q So anybody who has had a real interest in purchasing the
19 assets has had the ability to come in and make offers, right?

20 THE COURT: Okay. Mr. --

21 THE WITNESS: Well, no. I --

22 THE COURT: Mr. Kurtz and -- I'm sorry, Mr. Snyder.
23 I need to ask you. In the next -- you've got about three or
24 four minutes, and then we're going to have to recess so that I
25 can go out to North Richland Hills for the consumer debtors.

1 MR. KURTZ: Okay.

2 THE COURT: All right?

3 MR. KURTZ: Okay. Thank you, Judge.

4 THE COURT: Okay. Go. Go ahead. I'm sorry. And I
5 interrupted, so the witness -- but I was having trouble
6 getting a word in edgewise there. You may need to repeat your
7 question for Mr. Snyder.

8 MR. KURTZ: You know what? I'm going to move on.

9 BY MR. KURTZ:

10 Q The delay in this case, --

11 MR. DEWOLF: Your Honor, I'd like the witness to
12 answer that question, if the court reporter could read it
13 back. Because he started to give his answer --

14 MR. KURTZ: Your Honor, I --

15 MR. DEWOLF: -- and I think his answer was no.

16 MR. KURTZ: I wonder what makes counsel believe that
17 he's going to control my cross-examination.

18 THE COURT: Well, --

19 MR. KURTZ: I've withdraw my question. I'm going to
20 proceed.

21 THE COURT: You're going to be free to ask Mr. Snyder
22 the same question, if you wish to.

23 BY MR. KURTZ:

24 Q Mr. Snyder, delay doesn't benefit the Debtor, correct?

25 A Doesn't what?

1 Q Delay does not benefit the Debtor, correct? Delay --
2 strike -- remaining in bankruptcy for a longer period of time
3 does not benefit the Debtor, correct?

4 MR. STRUBECK: Your Honor, just for clarification
5 purposes, I'm assuming that the Debtor is Texas Rangers
6 Baseball Partners, because we have more than one.

7 THE COURT: I believe that that's the case that is
8 before the Court at this point.

9 THE WITNESS: I'm -- at this point, I'm not sure, you
10 know, if this -- the Debtor is ahead on their cash flow and
11 they're winning and they're doing fairly well. I'm -- and
12 they picked up a great pitcher coming in now. I'm not sure
13 that this team is a melting ice cube. You know, I've run
14 melting ice cubes. I know what they look like. And so I'm
15 not sure that this Debtor staying in bankruptcy an extra month
16 or even two is like the end of the world for this Debtor. So
17 I --

18 BY MR. KURTZ:

19 Q Sir, do you think the Debtor's stay in bankruptcy resulted
20 in its ability to acquire Cliff Lee in a trade?

21 MR. LEBLANC: Objection, Your Honor.

22 THE COURT: Just a minute.

23 MR. LEBLANC: He was still in the middle of his
24 answer.

25 THE COURT: I thought he was done, but that's okay.

1 Did you have something more to say?

2 THE WITNESS: Oh, and I was just generally saying I
3 think most debtors, most debtors, because of the cost and
4 expense and that, you do want to get out. But there are
5 instances where staying in and having a better process or
6 riding out a commodity curve or something like that makes
7 sense. So I don't think you can just -- and on this club, I'm
8 not sure that --

9 BY MR. KURTZ:

10 Q So you --

11 A -- staying in bankruptcy is -- a little more time is going
12 to hurt it that much. That's all I'm saying.

13 Q Did you analyze what the impact of what the stay in
14 bankruptcy has been on the Debtors' operations?

15 A No, because I --

16 Q Okay. Are you an expert in --

17 THE COURT: Okay. Now, you've been told before.
18 Don't interrupt him. If you ask him a question, let him
19 answer it. And just each of you talk in turn, if for no other
20 reason than for the sake of Ms. Maben. Okay?

21 All right. Go ahead and finish your answer, Mr. Snyder,
22 and then you may follow up, and then we're going to recess.

23 THE WITNESS: According to my assignment, I have no
24 direct responsibility for operations in any way, shape or
25 form.

1 BY MR. KURTZ:

2 Q So my question is simply, you have not studied and don't
3 have any expertise to make a determination that a stay in
4 bankruptcy is not harming the team and the Debtor, correct?

5 A I have not totally analyzed that, no.

6 Q And certainly when you spoke about a trade for Cliff Lee,
7 was it your understanding that the Debtor's stay in bankruptcy
8 resulted in their ability to trade for Cliff Lee?

9 A I didn't even know they traded him.

10 THE COURT: Okay.

11 THE WITNESS: I didn't know it until I heard it on
12 the press, so --

13 THE COURT: Okay. We're going to recess for lunch.

14 MR. KURTZ: Okay.

15 THE COURT: I will expect you back here at 1:15,
16 because I cannot predict the traffic and other things. We may
17 wind up starting a little bit later than that, but we'll start
18 as soon as we can. All right?

19 MR. KURTZ: Thank you, Judge.

20 THE COURT: We'll be in recess.

21 THE CLERK: All rise.

22 (A luncheon recess ensued from 11:57 a.m. until 1:16 p.m.)

23 THE COURT: Please be seated. All right. Mr. Kurtz,
24 you may proceed.

25 MR. KURTZ: Thank you, Your Honor.

1 WILLIAM K. SNYDER, RANGERS EQUITY HOLDINGS' WITNESS, PREVIOUSLY SWORN

2 CROSS-EXAMINATION, RESUMED

3 BY MR. KURTZ:

4 Q Mr. Snyder, I noticed you were having a conversation with
5 attorneys who then caucused to my left. Did you talk about
6 the substance of your testimony?

7 A I'm sorry? Did I talk to them about my testimony?

8 Q The substance of your testimony?

9 A Yes.

10 Q Are you aware of a rule that would prevent you from
11 discussing the substance of your testimony while you were
12 still on the stand?

13 A Yeah. Well, no, I talked with my attorney, --

14 Q Okay.

15 A -- Lou Strubeck.

16 Q Okay. Can you tell me what he said to you and what you
17 said to him?

18 A Yes. Lou and I talked about he thought I did very well on
19 the stand. And I stick -- I was calm, collected. And, let's
20 see, we talked about --

21 Q This happened about two minutes ago, right?

22 A I'm sorry?

23 Q You had this conversation two minutes ago, right?

24 A No. I was talking about Strubeck during lunch asked me
25 that.

1 Q Okay. Well, I just saw counsel to my left speak to you
2 two minutes ago, then proceed over to counsel table and have a
3 lengthy conversation with his colleagues.

4 A Oh.

5 Q What was that about?

6 A Okay. I'm sorry. That was -- I thought you were talking
7 about what I talked my counsel about during lunch. No, we --
8 he asked me if I had produced an e-mail, if I had produced an
9 e-mail -- or, what correspondence I produced to -- from the
10 Lenders about the fact that they would be willing to let the
11 Greenberg deal fall away for a different process. That's what
12 he asked.

13 MR. LEBLANC: Judge, just so the record is clear, I
14 didn't have any conversation with Mr. Snyder. I've been
15 sitting here.

16 MR. KURTZ: No, it was --

17 MR. LEBLANC: So I'm not quite sure what counsel is
18 suggesting. I've been sitting here with Mr. Stewart the whole
19 time.

20 MR. KURTZ: No, who was the gentleman who was talking
21 to you?

22 THE WITNESS: That was -- that's -- I -- that's --

23 MR. STRUBECK: Mr. Steindorf?

24 THE WITNESS: Yes.

25 MR. STRUBECK: Okay.

1 BY MR. STRUBECK:

2 Q Now, you testified that there were certain aspects of the
3 APA that made it hard for new bidders to compete or to make
4 bids, right?

5 A On the what, now? I'm sorry.

6 Q You testified that there were certain aspects of the APA
7 that had a chilling effect on new bidders, right?

8 A On the current -- from the Greenberg APA?

9 Q Yes.

10 A Yes.

11 Q You mentioned the 757 lease, right?

12 A On the original bid, yes. There was a -- there were some
13 --

14 Q Sir, I'm just asking if that's -- if you mentioned that.

15 A I did say that.

16 Q Okay. Now, are you aware that an amendment to the APA was
17 filed along with the bidding procedures that resolved the 757
18 lease issue?

19 A Yes.

20 Q Okay.

21 A In the revised bid, they have resolved that issue.

22 Q Okay. So that's not an issue at all anymore, right?

23 A No.

24 Q All right. You mentioned the break-up fee, right?

25 A Yes.

1 Q Okay. A break-up has absolutely no impact on what a
2 purchaser will pay, correct?

3 A Well, it -- well, the only impact a break-up fee has is
4 how much they have to overbid --

5 Q Sir, my question is, do you agree that a break-up fee is
6 not relevant to what somebody's prepared to bid for?

7 THE COURT: I assume you mean, --

8 THE WITNESS: No. I don't --

9 THE COURT: -- counsel, except to the extent that it
10 requires or sets the amount of and overbid?

11 MR. KURTZ: Sure.

12 THE COURT: Okay.

13 THE WITNESS: Yeah. The break-up fee requires an
14 overbid, and it -- a break-up fee can be chilling. It can be
15 so big that the next guy doesn't want to overbid that much.

16 BY MR. KURTZ:

17 Q Well, if a break-up fee is so large that no one will
18 overbid, then you're saying that you wouldn't have got that
19 large a bid to begin with, right?

20 A (no immediate response)

21 Q If somebody won't pay the amount of the stalking horse
22 plus the overbid protection, that's because they haven't
23 offered that much money, right?

24 A Correct.

25 Q Okay. And here, the break-up fee is 2 percent of the

1 transaction fee?

2 A \$10 million of \$500 million. Yeah.

3 Q About 2 percent?

4 A Yeah, about 2 percent.

5 Q Two percent is not a chilling number, right?

6 A I don't believe so.

7 Q Okay. And it's certainly consistent with or less than
8 typical break-up fees in cases, right?

9 A Yeah. Most break-up fees in this circuit tend to be 2 to
10 3 percent.

11 Q Okay. So this is well within the range of typical break-
12 up fees, right?

13 A Yes. Absolutely.

14 Q And the break-up fee would be paid out of the proceeds for
15 the purchase of the assets, right?

16 A Correct.

17 Q So it would be paid by the lenders or the equity holders
18 here, not by any of the possible bidders, right?

19 A Well, it just comes out of the proceeds. Yes. Yes.

20 Q Okay. You mentioned the stadium leases and the office
21 building leases, right?

22 A Yes.

23 Q You said something about both are subject to fraudulent
24 conveyance actions, right?

25 A Correct.

1 Q But those were assets that were transferred to the Debtor,
2 correct?

3 A Correct.

4 Q And those are assets that are valuable to the Debtor,
5 correct?

6 A Correct.

7 Q And in fact, those are assets that need to be sold along
8 with the other assets, correct?

9 A Yes.

10 Q So whether you go through the plan confirmation process or
11 you go through the 363 sale that you favor, those stadium
12 leases and those office building leases have to be included in
13 the assets that are subject to the transaction, right?

14 A Yes.

15 Q You mentioned overdraft protection, correct?

16 A I'm talking about the overdraft protection note that was
17 transferred. Is that what you're talking about?

18 Q Yes.

19 A Yes.

20 Q Okay. That's -- the claim for overdraft protection is a
21 claim by Mr. Hicks, right?

22 A Correct.

23 Q In his personal capacity, right?

24 A Correct.

25 Q And you are free to object to this claim, correct?

1 A Well, --

2 MR. LEBLANC: Objection, Your Honor. I think that
3 calls for a legal conclusion.

4 THE COURT: Sustained.

5 BY MR. KURTZ:

6 Q Do you have an understanding that you will be free to
7 object to Mr. Hicks' claim for any amounts in connection with
8 the overdraft protection?

9 MR. LEBLANC: Same objection, Your Honor. I think
10 that's totally inconsistent with the terms of the stalking
11 horse bid --

12 THE COURT: Well, I'm --

13 MR. LEBLANC: -- and with the plan that's our
14 proposal.

15 THE COURT: To the extent that he has an
16 understanding, I'm going to let him answer.

17 But let me assure you, before you even get up, Mr.
18 Strubeck, that there will be an opportunity one way or another
19 to object to any claims by any insider, at least, and there
20 will be an opportunity to object to releases and other things,
21 regardless, and -- to the extent that they don't affect the
22 purchaser, and that I will not approve any releases,
23 indemnities or otherwise inconsistent with *Pacific Lumber*.
24 All right. Go ahead, Mr. Kurtz.

25 MR. KURTZ: Okay.

1 BY MR. KURTZ:

2 Q Certainly, based on your other -- whatever prior
3 understanding you had and based on the statement by the Court,
4 you understand you have the ability to object to that claim by
5 Mr. Hicks, right?

6 A I understand that --

7 MR. STRUBECK: Your Honor, I'm going to object
8 because it's also inconsistent with the order that resulted in
9 the recognition of Mr. Snyder's retention in his capacity as
10 the CRO for the Ranger Equity Holding entities.

11 THE COURT: Well, someone is going to be able to
12 object to those, and I think that, since you're trying -- I
13 presume, Mr. Kurtz, the person that you're trying to persuade
14 is me, and I'm persuaded of your point, --

15 MR. KURTZ: Okay.

16 THE COURT: -- I don't see that you need to spend a
17 lot of time with --

18 MR. KURTZ: Okay.

19 THE COURT: -- Mr. Snyder on it.

20 MR. KURTZ: Understood.

21 THE COURT: I think Mr. Leblanc and Mr. Stewart and
22 their colleagues have proven sufficient competence to bring a
23 claim objection, if that's appropriate. And I don't mean to
24 talk down to you, Mr. Leblanc.

25 MR. LEBLANC: No. And I wanted the Court to be aware

1 that I believe that over the weekend, if not on Friday, that
2 that claim objection to Hicks' overdraft protection was in
3 fact filed.

4 THE COURT: All right. Go ahead, Mr. Kurtz.

5 MR. KURTZ: Okay.

6 BY MR. KURTZ:

7 Q And you mentioned the claim for the payment of financial
8 advisors, right?

9 A Yes.

10 Q And, likewise, that's a claim by Mr. Hicks? Or a non-
11 debtor affiliate?

12 A Yes. A non-debtor affiliate.

13 Q Okay. And subject to the same type of objection, right?

14 A Correct.

15 Q And so that won't actually chill any bidders, correct?

16 A No, I don't believe it will.

17 Q All right. The amounts that are being paid by RBE in the
18 event of a closing are available no matter how they're
19 distributed, correct?

20 A Correct.

21 Q All right. And I think the last thing you identified was
22 indemnifications. You understand that a bidder would be free
23 to make a bid under the existing bidding procedures and
24 exclude the indemnifications that are included in the stalking
25 horse bid, correct?

1 A Yes. I think, under 363, I think that those -- because
2 there are indemnifications built into the APA, and -- for
3 instance, there's an indemnification in the purchase of the
4 land, which is a non-debtor, and there's an indemnification
5 from the Debtor to a non-debtor. So there are some
6 indemnifications woven through those APAs.

7 Q Yeah. My question is, can -- and new bidders can decline
8 to offer those indemnifications, right?

9 A Yes, as long as it wasn't pursuant to the plan, too.

10 Q Right.

11 A In other words, if they just did a straight-up 363, they
12 could redline those out.

13 Q So is your understanding that bidders could not come in,
14 new bidders could not come in with an offer under the bidding
15 procedures, exclude the indemnities and simply price the
16 transaction any way they want, subject to the Debtor and the
17 Court's consideration of what's the highest and best bid?

18 A Yes.

19 Q They could do so?

20 A I think under the new procedures they can bid under 363
21 instead of the plan.

22 THE COURT: To be clear, they also -- to the extent
23 that they make an offer that they wish to make under a plan as
24 opposed to a 363 sale, I would anticipate that the Debtor
25 would entertain such an offer, even if it would require

1 modification of the plan, to the extent that the modifications
2 would fit within Rule 3019. And the modifications that we're
3 speaking of here would I think fairly clearly fit within Rule
4 3019.

5 MR. KURTZ: Okay.

6 BY MR. KURTZ

7 Q So, again, the issue with respect to indemnifications is
8 not in fact going to chill bidding, correct?

9 A No. No.

10 Q And all of the issues that you've identified speak to the
11 distribution of the bidding proceeds, not the bids themselves,
12 correct?

13 A All of the issues you -- well, not all the issues. I told
14 you the timing was an issue. But if you --

15 Q No, all the issues we've discussed since we've been back
16 from lunch?

17 A Yes. Uh-huh.

18 Q Thank you.

19 A They would not chill the bidding.

20 Q Okay.

21 MR. KURTZ: No further questions, Judge.

22 THE COURT: All right. Mr. Strubeck, I believe --
23 well, now wait a minute. I'm sorry. Major League Baseball?
24 No questions?

25 MR. ESSERMAN: No questions, Your Honor.

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1 THE COURT: All right. Mr. Strubeck?

2 MR. STRUBECK: Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. STRUBECK:

5 Q Mr. Snyder, just a couple of follow-up questions to some
6 of the questions that Mr. Kurtz and Mr. Sosland asked you.

7 You've never run a baseball team before, correct?

8 A No, I never have.

9 Q And --

10 A Well, not a major one. Little League, you know.

11 (Laughter.)

12 A I don't want to lie here. I've run little guys, yeah.

13 Q Do you believe that the scope of your employment as the
14 Chief Restructuring Officer for the Ranger Equity Holding
15 entities permits you to do anything in terms of operating the
16 Texas Rangers?

17 A No. It's very clear that Mr. Nolan runs the Rangers, Mr.
18 Nolan Ryan, and I am overseeing the bankruptcy issues. It's
19 very clear.

20 Q When you say you're overseeing the bankruptcy issues, what
21 are you focusing on?

22 A Well, right now, I'm focusing on the plan and the bidding
23 procedures and trying to get a fair process. So I'm not -- I
24 don't talk to Mr. Ryan or the CFO at all about operations.

25 Q Say, so, for example, the Cliff Lee trade, you didn't have

1 anything to do with that, did you?

2 A It surprised me as much as everybody else.

3 Q And the fact that the Rangers have the best record in
4 baseball since they filed for bankruptcy, you have nothing to
5 do with that either, do you?

6 A No.

7 Q All right. You talked about a fair process. This
8 bankruptcy case, the Texas Ranger bankruptcy case, was filed
9 when?

10 A I think May 24th, something like that.

11 Q All right. And at that time, there was a plan that was
12 filed, too, correct?

13 A Correct.

14 Q And under that plan, what was the proposal, if any, as to
15 who the Texas Rangers should be sold to?

16 A Well, at that time, it was an exclusive deal with
17 Greenberg --

18 Q All right.

19 A -- when they filed that plan.

20 Q And was it your understanding that the reason that
21 Greenberg and the Greenberg Group was identified in the plan
22 as being the purchaser of the Rangers because they emerged
23 from the pre-bankruptcy process that involved the marketing of
24 the Rangers?

25 A Yes.

1 Q And did you form a conclusion in the three weeks-plus
2 you've been involved as to whether that pre-bankruptcy process
3 was in your mind a fair process?

4 A Well, I --

5 MR. KURTZ: Objection. The witness testified on
6 cross-examination that he wasn't familiar with who
7 participated and wasn't familiar with the extent of due
8 diligence and the like. I don't see how he can speak now and
9 offer an opinion as to the prior process.

10 THE COURT: Mr. Strubeck?

11 MR. STRUBECK: Your Honor, I think there are a lot of
12 questions Mr. Kurtz posed as to the highest and best offer in
13 terms of what Mr. Greenberg has proposed, and --

14 THE COURT: Yes, but I cut off -- and Mr. Leblanc's
15 objection, I cut off Mr. Snyder's testimony with respect to
16 that process, so I'm going to sustain the objection. You can
17 move on.

18 MR. STRUBECK: All right.

19 BY MR. STRUBECK:

20 Q Mr. Snyder, what is your position regarding whether a sale
21 of the Rangers should go forward?

22 A Oh, I believe a sale is the best way to resolve these
23 issues under 363, as long as it provides that you will have at
24 least two bidders. So I believe that it is absolutely the
25 best way to resolve this issue.

1 Q And do you have in your mind a process that would increase
2 the likelihood that there will be more than one bidder to
3 purchase the Rangers?

4 A I think the best way to do it is get all these bidders
5 back in a room with Judge Nelms and these bidding procedures
6 and find out how they can be tweaked to get the most people to
7 the table quickly, and then go ahead and have the auction and
8 ensure -- and then you can honestly say that it was a fair
9 process and it was a fair market process. And that would
10 resolve the taint around this plan right now.

11 Q You were asked a question toward the very end that had to
12 do with the 757 airplane lease issue. Do you recall that
13 question?

14 A Yes.

15 Q And you were asked whether that issue had been, quote,
16 "resolved" as a result of the amendment -- the APA that was
17 filed recently. Do you remember that?

18 A Correct.

19 Q What did you mean by it had been resolved?

20 A Well, from my understanding, the new bid, that airplane
21 lease will not be going forward after a certain period of
22 time. And so the -- Greenberg is not going to have to take
23 over, you know, pay \$27 million of payments on a 757. And he
24 also increased his bid, too, for that. I mean, the new bid
25 that Greenberg offered at closing, at closing, had

1 substantially more money coming to the banks, almost I think
2 20 -- almost \$17-1/2 million more than the original did.

3 Q But when you said that the lease issue had been resolved
4 as a result of the amended APA being filed, you weren't
5 suggesting that the transfer of the lease down to the Rangers
6 had been resolved, had you?

7 A Oh, no, not that part of it. That's still got to be
8 resolved. And so the Rangers still are a party, I guess, to a
9 charter agreement for a 757 that they're on the hook for for,
10 you know, almost 30 million bucks.

11 Q All right. I think I have just a handful of more
12 questions to ask you. You're familiar with the bid procedures
13 that are currently the procedures that are in place, which is
14 why we're here today, to talk about whether they should remain
15 in place, right?

16 A Correct.

17 Q And is it your understanding that based upon those bid
18 procedures a prospective purchaser would have to purchase all
19 of the assets that the current APA from the Greenberg Group
20 requires be purchased?

21 A I don't believe so.

22 Q And in fact, based upon your discussions and
23 communications with other potential bidders, do you understand
24 that they may be interested in purchasing less than the assets
25 that are currently provided for under the Greenberg APA?

1 A Yes.

2 Q And why do you say that?

3 A Well, I mean, the biggest issue are the parking lots.

4 Greenberg is buying the parking. That's why Kurtz said, you

5 know, the total deal was \$580 million and I --

6 Q That's Mr. Kurtz you're referring to?

7 A Yeah, Mr. Kurtz. And I said, "No, I think it's \$520

8 [million]." It's the rest are the parking lots that are being

9 bought from a Hicks-controlled entity separately. And some of

10 the other bidders don't feel they need to buy the parking

11 lots; they can just lease them under the current arrangements.

12 And the City of Arlington has ordinances on all that parking

13 -- on all that -- most of that land that requires whoever owns

14 it to provide parking to the Rangers. So some of the other

15 bidders don't feel it's necessary to even buy the parking

16 lots.

17 So that's why it's -- it's very important that people be

18 able to pick and choose the assets, because some people will

19 not entertain negotiating with Mr. Hicks for the parking.

20 They'll rely on the ordinances and the leases.

21 Q But that's one part of -- and you've testified earlier as

22 to why you believe that the bid procedures aren't going to

23 have the effect that was, I believe, intended by Judge Lynn,

24 and that was to stimulate bidding. But one aspect of the bid

25 procedures that Judge Lynn has approved that you would agree

1 with is that other purchasers get to decide what assets they
2 want to buy, correct?

3 A Absolutely. That is a critical component and absolutely
4 critical to this deal.

5 Q All right.

6 MR. STRUBECK: Your Honor, I pass the witness.

7 THE COURT: Mr. Leblanc?

8 MR. LEBLANC: Your Honor, just a couple of topics. I
9 think I've learned not to say "questions," but a couple of
10 topics.

11 THE COURT: I've always found that one of the least
12 true statements in the English language is the lawyer who
13 says, "I have just one more question, Your Honor." So now
14 we're all -- yes.

15 MR. LEBLANC: That's why I try to say one more topic.
16 Yes, Your Honor.

17 THE COURT: All right. Go ahead.

18 RE-CROSS-EXAMINATION

19 BY MR. LEBLANC:

20 Q Just a moment ago, Mr. Snyder, you testified that the
21 current -- the new amended APA provides \$17.5 million more in
22 value to the Lenders. Is that what you testified?

23 A At closing.

24 Q At closing? And let's just break that down just a little
25 bit. There were two fundamental changes. One was the

1 expiration or the termination of the continued assumption of
2 the aircraft lease. Is that right?

3 A Correct.

4 Q And what was the amount of the savings that you estimated?
5 Or the amount of the costs avoided by the Greenberg Group
6 going forward?

7 A Well, I think Greenberg increased their cash by \$2-1/2
8 million. I'm trying to remember this. And then they reduced
9 their escrow -- was it \$15 million? I'm sorry. Or was it \$12
10 [million]? I'm trying to remember it. But they reduced their
11 escrow and they increased the cash, and so at closing more
12 money flows to the Lenders at closing under the revised bid.

13 Q Right. So, and one portion of that was an increase in the
14 amount of money that they're actually going to show up at
15 closing, right?

16 A Correct.

17 Q And that was approximately \$2.5 million?

18 A Correct.

19 Q And you mentioned a minute ago in some colloquy with Mr.
20 Strubeck with respect to the aircraft lease that they're now
21 not assuming, the amount of savings over time, I think you --
22 the number you used was \$27 million that they're not spending
23 over time. Is that correct?

24 THE COURT: Just a minute.

25 MR. SOSLAND: Objection, Your Honor. I believe that

1 that mischaracterizes the testimony of Mr. Snyder.

2 THE COURT: All right. Why don't you move back and

3 --

4 BY MR. LEBLANC:

5 Q How much was the airplane going to cost the Greenberg
6 Group if they owned the Rangers over the life of that lease?

7 A Well, from what I understand, the lease payments were \$27
8 million. Now, you realize they're still now going to have to
9 lease a charter airplane, so it's not a hundred percent
10 savings. Okay? So after they're done with this, they're
11 going to have to go charter an airplane from somebody. So,
12 yes, they're saving \$27 million on that airplane, but I don't
13 believe the net savings is \$27 million.

14 Q Okay. Do you have any estimate of what that net savings
15 is?

16 A No, I do not.

17 Q Okay. And the other change is a reduction in the amount
18 of the money that -- from their purchase that's being put
19 aside in -- put aside for escrow. Is that right?

20 A That's correct.

21 Q And what's the purpose of escrow account?

22 A Well, it's -- originally, this was going to be done out of
23 a bankruptcy, and so the Greenberg APA had a certain amount of
24 money escrowed for contingent liabilities and the such.

25 Right? I guess in a bankruptcy it's much less important

1 because you're buying it free and clear of liens, encumbrances
2 and claims. So, but the original APA did -- it has an escrow
3 for unforeseen claims, you know, and stuff like that. So
4 they'd have a way to -- they'd have some kind of an escrow to
5 hit against if something pops up.

6 Q Okay. And that, as part of the most recent offer, is
7 being reduced to some number, either \$15 or \$12 million?

8 A I'm trying to remember if it's \$12 or \$15 [million]. It's
9 -- I thought it was \$15 [million]. Maybe it's \$12 [million].
10 But those -- that number is being reduced and they increased
11 the cash. So --

12 Q And you had a discussion with Mr. Kurtz about other
13 purchasers could choose not to take, for example, and I'll
14 give one example, the indemnification agreement. Do you
15 recall asking questions about that?

16 A Well, yeah. There's -- in the APA, there are some
17 indemnifications, but there's also an indemnification
18 agreement. You know, that's separate. I don't think they'd
19 be buying that. But they're in the asset -- in the APAs,
20 there are some indemnifications, and they could scratch those
21 if they chose.

22 Q And how would you value eliminating indemnifications for
23 Mr. Hicks as part of this process?

24 A Well, it's a lot more complicated than that, because you
25 also have indemnification agreements that the Debtor entered

1 into on the night before the filing. So I think that's a
2 really complicated question that I can't answer because you
3 would have to look at the indemnifications in that agreement
4 versus the APA and how they all wrap together, and then you
5 even have a non-debtor entity, you know, that's involved.
6 That's pretty complicated. It's a lot more complicated than
7 we could figure out in two weeks.

8 Q And another -- you also had some questions asked of you
9 about the Hicks overdraft payment of \$5.7 million. Do you
10 recall those questions?

11 A Yes.

12 Q And is -- it's my understanding of your testimony that
13 another purchaser could come in and choose not to pay, as part
14 of its APA, that \$5.7 million. Is that right?

15 A That's correct.

16 Q Now, how would you value the nonpayment of the \$5.7
17 million on the overdraft?

18 A Well, and if they all knocked it out, you know, you give
19 them all credit, right, that hopefully you can knock that out
20 later on. If a buyer was going to actually assume it, it's
21 something that the company may not have to pay in the future,
22 so you might actually give somebody credit if they were going
23 to actually specifically assume that. But if they weren't
24 going to assume it -- I can't imagine anybody would -- but if
25 they did, you would have to give them credit for paying that.

1 You know, if they assumed that liability and didn't leave it
2 behind.

3 Q So if a buyer, for example, said, "I don't need to pay the
4 Hicks overdraft protection agreement as part of my bid," they
5 could come in and make a bid on that basis, correct?

6 A Absolutely.

7 Q And would that -- how would -- would that make it their
8 bid more favorable on a -- just comparing those two terms than
9 the Greenberg deal which requires the payment of that
10 overdraft protection?

11 A Well, --

12 MR. KURTZ: I'm going to object to form. I mean, the
13 Debtor is going to make that decision and the Court is going
14 to make that decision. Maybe the witness would have a view as
15 to how it would impact his vote, but he certainly doesn't know
16 what would be required.

17 MR. LEBLANC: Your Honor, the bidders are asked to
18 come in and put in a \$15 million overbid, and this presumably
19 would factor into how they would consider it, and I would
20 expect that other people who don't have the same issues as the
21 Greenberg Group wouldn't necessarily jump at the chance to pay
22 or cause the Debtor to pay the \$5.7 million out of proceeds,
23 as one example.

24 THE COURT: Well, all right. It seems to me that
25 under the existing bidding procedures, which is what we're

1 talking about today, among the people who are evaluating the
2 bid will ultimately be Mr. Snyder. And therefore how he would
3 evaluate the bid that included or excluded that \$5.7 million
4 would have some relevance. So I'm going to -- and keeping in
5 mind, for both of you, Mr. Kurtz and Mr. Leblanc -- am I
6 correct that you haven't analyzed the likelihood of prevailing
7 or losing on an objection to that overdraft claim?

8 THE WITNESS: Correct, Your Honor. I have not had
9 the time to --

10 THE COURT: All right.

11 THE WITNESS: -- determine whether that's really an
12 avoidable transaction yet.

13 THE COURT: All right. So, keeping in mind that he
14 can't give you a straight answer, I'm going to allow the
15 question. I mean, he's not going to be able to give you a
16 number.

17 MR. LEBLANC: I think, Your Honor, we've sort of
18 highlighted what the problem is here. For bidders to come
19 into this, to know what a \$15 million overbid is, if they
20 exclude these liabilities, they don't know if they're \$15
21 million or higher.

22 THE COURT: Well, at some point, he's going to have
23 to evaluate it, and that would be true in any bidding process.
24 You're always going to have some differences like that.

25 But go ahead, Mr. Leblanc.

1 MR. LEBLANC: Okay.

2 BY MR. LEBLANC:

3 Q And similarly with respect to the payment of the financial
4 advisors. Do you understand that the payment of the financial
5 advisors of \$9 million is a requirement of the Greenberg APA?

6 A I believe so.

7 MR. KURTZ: I'm going to object to the
8 characterization of the agreement. I mean, there's no -- Your
9 Honor has already said that these are all subject to
10 objections, and it has nothing to do with bidding. It has to
11 do with distribution of proceeds after Your Honor makes
12 determinations about what claims are allowed and what claims
13 aren't allowed.

14 THE COURT: All right. Go ahead, Mr. Leblanc. I
15 think he already answered the question, so there's not much
16 sense in sustaining the objection. Go ahead.

17 MR. LEBLANC: Well -- okay. That's fine, Your Honor.

18 BY MR. LEBLANC:

19 Q And a bidder who dispensed with the obligation by the
20 Debtor to pay those \$9 million in professional fees, would
21 that be a -- just on those two non-economic -- or, those two
22 non-cash terms, which would be the more attractive bid, the
23 one that required it or the one that did not?

24 A I honestly don't know that answer today.

25 Q Okay. Now, you testified about a meeting on the past

1 Friday, not this past Friday but the Friday before, with
2 respect -- with Mr. Lauria, Mr. Sosland, and I guess Mr.
3 Greenberg was there, too?

4 A Yes.

5 Q Okay. And that --

6 A In Fort Worth.

7 Q I'm sorry. Go ahead.

8 A Yeah. In Fort Worth, I think.

9 Q And that meeting is the one that followed the status
10 conference or the chambers conference that we had here in
11 court. Is that right?

12 A Yes.

13 Q How did that meeting end?

14 A We -- we ended up walking out of the meeting.

15 Q And why did --

16 A Well, it didn't -- and it wasn't a happy meeting.

17 Q And why did you walk out of the meeting?

18 A Well, it's just a lot of harsh words were exchanged and it
19 turned into an acerbic meeting and we walked out.

20 Q And then the next -- did you have any further discussions
21 with Mr. Lauria or Mr. Greenberg between walking out of that
22 meeting on Friday and when the bid procedures were proposed by
23 the Debtor on Tuesday morning, the following Tuesday?

24 A Yes.

25 Q When did you have those discussions?

1 A I was in the hotel getting an affidavit signed, and Mr.
2 Greenberg came down and he -- he was very polite. He said,
3 "I'd like to just talk to you." And I said, "Okay." And he
4 started asking about the bidding -- about the bids. You know,
5 what was the issue with the bid on the timing, what was the
6 issue with Crane? So we started talking about some issues
7 about the bids. And we spoke for probably 20 minutes.

8 Q And when did that discussion happen?

9 A That was right after we stormed out of the other meeting.

10 Q Okay.

11 MR. LEBLANC: Okay. No further questions, Your
12 Honor.

13 THE COURT: All right. Mr. Sosland?

14 MR. SOSLAND: No questions, Your Honor.

15 THE COURT: Mr. Kurtz?

16 MR. KURTZ: I have nothing further either, Your
17 Honor.

18 THE COURT: All right. Anyone else?

19 (No response.)

20 THE COURT: All right. I've got some questions for
21 you, Mr. Snyder.

22 EXAMINATION BY THE COURT

23 THE COURT: To your knowledge, have -- in the time --
24 well, first of all, let's take the time since the 13th, which
25 was when we had the hearing on bidding procedures last week.

1 Right? A week ago today?

2 THE WITNESS: Yes.

3 THE COURT: Since the 13th of July.

4 THE WITNESS: Yes.

5 THE COURT: Have Beck and Crane continued to advance
6 their due diligence or other efforts in connection with the
7 purchase of the Rangers, to your knowledge?

8 THE WITNESS: Not to my knowledge, Your Honor. I
9 have not spoken to Mr. Crane since -- since the Debtor filed
10 the new bid procedures.

11 THE COURT: All right. So you don't know whether
12 they have or not?

13 THE WITNESS: I don't --

14 THE COURT: Is that correct?

15 THE WITNESS: So I don't know where -- I think he's
16 very mad. I don't know where he's at on the process, no.

17 THE COURT: All right. Is Mr. Crane's impediment to
18 doing a deal just financing, or are there other impediments?

19 THE WITNESS: Financing is -- I believe the major
20 impediment is getting a bank group in there to -- in enough
21 time to bid properly.

22 THE COURT: All right. What if the bidders tell you,
23 "We need until June of 2011"? Would you consider that
24 reasonable?

25 THE WITNESS: You know, I would -- I would actually

1 have to take that under consideration, because MLB has run
2 teams for a very long time, and the question is, if you were
3 going to come out with a process that would be fair and it
4 would also not involve insiders and dealings and stuff like
5 that, and you had to wait, June is unfortunate. I mean, I
6 would think this fall would be better. This fall, before the
7 start of the next season.

8 THE COURT: Well, don't you think that there ought to
9 be some time limit on how long this Chapter 11 case goes on?

10 THE WITNESS: Well, I would think the logical thing
11 would be to get somebody in place before the end of this
12 season, for next season. So I would think that is -- that
13 would be a critical factor, is to get somebody in place so
14 that they can have a meaningful, you know, impact on next
15 year.

16 THE COURT: All right. You're counsel did state on
17 the record, as Mr. Sosland, I think, pointed out, and you said
18 several times that the bidders have indicated to you that they
19 need a few more weeks. Now we're talking about a year.

20 THE WITNESS: Correct. I mean, I've been told by the
21 bidders that -- needed weeks. This was not a thing of a year.
22 It was weeks, always.

23 THE COURT: All right. All right. Let me ask you.
24 This is a question that runs to other testimony. You, as you
25 have noted in your testimony, have filed pleadings seeking

1 substantive consolidation of the equity partners with this
2 Debtor, correct?

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: And why didn't you seek to have the
5 entire Hicks Sports Group declared the alter ego of this
6 Debtor?

7 THE WITNESS: Your Honor, my scope is these two
8 entities for today. You know, today.

9 THE COURT: Yes. But you're familiar -- I know
10 you're familiar with the *SI Acquisition* case, which says that
11 essentially the estate, which would be the estate in which you
12 are CRO, has, as property of the estate, the ability to assert
13 an alter ego claim against non-debtors, right?

14 THE WITNESS: Oh, Your Honor, we -- I did not discuss
15 that with my counsel.

16 THE COURT: Okay.

17 THE WITNESS: To be honest with you, we focused on
18 this Debtor, my debtor and the debtor below us, and determined
19 that we believed, just in that one instance, there's
20 sufficient data -- I'm sorry, sufficient evidence to warrant
21 looking at --

22 THE COURT: Well, but your testimony was, the entire
23 group, there was sufficient evidence. I think you indicated
24 in your testimony that companies upstream from the two
25 entities for which you are CRO would be subject to the same

1 arguments.

2 THE WITNESS: That may very well be the case, yes.

3 THE COURT: All right. Mr. Snyder, you have
4 experience in valuing litigation, don't you?

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: So you understand the methodology of
7 calculating a likelihood of success and using that likelihood
8 of success to determine the value of a given claim, right?

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: All right. All right. Now, I have a
11 number of questions to ask you. We prepared in chambers, my
12 law clerks prepared in chambers a comparison of the deal that
13 you negotiated with Baseball Express and the Debtor and the
14 bidding procedures that I put into place last week. All
15 right? And I want to talk about those for a few minutes. All
16 right?

17 THE WITNESS: Okay.

18 THE COURT: Now, the first thing is that, as I
19 understand it, the deal that you negotiated with Express did
20 not allow for the possibility of pursuing a sale under Section
21 363.

22 THE WITNESS: Correct.

23 THE COURT: Okay. And the procedures that I directed
24 be in place does make such provision, right?

25 THE WITNESS: Yours -- do you have a better

1 procedure, yes.

2 THE COURT: All right. And that would require,
3 presumably, and I assume the Debtor would do this, filing more
4 or less a shell 363 motion, invoke that, so that we follow
5 notice procedures, right?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: All right. Now, we talked before about
8 the ability to include or to exclude assets from the sale of
9 the plan, and you didn't provide for that in your deal, did
10 you?

11 THE WITNESS: Well, I did provide that the bidders
12 could submit a marked-up APA, so in the mark-up they could
13 exclude assets. That was a major issue, and a hotly argued
14 one, with --

15 THE COURT: All right. And that's pretty well
16 resolved in the existing bidding procedures, isn't it?

17 THE WITNESS: Yes, it is.

18 THE COURT: Okay. And the existing bidding
19 procedures require only that another bidder must substantially
20 follow for bid purposes the form of the APA and the amendment
21 to it, right?

22 THE WITNESS: Correct.

23 THE COURT: And otherwise the sale that ultimately is
24 negotiated, if the bidder is successful, he may enter into a
25 contract in whatever form he chooses, so long as it embodies

1 the bid he's made, right?

2 THE WITNESS: Correct.

3 THE COURT: All right. Now, under your procedures,
4 there had to be MLB approval prior to bidding, right? That's
5 qualification; I'm sorry. MLB qualification. Right?

6 THE WITNESS: Yes.

7 THE COURT: Okay.

8 THE WITNESS: Yes, that's correct.

9 THE COURT: All right. However, under the procedures
10 that I imposed, the approval, number one, was automatically
11 accorded to Beck and Crane, understanding that other members
12 of their group might be required to submit additional
13 paperwork to prove that they're up to date. Right?

14 THE WITNESS: That's correct.

15 THE COURT: Okay. And the existing bidding
16 procedures also say that Major League Baseball and the Office
17 of the Commissioner may not unreasonably withhold
18 qualification, right?

19 THE WITNESS: That's correct.

20 THE COURT: Okay. Yours didn't provide that, did it?

21 THE WITNESS: No, it did not.

22 THE COURT: Okay.

23 THE WITNESS: They could be unreasonable in mine.

24 THE COURT: Okay. And who decides under the existing
25 procedures whether MLB has acted reasonably?

1 THE WITNESS: I believe that rests with the Court.

2 THE COURT: Okay. And how quick? Did you provide
3 for quick qualification in your procedures?

4 THE WITNESS: No, we did not.

5 THE COURT: Okay. And in the procedures that we now
6 have in place, that's provided, isn't it?

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: All right. Now, with respect to MLB
9 sales clearance, again, if -- under the existing procedures,
10 unlike yours, as I understand it or as I recall, the bidding
11 procedures provide that if Major League Baseball has
12 previously approved someone, qualified someone, and now
13 changes its mind, that will be presumed to be unreasonable,
14 subject to them having an opportunity to show me why they
15 changed their minds. Right?

16 THE WITNESS: That's correct.

17 THE COURT: Okay. Okay. Now, in the bids in the
18 auction, how much was the break-up fee under your procedures?

19 THE WITNESS: It was up to \$15 million.

20 THE COURT: All right. And how much is it under the
21 bidding procedures? \$10 million or 125 percent of actual
22 costs, right?

23 THE WITNESS: Correct.

24 THE COURT: Okay. How much was the overbid under
25 your procedures?

1 THE WITNESS: Well, that would have been \$20 million.

2 THE COURT: Okay. How much is --

3 THE WITNESS: It was a \$5 million overbid.

4 THE COURT: Okay. How much more than under --

5 THE WITNESS: Yours is \$15 [million]. Less.

6 THE COURT: Okay. Now, your sale procedures required
7 that any bidder's offer be no more contingent than the asset
8 purchase agreement, right?

9 THE WITNESS: Right, as determined by Perella.

10 THE COURT: All right.

11 THE WITNESS: Uh-huh.

12 THE COURT: And under the existing bidding
13 procedures, there is an exception to that, isn't there, where
14 effectively a bidder can buy time if he's the successful
15 bidder to put financing in place, right?

16 THE WITNESS: That's correct.

17 THE COURT: Okay. So a \$15 million deposit -- by the
18 way, under Mr. Crane's prior offer, not necessarily the one in
19 this case but under his prior offer last year, did he have a
20 deposit that he was prepared to forfeit?

21 THE WITNESS: I believe there was \$10 million.

22 THE COURT: Okay. Maybe it was. All right. Under
23 your bidding procedures, any bid must be made by the bid
24 deadline, right?

25 THE WITNESS: Correct.

1 THE COURT: And under the existing procedures, that
2 can be extended by the Court, right?

3 THE WITNESS: That's correct.

4 THE COURT: Okay. Under your bidding procedures,
5 financial backing could be no more contingent than that in the
6 Express deal, right?

7 THE WITNESS: Correct, as determined by Perella. We
8 were relying on them.

9 THE COURT: Right. Right. And now it's you that
10 determines it, along with the Debtor, right?

11 THE WITNESS: Correct.

12 THE COURT: Okay. And also the contingency on
13 finances is subject to the \$15 million deposit exception,
14 right?

15 THE WITNESS: That's correct.

16 THE COURT: Okay. Your bidding procedures provided
17 for closing on or soon after July 22nd, right?

18 THE WITNESS: Correct.

19 THE COURT: Okay. And these bidding procedures
20 provide for closing by August 16th, unless the Debtor and the
21 general partners agree otherwise, right?

22 THE WITNESS: Correct.

23 THE COURT: And that's subject to the fact that, with
24 that \$15 million deposit, the bidder can extend the time to
25 mid-October, right?

1 THE WITNESS: That's correct.

2 THE COURT: Okay. Okay. Now, under the -- the
3 deposits that were going down before, under your bidding
4 procedures, would become an asset of the Texas Rangers, right?

5 THE WITNESS: Correct.

6 THE COURT: And it would pass to the buyer, so that
7 if -- the successful bidder, whoever that was, would get
8 whatever deposits remained on hand, right?

9 THE WITNESS: That's correct.

10 THE COURT: Okay.

11 THE WITNESS: Uh-huh.

12 THE COURT: Now the deposit becomes part of the
13 estate and therefore runs to the benefit of the Lenders if it
14 is forfeited, right?

15 THE WITNESS: Correct.

16 THE COURT: Okay. Under your bidding procedures, the
17 auction and confirmation was going to be July 22nd, right?

18 THE WITNESS: I believe so. Uh-huh.

19 THE COURT: Okay. And under the existing procedures,
20 it's going to be August 4th, right?

21 THE WITNESS: Correct.

22 THE COURT: Okay. Now, with respect to the winning
23 bid, under your procedures, Major League Baseball had an
24 absolute right to approve or disapprove the successful bidder,
25 right?

1 THE WITNESS: That's correct.

2 THE COURT: And under the existing procedures, to the
3 extent that the party raises the issue of whether they acted
4 in good faith, that's subject to the Court's review. Is that
5 correct?

6 THE WITNESS: That is correct.

7 THE COURT: Finally, if there's a dispute arising
8 under the procedures, your procedures didn't talk about who
9 would resolve that dispute or how it would be resolved, right?

10 THE WITNESS: I don't believe it did, no.

11 THE COURT: Okay. And these procedures that we've
12 got now provide that I will resolve all disputes under the
13 bidding procedures, right?

14 THE WITNESS: Correct.

15 THE COURT: Okay. Now, Mr. Snyder, as I understand
16 it, and perhaps I'm mistaken, the two greatest concerns you
17 have is the ability to proceed under Section 363 and the
18 timing, correct?

19 THE WITNESS: Exactly.

20 THE COURT: Okay. Now, the existing bidding
21 procedures give you the ability to proceed under Section 363,
22 correct?

23 THE WITNESS: Correct.

24 THE COURT: Okay. And as for the timing, essentially
25 it requires that the bid be available in time for August 4th,

1 but it allows a potential bidder time after that in excess of
2 two months within which to put his financing together, right?

3 THE WITNESS: I believe so, on the financing, yes.

4 THE COURT: Yes. All right. Thank you. You may
5 step down.

6 THE WITNESS: Okay. Thank you.

7 (The witness steps down.)

8 THE COURT: All right. Who's next? Mr. Leblanc,
9 have you got a witness to call?

10 MR. LEBLANC: We do, Your Honor. We're prepared to
11 call Mr. Galatioto, but as Ms. O'Neal mentioned earlier, he
12 does have a requirement to be back in New York tomorrow. I
13 expect that our direct of him will be less than 30 minutes,
14 but I need to understand -- I don't -- I can't put him on
15 unless we're going to hold him until Thursday if the cross is
16 going to exceed --

17 THE COURT: Well, if he runs over and he has to be
18 back in New York tomorrow, we'll make allowances for him.

19 MR. LEBLANC: Okay.

20 THE COURT: I'm not sure I can hear you tomorrow.
21 I've got a trial set all day, as I told you in my e-mail. I
22 will tell you now that it is my expectation to take up your --
23 Express' discovery concerns at the noon hour. So you will all
24 be able to come in and hear that then. And if my trial --
25 it's a dischargeability trial, and you know -- well, you guys

1 probably don't know, but those things can run anywhere from a
2 couple of hours to a couple of days. But if it runs over past
3 the day, they will have to go to the next week.

4 MR. LEBLANC: Can I just, as a housekeeping matter,
5 can I just inquire as to the -- you said the discovery issue.
6 I'm not aware of any motions been filed.

7 THE COURT: I understand, but I'm going to suggest
8 that they get their motion on file this afternoon so that we
9 can hear that tomorrow. You know we're on a very compressed
10 schedule here, and --

11 MR. LEBLANC: I do, Your Honor. It's -- we got our
12 first production from RBE last night --

13 THE COURT: Right.

14 MR. LEBLANC: -- at about 11:00 o'clock.

15 THE COURT: Okay. Well, I appreciate the fact that
16 you're staying up until 11:00 o'clock. It makes me feel
17 better about how much money all of you make, --

18 MR. LEBLANC: I was actually on a plane --

19 THE COURT: -- knowing that you're getting no sleep.

20 MR. LEBLANC: I was on a plane at the time, so it
21 wasn't --

22 THE COURT: Well, that's even better.

23 MR. LEBLANC: Yes.

24 THE COURT: So, first class?

25 MR. LEBLANC: I was yesterday, Your Honor.

1 THE COURT: Uh-huh.

2 (Laughter.)

3 THE COURT: Okay. All right. Mr. Leblanc, go ahead
4 and call your witness, but I will accommodate -- now, the
5 first witness we're going to take on Thursday morning is Mr.
6 Washington, because that's his choice of time and his
7 availability, and I want him back on the field winning games,
8 not talking to us. But I do think it's important that we hear
9 from him.

10 MR. LEBLANC: Understood, Your Honor.

11 THE COURT: All right.

12 MR. LEBLANC: And I'm hopeful that we can get Mr.
13 Galatioto back on and off before we leave here today.

14 THE COURT: All right. Go ahead.

15 MR. LEBLANC: And I will say, Your Honor, I'm a very
16 good American Airlines customer, so I'm not charging my clients
17 for a first-class ticket.

18 THE COURT: I see. Well, I'm not -- I don't care if
19 you charge your clients. As long as you don't charge the
20 estate, you can --

21 MR. LEBLANC: Understood, Your Honor.

22 THE COURT: Nothing makes me happier than to see
23 clients paying those kind of bills. Hire a private jet. Hire
24 a 757.

25 MR. LEBLANC: Well, there's apparently one for --

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1 THE COURT: Yes.

2 (Laughter.)

3 MR. LEBLANC: Your Honor, the Lenders would call
4 Salvatore Galatioto to the stand.

5 THE COURT: All right. Mr. Galatioto, if you'll step
6 over here, the court reporter will swear you in, and then you
7 may be seated.

8 SALVATORE GALATIOTO, LENDERS' WITNESS, SWORN

9 DIRECT EXAMINATION

10 BY MR. LEBLANC:

11 Q Mr. Galatioto, do you have some water up there? Can I get
12 you some?

13 A I'm fine.

14 Q Okay.

15 A I don't need any water. Thank you.

16 Q Could you just begin by introducing yourself to the Court?

17 A I am Salvatore Galatioto. I am president of Galatioto
18 Sports Partners, which is a boutique sports investment bank.
19 We specialize in baseball, football, basketball, hockey. We
20 do a little business in European soccer. But that's all we
21 do.

22 Q When you say "That's all we do," what do you mean by
23 "That's all"?

24 A We have no other businesses. We are in the sports
25 business 24/7. We're in the markets 24/7.

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1 Q And what does Galatioto do in the sports business?

2 A We have two subsidiaries, a securities company which
3 advises buyers and sellers on the purchase and sale of
4 professional sports franchises, and we have a financing arm,
5 which is a lender. And you know, we've been in business about
6 five years, but in my career we've probably lent \$1.5 billion
7 into the sports business and over \$500 million into the
8 baseball business.

9 Q Now, what's your relationship to the Hicks Sports Group
10 family of loans?

11 A We are a First Lien Lender as well as a Second Lien
12 Lender.

13 Q And does Galatioto -- can I use the phrase GSP, just --

14 A Yeah, please.

15 Q Your last name's a little bit tough to get out from time
16 to time.

17 A My son played football for four years and they only
18 announced his number when he made a tackle.

19 Q And are you -- do you also have a capacity as an agent
20 with respect to the Second Lien debt?

21 A Yes. We have a Second Lien agent.

22 Q And when did you become -- when did GSP become the Second
23 Lien agent?

24 A We became Second Lien Agent when Barclay's Bank resigned
25 after HSG defaulted on its debt. And I don't know the exact

1 date. It was roughly a month after that. And we did it by
2 necessity because we had no agent.

3 Q And when you say "We had no agent," you're referring to
4 the Second Lien Lenders?

5 A I'm referring -- excuse me. I'm referring to the Second
6 Lien Lenders. I'm sorry.

7 Q Okay. Can you just describe generally your background?

8 A Certainly. I hold a Bachelor's degree from Hunter College
9 of the City University of New York, *magna cum laude*. I have a
10 Master's degree from the Fletcher School of Law and Diplomacy
11 at Tufts University. I have an MBA with distinction and high
12 honors from the Thunderbird School of Global Management. I
13 have a Series 7/Series 63 qualification as a registered
14 securities dealer, and I am an adjunct associate professor of
15 Finance and Economics at the Columbia University Graduate
16 School of Business.

17 Q And is there a particular focus that you have at Columbia?

18 A Yes, I teach one course in the business school called "The
19 Business of Sport." I've been doing it for I guess nine years
20 now. It's the, as you might imagine, the largest course in
21 the business school because it's a great topic.

22 Q And you're a product of the Brooklyn Public School system.
23 Is that right?

24 A I am a proud graduate of the New York City Public Schools.
25 And for those who don't know City University, when I went to

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1 school it was free. My dad was a longshoreman. My mom worked
2 in the garment district. So I am no limousine investment
3 banker.

4 Q Now, you --

5 THE WITNESS: And by the way, Your Honor, I fly
6 coach.

7 THE COURT: Good. Now you need to get your lawyers
8 to do it, too.

9 THE WITNESS: That's a little more difficult.

10 THE COURT: Yes.

11 BY MR. LEBLANC:

12 Q And Mr. Galatioto, you said you're not a Wall Street
13 investment banker, but describe for us a little bit your
14 career history.

15 A Well, I -- before I got into the sports business -- I've
16 been in the sports business for about 15 or 16 years -- I was
17 the head of the East Coast region for Societe Generale, which
18 is a large French bank. I founded the sports business there.
19 I then moved the business to Lehman Brothers. I was at Lehman
20 Brothers about four and a half years. Was lucky enough -- not
21 smart enough -- to leave about five and a half years ago, to
22 form GSP. And for the last 15 or so years, we've been in the
23 sports business, all sports, all the time.

24 Q And have you been involved in sales involving Major League
25 Baseball teams before?

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1 A Yes. We represented the Ricketts family in the record
2 acquisition of the Cubs last year. We represented the Disney
3 Company in the sale of the Anaheim Angels. At the time the
4 Anaheim Angels, now the Los Angeles Angels of Anaheim, the one
5 team that can be in two places at once. We represented bidder
6 groups in the Atlanta Braves transaction, the Washington
7 Nationals transaction, and the Boston Red Sox transaction. I
8 believe we had a bidder group involved in the Los Angeles
9 Dodgers purchase. We also do business with the San Francisco
10 Giants, the New York Yankees, and we represented Fred Wilpon
11 when he purchased the 50 percent of the Mets which he did not
12 own from Nelson Doubleday to gain 100 percent control of the
13 team.

14 So we've done many, many -- and those are just the
15 investment banking transactions. We've done -- obviously, we
16 do a significant amount of lending into the Major League
17 Baseball business.

18 Q And have you been involved -- and you've been involved
19 recently in other sports transactions outside of Baseball. Is
20 that correct?

21 A Yes, we just signed a purchase and sale agreement for the
22 sale of the Golden State Warriors for the highest price ever
23 for an NBA franchise of \$450 million. The previous record
24 price was \$401 million, which was the sale of the Suns, which
25 we also did. We sold the Charlotte Bobcats earlier in the

1 year. We're involved in numerous transactions.

2 Q And one of the -- you just described the Golden State
3 Warriors transaction. When was that transaction, or --

4 A We signed the purchase and sale agreement only a couple of
5 days ago. It was a full and very competitive auction, and we
6 were able to get a very handsome price, I think.

7 Q And what role did you guys have, did GSP have in that
8 auction?

9 A We represented the seller, Mr. Christopher Cohan, who was
10 the owner of the Warriors, in that transaction.

11 I should say: We also obviously do business with the
12 Texas Rangers. I missed them when I was talking about
13 baseball.

14 Q Now, let me just focus for a second on discussions you've
15 had or involvement you've had with respect to this team since
16 the filing for bankruptcy. Have you been involved on
17 occasions in discussions with potential bidders for the Texas
18 Rangers' assets?

19 A Yes, I have.

20 Q Can you just describe generally for me what types of
21 discussions you've been involved with?

22 A We talked to numerous people who I talk to about sports
23 transactions all the time who have expressed interest at
24 varying levels in the Texas Rangers.

25 Q What issues do you understand there are in the ability of

1 people to put forward a bid for the Rangers?

2 A Part of the problem is that for a long time it was -- to
3 the market, it was murky whether or not the team was for sale
4 or was already sold to Mr. Greenberg. Baseball has never
5 really, to my knowledge, come out and endorsed the full and
6 open auction. A number of the prospective bidders have
7 mentioned to me that they want to buy a baseball team, whether
8 it's this one or another one, and they don't really want to
9 get on the wrong side of Major League Baseball. So that's
10 sort of chilled the bidding.

11 Obviously, the largest problem that we have with the
12 bidders that have come forward is timing, in terms of getting
13 financing in this market.

14 Q Describe for me what you understand or what you mean by
15 the issues with timing, getting financing in this market.

16 A Well, I was interested in listening to some of the cross-
17 examination today when it was --

18 (Static.)

19 THE COURT: Just a minute. We've got a -- whose
20 BlackBerry is up near to the microphone? Okay. Because I
21 could hear that, too. You've got to understand. I'm sure
22 it's not you. You've got to understand that that also messes
23 up your record, so you'll have this blur in the transcript.

24 MR. LEBLANC: He's my witness, Your Honor. I want a
25 clear record.

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1 THE COURT: That's what I thought. I was confident
2 it wasn't you, either. Okay. All right. We're going to --
3 if someone is caught with a BlackBerry that's on, Ms. Maben
4 will have the opportunity to smash it underfoot, so that gives
5 you an incentive to turn it off.

6 THE WITNESS: I like that.

7 THE COURT: Okay. Go ahead.

8 THE WITNESS: I like that. I'm sorry. Now I don't
9 remember the question. Was the -- oh, --

10 BY MR. LEBLANC:

11 Q The question related to timing with respect to financing.

12 A Well, I mean, the current regulatory environment is very
13 difficult. I was interested in listening to some of the
14 cross-examination characterizing the banks as being
15 unresponsive. The fact is that we're regulated by the Fed, by
16 the Comptroller of the Currency, by the states in which we are
17 incorporated. And right now, in the current regulatory
18 environment, there's a lot of regulatory oversight. We have
19 to make sure every T is crossed, every I is dotted. There are
20 Patriot Act considerations.

21 I only met Mr. Crane once. If I were to put together a
22 new financing facility for them, I'd have to do background
23 research on him. I'd have to do due diligence. And of course
24 the bidders have to do a high level of due diligence on the
25 assets as well. We'd have to structure a transaction, and we

1 can only move at the rate that the slowest bank moves, because
2 there are several dozen banks in this transaction. I don't
3 remember the exact amount, but I think it's more than 20. I
4 think it's closer to 30. And that's difficult to do. It just
5 -- in a regular financing, if we -- forget about the
6 bankruptcy process. If we started today with a clean sheet of
7 paper with a new buyer that we didn't know, it would take us
8 at least 60 days to deliver a commitment.

9 Q What effect, if any, have the transfers that occurred
10 right before the bankruptcy filing had on the ability of
11 bidders to come forth and bid on this?

12 A It's made it more complicated. People have a lot of
13 questions about them, and it will slow up the timing. They're
14 going to have to -- whether or not they have any material
15 effect, I'm not a lawyer, and I don't even play one on TV.
16 But I can tell you that if I were a lender looking at this
17 thing, or a prospective buyer, I would want to go through
18 every single one of those transactions and understand how they
19 affect the asset that I'm buying. And that just takes time.
20 And it's something that you can't substitute for.

21 Q Now, are you familiar generally with the situation of the
22 land around the stadium in Arlington?

23 A Yes, in general terms, I am. All right.

24 Q And what effect, if any, has the land issue had on the
25 ability of bidders to put forward a bid in the time frame

1 provided?

2 A Again, it's very cloudy. I mean, one of the things that a
3 number of prospective bidders have asked us about is the
4 parking: Will they have access to parking? Do they have to
5 buy the land? Don't they have to buy the land? Can they get
6 a lease on the land on commercially reasonable terms? Again,
7 it's another question that's going to take time to ferret out.
8 It's a very complicated transaction with a lot of moving
9 parts.

10 Q And do you know if any negotiations have occurred between
11 any bidders and anyone with respect to the land side of the
12 transaction?

13 A I'm not sure. We discussed the land with Mr. Crane at the
14 one meeting that we had, about really getting him parking on
15 the land. But we didn't come to a conclusion because
16 financing issues kind of overtook the discussion.

17 Q Is securing parking an important thing for the Texas
18 Rangers, given the location of their stadium?

19 A Absolutely. It's a suburban stadium. If you don't have
20 parking, you're a minor league baseball team.

21 Q Do you believe that period of time that's been provided
22 for in the bid procedures is adequate for alternative bidders
23 to consider putting forth an alternative transaction?

24 A Look. Could somebody throw in a bid? Yes. Would it be
25 the best bid you're going to get? No. I think, if I were

1 advising a prospective buyer, and I've done it many times, I
2 would tell the buyer that, given the amount of time they have,
3 they would not be able to do the level of due diligence they
4 need to do to make a reasoned bid here.

5 Q And is that true even out through the period of August
6 4th, as is currently in the proposed bid procedures?

7 A Yes. I believe so. I believe that to get a deal done the
8 right way, and I mean, to do due diligence at the level you
9 need it and for the banks to deliver a standard financing
10 commitment that makes sense that could pass muster with the
11 regulators, in my opinion it would take roughly 90 days to do
12 that. I don't think it's years, but I think, if we all worked
13 hard, in 90 days we could get a deal done.

14 Q And how does that 90-day period compare to other sports
15 deals that you've been involved with?

16 A It's accelerated. Some are very clean transactions, and
17 you can get them done fast. But it always takes, you know, 70
18 to 90 days to get a deal done. I've never been involved in a
19 transaction that's taken less time than that.

20 Q Do you have a sense of how long Mr. Greenberg had to
21 diligence the assets that are under consideration?

22 A I think he had months.

23 Q And how about to secure his financing?

24 A I think the same.

25 Q What about even the process of negotiating an asset

1 purchase agreement? Do you recall when Mr. Greenberg was
2 identified as the winning bidder?

3 A I don't remember it precisely.

4 Q Okay. That's fine. We'll leave those dates aside. I
5 wanted to just turn to one other topic, the question -- you're
6 familiar with the break-up fee that's provided for?

7 A Yes, sir.

8 Q What effect do you believe the break-up fee will have on
9 the willingness of other parties to bid?

10 A I think --

11 THE COURT: Just a minute. Just a minute.

12 THE WITNESS: Sorry.

13 MR. KURTZ: Objection. I mean, Your Honor, I've sat
14 quietly for a while. This is supposed to be a fact witness.
15 This is not an expert witness. We were not provided with
16 expert disclosure, reports or otherwise. And to have a
17 witness come in and start leaving his capacity -- he's
18 supposed to be a lender representative. He's not supposed to
19 be an expert on the process and how you sell the process, nor
20 has he run the process, so he's not providing any factual
21 evidence. He's simply talking about what, you know, he'd like
22 to think would be consistent with non-bankruptcy deals that
23 haven't been through one process already.

24 THE COURT: Mr. Leblanc?

25 MR. LEBLANC: Your Honor, I don't believe Mr.

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1 Galatioto is providing expert testimony. He's talking about
2 -- he's had these discussions with bidders.

3 THE COURT: Okay.

4 MR. LEBLANC: We've not sought to qualify him as an
5 expert. I think we certainly could seek to qualify him as an
6 expert. I think, under 9014, we wouldn't be required to
7 provide expert disclosures, in any event. But we're not doing
8 that. We're not asking to qualify him as an expert. I
9 certainly think his experience is relevant to the Court.

10 THE COURT: Okay. Mr. Galatioto? Did I get that
11 right?

12 THE WITNESS: Don't worry about it, Your Honor.

13 THE COURT: Close enough for government work?

14 THE WITNESS: I'm not even going to bite at that one.
15 I'd be getting myself in trouble.

16 THE COURT: All right. Have you seen break-up fees
17 in other agreements for the acquisition of a sports club?

18 THE WITNESS: I'm trying to think, because I've done
19 many, many deals. In the last five or six transactions I've
20 done, I have not. That does not mean that there are not
21 break-up fees in these transactions.

22 THE COURT: Okay. You understand that, under this,
23 the only thing that the break-up fee -- the only effect that
24 the break-up fee has on a bidder is it fixes the amount of the
25 initial overbid?

1 THE WITNESS: Yes, I do, Your Honor.

2 THE COURT: All right. All right. So, do you think
3 that -- I mean, other than the fact that obviously a bidder
4 would rather go up by 30 cents at a time, do you think that
5 that's going to make any difference to whether or not someone
6 chooses to bid? Do they care where the money goes once
7 they've paid it and gotten what they bought?

8 THE WITNESS: What's the size of the break-up fee
9 here? I'm sorry. Is it \$10 million or \$15 million? I've
10 heard both numbers.

11 THE COURT: Well, the overbid is \$15 million. The
12 \$10 million --

13 THE WITNESS: The overbid is \$15 million?

14 THE COURT: The \$10 million, it strikes me, is
15 irrelevant.

16 THE WITNESS: Okay. So it's \$15 million?

17 THE COURT: Yes.

18 THE WITNESS: Look. If I were a motivated buyer and
19 I wanted to buy this team, I would buy it.

20 THE COURT: All right. Go ahead, Mr. Leblanc.

21 MR. LEBLANC: Your Honor, just to be clear, I'm going
22 to ask a series of questions that I think could be reserved
23 for argument but I want to get the witness to it because
24 there's a statement that the Court just made that we just --
25 we don't think is accurate as it relates to the effect of the

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1 break-up fee. So I'm going to ask some questions of the
2 witness. I think I can do it in argument, but I think it
3 might --

4 THE COURT: Well, you go ahead. I suspect Mr. Kurtz
5 will be very vigilant to see --

6 MR. LEBLANC: Sure.

7 THE COURT: -- if there's a basis for objection. So
8 go ahead. Or Mr. Sosland or perhaps Mr. Shimshak or Mr.
9 Esserman.

10 MR. LEBLANC: Fair enough.

11 BY MR. LEBLANC:

12 Q Mr. Galatioto, to the extent that, at the end of the
13 bidding process, Mr. Greenberg has a bid of, let's say, \$290
14 million in cash to the banks, and the number two bidder is --
15 I'm sorry, the other bidder is \$292 million in cash to the
16 banks, in that process, under your understanding of the
17 procedures, who wins that auction?

18 A Mr. Greenberg.

19 MR. KURTZ: Objection. The witness' understanding is
20 irrelevant. It's a matter for Your Honor. Counsel has
21 already conceded that these questions are not designed to
22 elicit factual evidence but instead are designed to make an
23 argument to you, which seems unusual to me not only because
24 it's not proper but because he's just announced to the
25 courtroom that this witness has a short period of time that

1 he's available to be questioned.

2 MR. LEBLANC: Your Honor, if I may respond to that,
3 the reason is to then ask the question that I'm about to ask
4 of the witness before he leaves.

5 THE COURT: Okay. I'm going to let him answer the
6 question, Mr. Kurtz. Again, this is a bench trial, and if I
7 later decide that it was an inappropriate question and that
8 the evidence is not probative, I will not take it into
9 account.

10 Go ahead.

11 MR. LEBLANC: Okay.

12 BY MR. LEBLANC:

13 Q So, under the scenario I gave you, where another bidder is
14 \$2 million higher than Mr. Greenberg, under your understanding
15 of the bid procedures, who wins that auction?

16 A Mr. Greenberg.

17 Q And what if Mr. Greenberg is \$7 million lower than the
18 next-high purchaser?

19 A He would win.

20 Q Okay. What effect do you think that that fact has on the
21 willingness or interest of other people to bid on this?

22 A Look.

23 MR. KURTZ: Objection. It's an opinion. You know,
24 if he's not offering the witness as an expert, his opinion is
25 irrelevant. If he has any competent evidence, he can try to

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1 elicit it, but just asking this witness, without having
2 qualified him as an expert, having provided expert disclosure,
3 to come in here and tell us what he thinks would happen is
4 improper.

5 MR. LEBLANC: It's the same objection we heard just a
6 moment ago, Your Honor, just to a different question. I think
7 it continues to be a fair --

8 THE COURT: Okay. Restate the question for me.

9 MR. LEBLANC: Sure.

10 BY MR. LEBLANC:

11 Q Mr. Galatioto, based on your discussions with other
12 bidders in this case, what effect do you think it would have
13 on the bid process to have Mr. Greenberg have the protection
14 of at least \$10 million worth of overbid value?

15 THE WITNESS: Am I allowed to answer the question,
16 Your Honor?

17 THE COURT: Yes. I'm going to let him answer it.
18 Go ahead.

19 THE WITNESS: Thank you. I think it's going to make
20 it more difficult for any bidder, obviously.

21 BY MR. LEBLANC:

22 Q Mr. Galatioto, that's all I have. Thank you very much for
23 your time.

24 A Thank you.

25 THE COURT: All right. Anyone else on this side?

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1 Okay. Mr. Sosland? All right. Mr. Beagles? How long are
2 you going to be, Mr. Beagles? Do you know?

3 MR. BEAGLES: Under 10 minutes.

4 THE COURT: Okay. Then we'll go ahead with you and
5 then we'll take a recess. Go ahead. What time is your flight
6 on coach?

7 THE WITNESS: I'll be leaving around 5:00, Your
8 Honor.

9 THE COURT: All right. We have flights back to New
10 York until quite late here.

11 THE WITNESS: Seven o'clock is the last one,
12 unfortunately, and I'm in coach. I don't get that first class
13 upgrade, you know. I don't have a villa in Tuscany, either,
14 if it makes you feel any better.

15 MR. LEBLANC: Mr. Galatioto simply --

16 THE COURT: Pardon?

17 MR. LEBLANC: Your Honor, Mr. Galatioto just simply
18 should come back to Fort Worth more often, I guess.

19 THE COURT: I'm sure, like everybody else, he
20 thoroughly enjoys this city in the middle of July. Though New
21 York isn't a great deal better, is it?

22 THE WITNESS: It is horrible.

23 THE COURT: Yes.

24 THE WITNESS: So it's pretty much the same.

25 THE COURT: All right. Go ahead, Mr. Beagles.

1 CROSS-EXAMINATION

2 BY MR. BEAGLES:

3 Q Good afternoon, Mr. Galatioto.

4 A How are you?

5 Q My name is Vance Beagles, and I'm with the law firm of
6 Weil Gotshal & Manges, representing the Debtor.

7 Now, you're aware that, from the very first day of the
8 hearings in this case, that the Ad Hoc Lender Group reported
9 that all it really wanted was a fair, transparent and open
10 auction? Are you aware of that?

11 A That's correct.

12 Q And that was almost two months ago, correct?

13 A I believe so.

14 Q And, conversely, the Debtor wanted to confirm a plan with
15 a sale to the Greenberg-Ryan Group without opening up the
16 auction, right?

17 A I believe that's correct.

18 Q Okay. But in the almost -- and you have a lot of
19 experience, as you've testified, selling sports teams and
20 buying sports teams on behalf of clients, correct?

21 A Yes, sir.

22 Q Okay. But nevertheless, in the almost two months that
23 have transpired since the filing of this case, the Ad Hoc
24 Lender Group, despite wanting an auction, has never filed any
25 bidding procedures that it believes would be acceptable,

1 correct?

2 A As far as I know, yes.

3 Q Did you earlier hear Mr. Snyder testify that each of the
4 lenders had stated in writing that they are willing to run the
5 risk of losing the Greenberg-Ryan deal?

6 A I believe I did.

7 Q And did you sign such a document saying that your group
8 was willing to run the risk of losing that bird in the hand,
9 so to speak?

10 MR. LEBLANC: Your Honor, just to be clear, when he
11 says "your group," I assume he means GSP?

12 THE COURT: GSP.

13 MR. BEAGLES: I do mean GSP. I'm sorry.

14 THE WITNESS: You mean GSP? I'm sorry. Yeah.

15 BY MR. BEAGLES:

16 Q Yeah.

17 A Because I am the agent on the Second Lien and I can't
18 speak --

19 Q I'm sorry. For, yes, GSP.

20 A Okay. Yes.

21 Q And so you did sign such a document?

22 A I believe so.

23 Q All right. So even though Mr. Snyder testified that in
24 his opinion as the CRO and in his experience in bankruptcy and
25 reorganizations that losing the Greenberg-Ryan deal would be a

1 detriment or I think as the Court put it a negative on the
2 estate, you nevertheless are willing to run that risk?

3 A Absolutely.

4 Q I believe you testified that the largest issue that you
5 have with the current bidding procedures is the timing. Is
6 that correct?

7 A I believe that that's one of the major points, yes, sir.

8 Q And you said that you think that a compressed time frame
9 but a doable time frame would be 90 days. Is that right?

10 A Yes, sir.

11 Q Are you aware that on June 1st Mr. Leblanc informed the
12 Court that there was a buyer that was ready, willing and able
13 to participate in an auction that was fair and transparent?

14 A I don't know the exact date, but if you tell me it was
15 that date, yes.

16 Q Okay. And so that was roughly -- we're about 50 days past
17 that date now, correct?

18 A Yes.

19 Q And as the bidding procedures are laid out, there's
20 another 30 days or so before bids are due, or 20 days before
21 bids are due, and then that can be extended, as you heard the
22 Court earlier explain, or Mr. Snyder explain, can even be
23 further extended to October. Is that right?

24 A That's correct.

25 Q So that would get us well past the 90-day issue, right?

1 A Except for the fact that a prospective bidder would have
2 to put up \$15 million and risk losing it if he can't get
3 financing in a difficult financing market. That is a very
4 high hurdle, sir.

5 Q You testified earlier it was your understanding that Mr.
6 Greenberg had several months to do his due diligence. Do you
7 remember saying that?

8 A Yes, sir.

9 Q Isn't it true also that Mr. Crane had that same
10 opportunity back in the December-January time frame to do due
11 diligence?

12 A That's correct, but a lot of time has passed and so you
13 have to do a lot more due diligence, and of course all of the
14 -- I don't know how to describe them, Your Honor. If I -- the
15 midnight transfers, I think some people have characterized
16 them as, they need to be diligenced as well.

17 Q But those can be --

18 A The financial dynamics of the team have changed. So he
19 has to restart his due diligence.

20 Q Well, but so you're saying that it takes longer to bring
21 diligence up to date than it does to start due diligence from
22 scratch back in the beginning?

23 A No, I'm not saying that. I'm saying that a lot has
24 happened since last year, not the least of which is this
25 bankruptcy and all the changes that have been made through

1 those transfers. And any prospective buyer would have to
2 diligence that. And obviously his financing commitments are
3 gone. No one keeps financing commitments for six months. He
4 has to restart the clock. So it's going to take time.

5 Q But if he was an interested bidder, he could have
6 continued -- as I think has been established, this bankruptcy
7 and the sale of the team has been well publicized. Would you
8 agree with that?

9 A Yes, sir.

10 Q So he could have maintained his lending relationships and
11 continued that through this process, right?

12 A I don't think that's reasonable. I mean, once a lender
13 finds out the team has been awarded to someone else, they're
14 not going to keep a commitment in place. It's gone. I mean,
15 as a lender, when I find out someone else has one, unless
16 someone is foolish enough to continue to pay me some kind of
17 fee to keep my commitment in place, I drop the commitment.

18 MR. BEAGLES: Your Honor, may I approach the witness?

19 THE COURT: Yes.

20 (Pause.)

21 BY MR. BEAGLES:

22 Q Mr. Galatioto, I have handed you now what's been marked as
23 Defendant's -- I'm sorry, Debtor's Exhibit #1. Do you have
24 that?

25 A Yes, I do.

1 Q And on the bottom of -- you'll see in the bottom right-
2 hand corner of each of the pages there's a control number.

3 And on the -- a control number.

4 A Yes, sir.

5 Q And on the first page, --

6 A Yes, I see it.

7 Q The first page begins with AHG 00008271, and then it
8 continues on, the last page is 8280. Is that correct?

9 A Yes, sir.

10 Q All right. Now, I notice a lot of reactions here, but if
11 you'll ignore the reductions this appears to be a copy of
12 three different e-mails that were sent on April 29th and April
13 30th by Andrew Herenstein. Do you see that?

14 A Yes, sir.

15 Q Who is Andrew Herenstein?

16 A Andrews Herenstein is one the principals of Monarch
17 Alternative Asset, I think is the name of his company.

18 Q All right. And you received -- you're shown as a
19 recipient on these e-mails as well, correct?

20 A Yes, I am.

21 Q All right. If you'll turn with me to the bottom of the
22 page that ends on the bottom right-hand corner of 8275.

23 A 75?

24 Q Correct. This e-mail that appears on this page, and it
25 carries over to the next page, is an e-mail from Mr.

1 Herenstein to you, among others, about a call he had just
2 finished with Mr. DuPuy. Do you see that?

3 A Yes, sir.

4 Q Do you recall getting this e-mail?

5 A Frankly, I don't. It's been a while. But --

6 Q All right. Looking down in the paragraph that's #3, --

7 A Uh-huh.

8 Q -- and it's two lines up is where I'm going to focus your
9 attention, then we'll carry over to the next page.

10 A Okay.

11 Q He's reporting -- Mr. Herenstein is reporting on a
12 conversation with Mr. DuPuy where he refers to Mr. DuPuy as
13 "he" and he refers to himself as "I" in it. So it says, "He
14 said, 'I believe you'll get a lower bid if you don't accept
15 the extra value I got you.'"

16 Do you see that?

17 A Hold on just for a moment. I want to --

18 Q It's just two lines up from the bottom.

19 A Yes. Yes, I do see it.

20 Q And then it goes on to say, "I said, 'You believe?'"

21 And if you'll turn over the next page, Mr. Herenstein
22 says, "That doesn't do it for us. Let's find out the truth.
23 Let's run a process. Baseball can run it and see what the
24 best bid is. He [Mr. DuPuy] said the operating costs over the
25 next six months will be very expensive. I said, 'Six months?"

1 How about a month? How about ONE WEEK? Give us one week to
2 run a process and see if there is a buyer who will pay the
3 price.'" "

4 Do you see that?

5 A Yes, sir, I do.

6 MR. BEAGLES: Your Honor, I would move that Debtor's
7 Exhibit #1 be admitted into evidence.

8 THE COURT: Any objection?

9 MR. LEBLANC: No objection, Your Honor. Just for the
10 Court's benefit, Your Honor, this was marked "Confidential."
11 The Debtor conferred with us beforehand. We agreed to de-
12 designate the document so there wouldn't be an issue with
13 having to file it under seal, which would otherwise be
14 required.

15 THE COURT: All right. It'll be admitted. This is
16 Debtor's 1, you say?

17 MR. BEAGLES: Yes, Your Honor.

18 (Debtor's Exhibit 1 is received into evidence.)

19 BY MR. BEAGLES:

20 Q Mr. Galatioto, to your knowledge, do the attorneys for the
21 Ad Hoc Lender Group, or for any of the Lenders, represent any
22 of the potential bidders?

23 A I don't believe so.

24 Q You haven't given them permission to represent any
25 potential bidders, have you?

1 A No.

2 Q And I believe you testified earlier that you've had
3 communications with certain bidders, right?

4 A Yes, sir.

5 Q Do you have -- have any of those communications been by e-
6 mail or other written form of communication?

7 A No.

8 Q You have no e-mails or other written communications with
9 any bidders?

10 A I think you have everything that I have in discovery, and
11 you'll notice that I like to have the personal touch with
12 people.

13 Q All right. Well, I'll --

14 THE COURT: It also shows a certain -- provides
15 certain advantages in connection with discovery. Perhaps you
16 want to suggest that to Mr. West, Mr. Sosland.

17 (Laughter.)

18 MR. BEAGLES: I'll --

19 THE WITNESS: Sorry.

20 (Pause.)

21 BY MR. BEAGLES:

22 Q Okay. Well, I'll represent to you, Mr. Galatioto, that
23 your attorneys have refused to produce any documents, any
24 written communications between either them and potential
25 bidders -- "them" being the attorneys for the Lenders --

1 A Uh-huh.

2 Q -- or any Lenders with potential bidders. And so --

3 MR. LEBLANC: Your Honor, we -- we're -- I'm happy to
4 deal with the discovery issue at the appropriate time. I can
5 deal with it now if you'd like to. I don't know that it's
6 appropriate to ask these questions of the witness.

7 THE COURT: Well, I don't think he's asked a question
8 yet, so why don't we hear the question and then you can decide
9 whether or not you want to object to it? Okay?

10 MR. LEBLANC: That's fine, Your Honor.

11 THE COURT: Go ahead, Mr. Beagles.

12 BY MR. BEAGLES:

13 Q We've received a document from somewhere else that
14 indicates your signature on it on behalf of GSP Finance, LLC,
15 title, President, to Jim Crane dated July 12, 2010. Do you
16 recall writing a letter or signing a letter to Mr. Crane
17 around July 12th?

18 A I do.

19 Q Okay. So let me go back to my other question about
20 whether you have any written documents or written
21 communications with potential bidders. I believe you said no.

22 A Oh, I'm sorry. That document was a document signed by I
23 think all the members of the Ad Hoc Committee. It wasn't -- I
24 thought you were referring to e-mails and other things, as --

25 Q Just to be clear, let's break it down.

1 A Okay.

2 Q Do you have any -- do you or does GSP have any e-mail
3 communications with potential bidders?

4 A I do not believe so.

5 Q Okay. Do you or GSP have any written communications other
6 than e-mail with any potential bidders?

7 A I'm not certain. I have a staff of people also working on
8 this transaction. I don't believe so. I can only speak for
9 myself. I don't believe I have any written communication.

10 THE COURT: Well, you mean you don't other than the
11 letter Mr. Beagles has just referred to?

12 THE WITNESS: That's correct, Your Honor.

13 THE COURT: All right.

14 THE WITNESS: Not that I recall.

15 MR. BEAGLES: I'll pass the witness, Your Honor.

16 THE COURT: All right. We're going to take a 10-
17 minute recess. We'll resume in 10 minutes.

18 THE CLERK: All rise.

19 (A recess ensued from 2:37 p.m. until 2:51 p.m.)

20 THE COURT: Please be seated. All right. Mr. Kurtz?

21 MR. KURTZ: Thank you, Your Honor. May I proceed?

22 THE COURT: Please.

23 CROSS-EXAMINATION

24 BY MR. KURTZ:

25 Q Sir, did you vote in favor of the RBE bid on -- I'm sorry,

1 did GSP vote in favor of the RBE bid on April 2nd?

2 A I'm sorry. I'm not -- what is the RBE bid of April 2nd?

3 Q The --

4 THE COURT: The Greenberg-Ryan bid.

5 THE WITNESS: Did we vote in favor of it?

6 BY MR. KURTZ:

7 Q Yes.

8 A I don't believe so.

9 Q You have never indicated your approval, preliminarily or
10 otherwise, of the April 2nd bid by the Greenberg-Ryan Group?

11 A I believe I haven't.

12 Q Did anybody else to your knowledge indicate an initial
13 approval of the bid on April 2nd?

14 MR. LEBLANC: Your Honor, just to be -- I don't know
15 what he means by "anybody else." Does he mean another lender?
16 Does he mean someone else within --

17 THE COURT: Why don't you narrow the question, Mr.
18 Kurtz?

19 BY MR. KURTZ:

20 Q Anyone within the Lender Group.

21 A I can't speak for the Lender Group. I'm sorry.

22 Q Okay. You have no knowledge of any of that?

23 A No.

24 Q Okay. Can you direct your attention to Debtor's Exhibit
25 1, which is the exhibit counsel ran you through about the one-

1 week process that the Lenders anticipated back in April?

2 A I'm sorry. Can you tell me what page that's on again?

3 Q That was on Page -- the page with the Bates stamp 8276.

4 A 276? Yeah. I have it. Thank you.

5 Q All right. Now, after saying that who needs six months
6 and who needs a month, you could do all this stuff in a week,
7 it goes on to say that -- where it starts in all caps, he
8 says, "You ran a process. It failed. The buyer couldn't
9 finance his deal. His deal expired on April 1st and is
10 terminable." That refers to the Greenberg-Ryan transaction,
11 right?

12 A I believe so.

13 Q Then if you look at the bottom, the two lines from the
14 bottom of that carryover paragraph, it said, "I said his deal
15 expired. It's over. It's done. His deal will never get
16 done." That was the other statements that your Lender Group
17 was making to MLB, right?

18 MR. LEBLANC: Objection, Your Honor. Characterize --
19 these aren't statement made by the Lender Group. It's an e-
20 mail by one individual.

21 THE COURT: You can clarify that if you want. That's
22 a fair enough comment.

23 MR. KURTZ: Sure.

24 BY MR. KURTZ:

25 Q Is Mr. Herenstein a member of the Lender Group?

1 A Yes, he is.

2 Q Is he the spokesperson, somebody charged with
3 responsibility in connection with this matter on behalf of the
4 Lender Group?

5 A No.

6 Q He hasn't been active in -- is Mr. Herenstein the person
7 that's been speaking -- have been speaking with MLB about the
8 bidding process?

9 A I don't beli... is that the question?

10 Q Yeah, that --

11 A Was he the person speaking with them?

12 Q That is the question.

13 A I thought -- or is the question --

14 Q Did -- was Mr. Herenstein --

15 THE COURT: Okay. Okay.

16 THE WITNESS: I don't know what the question is.

17 THE COURT: I've been through this before. Again,
18 one at a time.

19 THE WITNESS: Okay. I'm just -- want clarification.

20 BY MR. KURTZ:

21 Q That's the question. Did Mr. Herenstein -- was Mr.
22 Herenstein speaking to MLB on behalf of the Lender Group?

23 A No. I believe he was speaking on his own behalf.

24 Q And was Mr. Herenstein sending e-mails about his
25 conversations with MLB to other members of the Lender Group?

1 A Yes, he was, clearly.

2 Q And that included you as well, right?

3 A Absolutely.

4 Q Okay. And you understood that Mr. Herenstein was speaking
5 to MLB and was making comment about Greenberg and Ryan not
6 being able to finance the transaction, right?

7 A That is his opinion, yes.

8 Q Okay. Well, that -- did you ever write back to him and
9 say, "I disagree with you. Please clarify that with the MLB"?

10 A No, I did not write back to him.

11 Q Did you ever call Major League Baseball and say, "One
12 member of the Lender Group has said that the Greenberg-Ryan
13 bid will fail and can't be financed. I don't agree"?

14 A No, I did not.

15 Q Now, can you turn to Page 8274 of the same exhibit?

16 A 274?

17 Q Correct. That's another e-mail from Mr. Herenstein,
18 right?

19 A Yes, sir.

20 Q And that goes to other members of the Lenders Group,
21 including yourself, right?

22 A I'm trying to find my name on it. Yes, it does.

23 Q And Mr. Herenstein again is communicating about a
24 conversation he had with MLB, right?

25 A Can you give me a moment to read it?

1 Q Sure.

2 A Thank you.

3 Q It says, "Just spoke to DuPuy."

4 A Yeah. Yes, sir. Just -- yes.

5 Q And he says that he gave MLB a proposal, right?

6 A Yes.

7 Q And he said, "I told him Baseball should announce that
8 Greenberg couldn't finance his deal and that Baseball has
9 taken over the process and is running a short auction to find
10 a substitute buyer," right?

11 A That's what it says.

12 Q Okay. By the way, it wasn't accurate that Mr. Greenberg
13 couldn't finance his deal, right?

14 A I have no idea.

15 Q And a short auction -- and it also talks about a
16 contemplated "short auction," right?

17 A I'm sorry?

18 Q Talks about contemplating a "short auction," right?

19 A A short auction, yes. That's what it says.

20 Q Which was clarified in the next e-mail as being a one-week
21 auction, right?

22 MR. DEWOLF: Objection.

23 MR. LEBLANC: Objection to form.

24 THE WITNESS: The next e-mail being 8275?

25 THE COURT: Just --

1 MR. KURTZ: Through -- well, the actual language --

2 THE COURT: Just -- okay.

3 MR. KURTZ: -- is on 8276.

4 THE COURT: Okay. What was the question again, and
5 then let me hear Mr. Leblanc's objection.

6 MR. KURTZ: I had said, and the short auction was
7 clarified in the next e-mail as being "about one week,"
8 correct?

9 MR. LEBLANC: And I object to the form of that
10 question, Your Honor. The document speaks for itself. You've
11 got it. We've admitted it into evidence. I don't think you
12 need to -- it doesn't -- one doesn't necessarily clarify the
13 other. In fact, the one that he describes as then being
14 clarified actually predates the e-mail that he was just
15 referring to.

16 THE COURT: That's true.

17 MR. KURTZ: Well, that's why -- that's why it needed
18 clarification to the group, because the next day is when he
19 said that short auction would be one week. That was my point.

20 THE COURT: No.

21 MR. LEBLANC: No. It's --

22 THE COURT: The same -- both of those e-mails are on
23 April 29th. 8274 is 9:06 p.m., and 8275 is 8:00 p.m., --

24 MR. KURTZ: Okay. I --

25 THE COURT: -- which means that the one preceded the

1 other.

2 MR. KURTZ: Okay. I'll rephrase.

3 BY MR. KURTZ:

4 Q So the short auction was what was addressed in the
5 preceding e-mail, which spoke about a one-week auction, right?

6 A That's what it says.

7 Q All right. And then if you'll look to the cover page of
8 the e-mail, --

9 A I'm sorry?

10 Q -- the first page, I should say, the first page of the e-
11 mail. Do you see that?

12 A Is that 8271?

13 Q It is. That's an e-mail again from Mr. Herenstein, right?

14 A Yes, it is.

15 Q And this is again to other members of the Lender Group,
16 including yourself, right?

17 A Yes.

18 Q And this is yet another e-mail by Mr. Herenstein
19 discussing a conversation he was having with Major League
20 Baseball, right?

21 A Yes.

22 Q And he says in the second sentence, "They cannot accept
23 our proposal to start a new process. They are aware that we
24 are doing things like forgiving secured claims to get an
25 unsecured claim to file the bankruptcy." So you were aware

1 even back in April that the Lender Group was taking steps to
2 position itself in connection with the bankruptcy, right?

3 A That is Mr. Herenstein's position. If you would like to
4 know what I was doing during that time, --

5 Q No.

6 A -- I'd be happy to do that.

7 Q I wanted to just --

8 A Okay.

9 Q -- know whether you were made aware by Mr. Herenstein that
10 --

11 A Of his position. Yes, I was.

12 Q Well, okay.

13 A Of his position.

14 Q Let me just get it on the record. You were made aware --
15 you and other members of the Lenders Group were made aware by
16 Mr. Herenstein that they were already taking action like
17 forgiving secured claims to pick up an unsecured claim in
18 order to position themselves in bankruptcy to block the
19 Greenberg-Ryan proposal. Correct?

20 MR. LEBLANC: Objection. Your Honor, that's an
21 absolute, total mischaracterization.

22 MR. KURTZ: This is cross-examination, Your Honor.

23 THE COURT: In what way?

24 MR. LEBLANC: Your Honor, I'll tell you, Your Honor.

25 There isn't a reference to block a sale in here at all. And

1 I'm happy to explain.

2 THE COURT: All right. All right.

3 MR. LEBLANC: But if he wants to ask a question -- if
4 he wants to argue this, we should --

5 THE COURT: All right. All right. What's your
6 question again?

7 MR. KURTZ: Your Honor, just to respond. I'm not
8 required to read an e-mail verbatim. I'm entitled to ask
9 questions on cross-examination. If the witness agrees with
10 me, he'll say yes. If he doesn't, he'll say no. It is not
11 for counsel to make legal arguments during the course of the
12 examination.

13 THE COURT: Are you going to ask him about his
14 personal knowledge --

15 MR. KURTZ: Yes.

16 THE COURT: -- or what his position was at that time?
17 To the extent that you're asking him to characterize other
18 people's positions, I think you ought to look at the e-mail.
19 Go ahead.

20 MR. KURTZ: Okay.

21 BY MR. KURTZ:

22 Q Okay. Well, you were made aware that the Lender Group was
23 forgiving secured claims to get an unsecured claim to file for
24 bankruptcy, right?

25 A I was made aware of this e-mail. I did not agree with the

1 e-mail and GSP did not take that action. We were negotiating
2 in good faith with Major League Baseball to get a higher and
3 better bid at that time.

4 Q Well, except instead of just saying you want a higher and
5 better bid, you repeatedly mischaracterized or Mr. Herenstein
6 repeatedly mischaracterized that the Greenberg-Ryan bid
7 couldn't be financed, right?

8 MR. LEBLANC: Objection. Argumentative.

9 THE COURT: Okay. Just a minute.

10 THE WITNESS: I'm sorry. Would you like me to answer
11 that, Your Honor?

12 THE COURT: No. Wait a minute. Mr. Kurtz, why don't
13 you rephrase?

14 MR. KURTZ: Okay.

15 BY MR. KURTZ:

16 Q During the course of your purported efforts to obtain a
17 fair process -- well, strike that. Would a fair process
18 include misrepresentations about the ability of a bidder to
19 obtain financing?

20 A I'm not certain whether they were or weren't
21 misrepresentations. I have no knowledge of Mr. Greenberg's
22 financing at that point.

23 Q Sir, my question is simply this. Would a fair process
24 include misrepresentations about the ability of a bidder to
25 finance a transaction?

1 THE COURT: He's speaking hypothetically.

2 THE WITNESS: Oh, hypothetically. I'm sorry, Your
3 Honor. Hypothetically, no.

4 BY MR. KURTZ:

5 Q Okay. So if these e-mails that -- repeatedly stated that
6 Greenberg and Nolan Ryan could not finance their bid, they'd
7 be mischaracterizations, right?

8 A If indeed they were able to finance their bid. At that
9 time, I don't know if they were or weren't --

10 Q Okay.

11 A -- able, or whether they had syndicated a deal or whether
12 there are conditions precedents they couldn't meet.

13 Q So you're --

14 A I've never seen their documents.

15 Q All right. So you're not aware that, in fact, the
16 Greenberg-Ryan Group had commitments for financing for their
17 full transaction well before April 2010, right?

18 THE COURT: Just a minute.

19 MR. LEBLANC: Assumes facts not in evidence.

20 THE COURT: Sustained.

21 MR. KURTZ: They'll be in evidence shortly, Your
22 Honor.

23 THE COURT: That's fine.

24 MR. KURTZ: Subject -- can I ask the question subject
25 to proof?

1 THE COURT: Say it based on an assumption, all right?

2 MR. KURTZ: Okay.

3 BY MR. KURTZ:

4 Q If you assume that, in fact, Greenberg and Ryan had their
5 financing in place, then Mr. Herenstein's statements to MLB
6 would have been mischaracterizations, right?

7 A If I assume that they did indeed have a financing
8 commitment and they could meet the condition precedents to
9 close, then I would say that that's possible. I don't know
10 what he said directly to Mr. DuPuy or anyone else. I was not
11 there.

12 Q But we know what he says he said to Mr. DuPuy, correct?

13 A You will have to ask Mr. Herenstein exactly what he said.

14 Q No, no. You're aware because you received the e-mail --

15 THE COURT: Okay. Okay. The statement in the e-
16 mail, then, based on the assumption that he's posed to you,
17 would be incorrect. Is that not true?

18 THE WITNESS: Yes, sir. Yes, Your Honor.

19 THE COURT: Okay. All right. Go ahead.

20 BY MR. KURTZ:

21 Q And don't you think it would be unreasonable to make a
22 statement about another group's ability to finance a bid if
23 you had not obtained knowledge about whether your statement
24 was true or not true?

25 MR. LEBLANC: Your Honor, this is an argument being

1 done through cross-examination.

2 THE COURT: Well, I will grant you that I'm not sure
3 how probative Mr. Galatioto's -- did I get it right?

4 THE WITNESS: Well, just put the S -- get rid of the
5 S and you had it perfect.

6 THE COURT: Galatioto.

7 THE WITNESS: Perfect.

8 THE COURT: All right. It is -- it does not seem to
9 me that his testimony about Mr. Herenstein's state of mind is
10 going to be very useful to me, and I'm not sure that you're
11 getting very far with it, that Mr. Galatioto may disagree with
12 what Mr. Herenstein says or may have comments on it. I'm not
13 sure where that gets you, Mr. Kurtz.

14 MR. KURTZ: My point here is that this witness has
15 testified as to what needs to happen in a process and what
16 he's looking for in a fair process, and I'm trying to explore
17 whether a fair process includes making misrepresentations
18 about one bidder's financial wherewithal. And I'm asking this
19 witness whether he thinks it would be reasonable to actually
20 determine that matter before you made statements to Major
21 League Baseball about any bidder's abilities to close.

22 THE COURT: Again, it seems to me you're talking
23 about what someone else would testify to, and you're asking
24 him to testify to what Mr. Herenstein would or would not,
25 should or should not, could or could not have said. Is that

1 the essence of your objection, Mr. Leblanc?

2 MR. LEBLANC: And also, given the argument that's now
3 been made, I think there's a huge relevance question.

4 THE COURT: Well, --

5 MR. LEBLANC: The fair process -- I'll submit, a fair
6 process shouldn't involve misrepresentations by anybody.

7 THE COURT: All right. Then that's fine. And we
8 have a stipulation to that effect, I think, --

9 MR. KURTZ: Okay.

10 MR. LEBLANC: And we --

11 THE COURT: -- based on your statement. Does anyone
12 disagree with that?

13 (No response.)

14 THE COURT: Okay.

15 MR. KURTZ: Your Honor, I will note that the Lenders
16 were asked to produce a representative. We were advised, and
17 it's reflected on their witness list, --

18 THE COURT: Yes.

19 MR. KURTZ: -- that it would either be Mr. Herenstein
20 or it would be --

21 THE COURT: Well, we may --

22 MR. KURTZ: -- the witness on the stand.

23 THE COURT: We may yet require Mr. Herenstein's
24 presence.

25 MR. KURTZ: Okay. Okay.

1 MR. LEBLANC: Your Honor, let me address that, if I
2 could, because --

3 THE COURT: Sure.

4 MR. LEBLANC: -- Mr. Galatioto has the scheduling
5 issue that we described, --

6 THE COURT: Yes.

7 MR. LEBLANC: -- so we -- if we needed somebody here,
8 we were going to fill with Mr. Herenstein. Mr. Herenstein's
9 deposition has been noticed by all of the parties on that side
10 of the courtroom. His deposition, I believe, is scheduled for
11 the 27th of July.

12 THE COURT: All right. All right.

13 MR. LEBLANC: They'll have every opportunity to ask
14 him whatever questions they'd like to.

15 THE COURT: Why don't you move on past that, and
16 we'll -- let me express -- well, no, let me keep my mouth shut
17 for now.

18 MR. KURTZ: Okay.

19 THE COURT: Go ahead, Mr. Kurtz.

20 MR. KURTZ: Okay.

21 BY MR. KURTZ:

22 Q Now, you're aware, of course, that there was a sale
23 process that was run by Perella Weinberg, right?

24 A Yes.

25 Q Okay. And you've heard of Perella Weinberg?

1 A Not in the sports space, sir. I don't believe they've
2 never sold a Major League Baseball team. I could be wrong,
3 but if you can show me what team they sold, I'd be all ears.

4 Q My question -- so maybe you can use all your ears -- is,
5 have you heard of Perella Weinberg?

6 THE COURT: Okay. Mr. Kurtz, you watch that. I
7 don't want you to demeaning the witness in my court.

8 MR. KURTZ: I apologize, Your Honor.

9 THE COURT: Do you understand me?

10 MR. KURTZ: I -- I --

11 THE COURT: You apologize to him.

12 MR. KURTZ: I apologize, sir. But --

13 THE COURT: And you watch your mouth.

14 MR. KURTZ: Your Honor, --

15 THE COURT: You may proceed.

16 MR. KURTZ: -- if --

17 BY MR. KURTZ:

18 Q Well, sir, if you could try to listen to the question that
19 I'm asking you and give me a precise response, it will move
20 things along faster. Have you heard of Perella Weinberg?

21 A Yes. Of course.

22 Q Are they a highly regarded investment bank?

23 A I have no opinion of Perella Weinberg. The first time
24 I've ever dealt with them was in this process. They're not in
25 my field, so I can't really talk about --

1 Q Okay. Have you heard of Merrill Lynch?

2 A Of course I've heard of Merrill Lynch.

3 Q Okay. Are they a reputable investment bank?

4 A Yes, of course.

5 Q And were they involved in this process of selling the
6 Rangers?

7 A I believe they were. They have no sports expertise,
8 especially the people --

9 Q Sir, --

10 A -- in Dallas, but that's fine.

11 THE COURT: Okay. Okay. You just answer the
12 question of what he asks.

13 THE WITNESS: I'm sorry, Your Honor.

14 THE COURT: And trust --

15 THE WITNESS: I'm sorry. Yes, I've heard of them.

16 THE COURT: Trust Mr. Leblanc --

17 THE WITNESS: I apologize, Your Honor.

18 THE COURT: -- to correct any misinterpretations that
19 I might reach.

20 THE WITNESS: I apologize.

21 BY MR. KURTZ:

22 Q And irrespective of whatever prior experience they had,
23 they managed to obtain bidders that are still involved in this
24 matter today, correct?

25 A That's correct.

1 Q Okay. So it doesn't look like they've missed any
2 potential bidders when they ran their sale process, right?

3 A Um, I don't know how you want me to answer that. You can
4 always get bidders. You may not get the highest and best
5 price if you're not experienced in this business.

6 Q Well, you --

7 A So, is the question, did they get the highest and best
8 offers they could have, or did they just get any bidders?
9 Because anybody can get a bidder.

10 Q By the way, do you know Joe Ravatelle -- Ravitch and --
11 who's this? And Raine?

12 A Yes. And I believe when this transaction was launched,
13 Raine was a brand new firm. I don't even think they were in
14 existence more than a couple of weeks, if they were even in
15 existence when it was launched.

16 Q They came from Goldman, right?

17 A Yes, they did. Yeah.

18 Q Didn't you say you came from Goldman?

19 A No, I did not.

20 Q All right. Did you --

21 A My mother would be very upset if she thought I had worked
22 at Goldman Sachs, so --

23 THE COURT: I think he said Lehman Brothers, did you
24 not?

25 THE WITNESS: That's correct.

1 MR. KURTZ: Lehman Brothers. Okay.

2 BY MR. KURTZ:

3 Q And when -- your firm was hired to provide valuation
4 services in connection with the assets, correct?

5 A I'm sorry. In connection with what assets?

6 Q The assets that are the subject of this motion in this
7 case. The assets that are the subject of --

8 A No.

9 Q All right. So have you -- has GSP provided, I'm sorry,
10 prepared no memorandum where it's addressed the value issues
11 in connection with the Greenberg-Ryan transaction?

12 A We may have for internal use or use for other people in
13 the Bank Group, but we weren't hired by anyone to do that.

14 Q All right. But you did perform valuation services?

15 A We have to value the assets if we're going to look at a
16 recovery.

17 Q And did you also value the Greenberg-Ryan transaction?

18 A I believe we did.

19 Q Okay.

20 A Well, hold -- excuse me. Which? The current one or the
21 previous one? Because Mr. Ryan's bid before bankruptcy was
22 significantly higher than his current bid.

23 Q Either one.

24 A I believe we looked at both of them.

25 Q All right. And did you recognize in your valuation work

1 that the process included the marketing of the ownership
2 opportunity to a number of interested suitors?

3 A I'm sorry. Say that again. That was kind of a -- I
4 apologize. It was a disjointed question. You stopped in the
5 middle.

6 Q All right. Did you state the core of all Ranger valuation
7 levels reflect the fact that the team represents an above-
8 average MLB franchise ownership opportunity and a number of
9 interested suitors in the franchise?

10 A I clearly said -- it's a non sequitur. I clearly said
11 that this is an above-average MLB franchise. I believe that.
12 This is a top media market. It has great demographics, great
13 growth rates. That's why we firmly believe that it's an
14 attractive asset and numerous bidders should be very
15 interested in it. But I don't understand the last part of
16 what you said.

17 Q Okay. Well, I --

18 A And I apologize. Maybe I'm just dense.

19 Q I don't have a copy, but I'll represent and present later
20 that that's a direct quote from a GSP memo dated April 21,
21 2010 on Page 4.

22 A If you can show me --

23 Q What you referred to as a non sequitur was a direct quote,
24 and I'll just -- I'll get the document later.

25 THE COURT: Just a minute.

1 THE WITNESS: I'm not arguing --

2 THE COURT: Just a minute.

3 THE WITNESS: -- that we think it's an above-average
4 franchise.

5 THE COURT: Just a minute.

6 MR. LEBLANC: I don't -- we'd obviously like to see
7 whatever it is that they're talking about. I don't think
8 reading -- with all due respect, reading from a BlackBerry as
9 part of cross-examination, I'm not sure that that makes a lot
10 of sense.

11 THE COURT: Well, I don't care what he reads from. I
12 think the witness's answer stands at this point. And if at a
13 later time you want to bring to my attention a document that's
14 contrary to his testimony, I'll of course consider it.

15 MR. KURTZ: I will present the document that I quoted
16 from.

17 THE COURT: All right.

18 BY MR. KURTZ:

19 Q Sir, you're not aware of any commitment to purchase the
20 assets at issue by anyone other than RBE, the Greenberg-Ryan
21 Group, correct?

22 A That's correct.

23 Q And have you engaged in discussions with any potential
24 bidders for the assets?

25 A Yes.

1 Q And who have you been discussing that with?

2 MR. LEBLANC: Your Honor, --

3 MR. KURTZ: Let me take it a step at a time.

4 BY MR. KURTZ:

5 Q Have you spoken to him with Mr. Crane?

6 A Yes, sir.

7 Q Have you spoken with Mr. Beck?

8 A Yes, sir.

9 Q Have you spoken with anyone else?

10 A Yes, sir.

11 Q How many others have you spoken with?

12 A Two other groups.

13 Q Okay. Do you know whether those are the two other groups
14 that Mr. Snyder testified about?

15 A I believe at least one is, potentially both.

16 Q Is the one you're referring to, Putative Debtor #1, who
17 was the person with the financial wherewithal and high net
18 worth, or Putative Bidder #2 who never got around to kicking
19 the tires?

20 A One is -- this is confusing. One is Putative Bidder #1.
21 I don't know if the other group that's approached us and we
22 will be meeting with next week is the same group that Mr.
23 Snyder is talking about.

24 Q Okay. So your second putative bidder reference, have they
25 performed any due diligence?

1 A No, they have not.

2 Q Have they made any commitment to purchase the assets?

3 A No.

4 Q Have they made an offer of a purchase price?

5 A No.

6 Q Have they made any indication of the nonfinancial terms or
7 the form of the contract?

8 A No, of course not.

9 Q Okay. Do they have the financial wherewithal to
10 consummate a transaction?

11 A They have the financial wherewithal to write the check.

12 Q Okay. And they could write the check immediately?

13 A They could write the check about as fast as you can write
14 the check.

15 Q Okay. And the other putative bidder that Mr. Snyder
16 referred to, that bidder likewise has the financial ability to
17 write a check to purchase the assets?

18 A I have not done due diligence on his personal financial
19 position, but from everything I hear, from other people in the
20 industry, he does.

21 Q Okay. You have no reason to believe that the other
22 putative bidder you're referring to would not be able to
23 finance the transaction on his own?

24 A No, I don't.

25 Q Okay. Are you part of the discussions towards financing a

1 bid by Mr. Crane?

2 A I was in one meeting. Yes, sir.

3 Q All right. And are you familiar with Mr. Crane's
4 approximate net worth?

5 A Through the agent bank, the agent bank being JPMorgan,
6 they know Mr. Crane and they have told us that he has the
7 financial wherewithal to do a transaction.

8 Q Okay. And so Mr. Crane has the financial wherewithal to
9 fund a transaction on his own?

10 A I believe so, but I have not done my own personal due
11 diligence, --

12 Q Okay.

13 A -- so I'm just telling you what --

14 Q That's your understanding, though, right?

15 A That is my understanding. Yes, sir.

16 Q And you have that information, in fact, from a bank,
17 right?

18 A Yes, sir.

19 Q And JPM has a banking relationship with Mr. Crane?

20 A I'm not certain.

21 Q They indicated, though, they were familiar with his net
22 worth?

23 A Yes, sir.

24 Q Are you familiar with Mr. Beck's approximate net worth?

25 A No, I am not.

1 Q Do you know whether he has the financial wherewithal to
2 fund a bid?

3 A He purports to, but I have not done independent due
4 diligence at this point, so --

5 Q Mr. Beck has represented he has the financial wherewithal
6 to fund a bid?

7 A That's correct.

8 Q On his own?

9 A No, I believe he needs to bring in some partners, but the
10 bulk of -- he's represented the bulk of the equity would be
11 his.

12 Q Okay. And he's represented that, with respect to any
13 portion of the equity that was not his, he has third parties
14 that would supply it?

15 A He believes that he does. Yes, sir.

16 Q And Mr. Beck believes he could also raise the debt
17 financing?

18 A Yes, he's very confident.

19 Q And now, you're obviously -- you said you're not a Wall
20 Street investment banker, but you're obviously an energetic
21 banker with respect to sports franchises, correct?

22 A Thank you. Yes. I hope so.

23 Q Okay. Well, and if you were actually representing anybody
24 who's interested in buying these assets, you would have known
25 how to guide them through the process, right?

1 A Yes, I would have.

2 Q And if they were interested in purchasing the assets, you
3 would have guided them to put their financing in place all
4 through the period of their interest. Is that right?

5 A No. That's not the way it works, sir.

6 Q Would you not have -- would you have -- would you not
7 guide an interested party towards pulling together financing
8 even before you sign on the dotted line, so they'd -- it is
9 available to be finalized --

10 A In --

11 Q Shh. Hold on a second.

12 A I'm sorry.

13 Q On short notice?

14 A The way this transaction is occurring right now, numerous
15 potential bidders have questions as to whether or not there
16 really is an auction going on. To spend the money, the time,
17 the effort, legal fees, financial advisor fees, banking fees,
18 to get commitments without knowing whether or not you're going
19 to be given a fair shot at buying the asset, no one's going to
20 take that risk.

21 Q Okay. But let's just say you were hired to help somebody
22 buy these assets. Okay?

23 A Uh-huh.

24 Q And they came to you. Would you counsel them to start
25 exploring financing?

1 A No. What I would counsel them to do is get me in there,
2 let me see if you can actually buy these assets. If you have
3 a real shot at buying them, then let's go to work, roll up our
4 sleeves, start talking to banks. But banks aren't going to
5 give you any kind of financing commitment unless they know you
6 have a real asset that you're going to buy.

7 Q Well, but you are aware that these significant
8 individuals, people that are in a position to buy and own a
9 Major League Baseball team, have banking relationships,
10 normally, right?

11 A Certainly.

12 Q Okay. And so they can contact their banking relation and
13 start a conversation about their interest in making an
14 acquisition, right?

15 A Sure. You can have informal talks.

16 Q Sure.

17 A But it's not --

18 Q And you can --

19 A -- having your financing lined up.

20 Q And you can -- well, but you can start to get the bank
21 thinking about a potential transaction, right?

22 A Yes.

23 Q And --

24 A Thinking about a potential transaction. That's correct.

25 Q And if you have a good relationship with them, they'll

1 start to give you indications about whether or not they'll
2 finance the transaction, right?

3 A They will give you a very amorphous indication if you
4 don't have details of the transaction. You won't even know at
5 that point what you're paying, how much equity you're putting
6 in. You don't know anything.

7 Q But you can give the bank a series of assumptions and ask
8 them if they'll finance under those circumstances, right?

9 A Banks don't finance under series of assumptions. They
10 finance under facts, financial statements, and cooked deals.

11 Q We're not at the point where the financing is actually
12 provided. We're at the point where we're trying to get geared
13 up to make a bid for these assets, just like people are doing
14 now. Okay? Just, are you with me so far?

15 A You're starting to lose me, but I'll try.

16 Q Okay. Well, let me start again. Somebody comes to you
17 and says, "I want to buy the Texas Rangers. I want to buy the
18 assets at issue. Help me get myself in a position to do so."

19 A Right.

20 Q Is that understandable?

21 A Yes.

22 Q Okay.

23 A Absolutely.

24 Q Do you understand that you could set out a series of
25 assumptions about the structure of a transaction and talk to a

1 banker about whether --

2 A Sure.

3 Q -- the banker will provide financing?

4 A And the marketing officer will come back to you and say,
5 "Eh, might pass the sniff test, but come back to me when you
6 have a real deal."

7 Q Well, they'll ask you for some more information, right?

8 A A lot more information.

9 Q And you'll supply the information as it's available to
10 you, right?

11 A That's correct. But you're leaving out one important
12 component. You have to know whether the asset is for sale and
13 whether you have a realistic chance of being able to buy it,
14 or else you're not going to hire lawyers and financial
15 advisors. No one's going to hire me, Mr. Kurtz, and say, "You
16 know, I'm going to pay you to do a deal. May be a deal there,
17 may not be a deal there. Spend a month working on this thing.
18 Bill me. And if it's not there, I'll just pay you and then
19 I'll walk away and do something else."

20 Q So it's your understanding that when a person like a Mr.
21 Crane, with his standing and his relationships with bankers,
22 approaches his relationship banker to talk about possibly
23 getting involved in a deal, that the banker will say, "I'm not
24 going to talk to you about it because I'm not sure whether
25 it's really for sale"?

1 A That's not what I said.

2 Q Okay. So you'll agree --

3 A I said the buyer --

4 THE COURT: Okay.

5 THE WITNESS: The buyer would do that.

6 BY MR. KURTZ:

7 Q Okay. But you agree that the banker will talk to the
8 potential bidder about whether or not they're interested in
9 potentially financing the transaction, right?

10 A Yeah. Of course. The banker will talk about anything.

11 Q That's right. And they could start putting in place all
12 the information they think they would need to get approval, so
13 that if they actually won the auction, they could get --
14 they'd be able to close. Right?

15 A To get that level of information, the level of due
16 diligence you're talking about, you're going to have to hire a
17 financial advisor. You're going to have to go in. You're
18 going to have to do some forensic accounting. You're going to
19 have to spend a lot of time with the assets. You have to
20 structure a deal. Before you do that, you are going to want
21 to know whether or not it's a real process.

22 Q Well, Mr. Crane and Mr. Beck had already gone through that
23 process, correct?

24 A They had gone through some of it.

25 Q They had done --

1 A Mr. Crane --

2 Q -- their due diligence, right?

3 THE COURT: Hold --

4 THE WITNESS: I'm sorry. I'm -- can I answer your
5 question?

6 BY MR. KURTZ:

7 Q They had done their due diligence. I'm going to break it
8 up. They had done their due diligence, right?

9 A Not correct. Mr. Crane did his due diligence way back in
10 January, I believe, and he dropped out. Or even before then.
11 It was probably December. Mr. Beck, the same thing. They
12 have to do a lot of due diligence to see what the transaction
13 looks like today, what the condition of the asset is today.

14 Q Okay. But everybody seems to think the asset is doing
15 even better, right?

16 A That's fine, but you still have to do your due diligence.
17 You don't go to your bankers and say, "It's doing better.
18 They're winning more games." You have to look at the effect
19 it's had on attendance. You have to look at all the other --
20 the other things that are going on around the asset right now,
21 --

22 Q That's right. And --

23 A -- not the least of which is it's in bankruptcy.

24 Q And people can get through that process pretty quickly,
25 right?

1 A Mr. Kurtz, in today's financing environment, it takes
2 three weeks to get an auto loan. We're not talking about
3 buying a bagel here. We're talking about a financing
4 commitment that would be several hundreds of millions of
5 dollars. It takes a long time for banks to commit to that,
6 especially in this regulatory environment, with the Fed and
7 the Comptroller of the Currency clamping down on banks. Every
8 T has to be crossed, every I has to be dotted.

9 Q Okay.

10 A And plus you have the Patriot Act. You don't do this in
11 two weeks.

12 Q Because this is a risky kind of a credit?

13 A No. Because banks -- I don't -- if you read the press,
14 and I'm sure you do, you'd see that one of the complaints that
15 the federal government has right now about banks is they're
16 not lending. The bank lending environment is very tight right
17 now. The banks are taking a lot of time to go through and
18 make these commitments because they don't want criticized
19 assets. And so when your regulators come in, they're going to
20 ask you, have you crossed every T, have you dotted every I,
21 have you done every bit of due diligence? And you're going to
22 have to say yes. And if you don't, you have a serious
23 problem.

24 Q Okay. As you just pointed out, and I do read the papers,
25 banks are not lending now, right?

1 A Banks --

2 Q Did -- sir, did you say that?

3 A Banks are lending now? I --

4 Q You just said this is the --

5 A I said it's a --

6 Q Sir, --

7 A It's a challenging environment, I said.

8 Q Well, didn't you say, "You read the paper. Banks aren't
9 lending. It's a tight credit market"?

10 A Aren't lending.

11 Q Did you say that?

12 A Aren't.

13 THE COURT: Okay. Now, wait a minute.

14 THE WITNESS: I'm sorry.

15 THE COURT: Both of you stop. One more time of you
16 both going at the same time, Mr. Kurtz knows about the essays
17 I assign, and he'll get to write it himself this time, and so
18 you will, Mr. Galatioto.

19 THE WITNESS: I apologize.

20 THE COURT: All right? So I want you to be very
21 careful about not talking over each other. It messes up our
22 record, and it causes distress to my reporter, of whom I am
23 very fond.

24 THE WITNESS: I apologize. I'm sorry. I didn't --
25 maybe --

1 BY MR. KURTZ:

2 Q Based on --

3 A I'm sorry. I didn't mean to talk over you. I --

4 Q No, I'm going to --

5 A Can you --

6 Q I'm going to pose you a new question.

7 A Thank you.

8 Q Based on the tight credit markets, the concerns with
9 regulatory approval and the like, that creates risk that
10 bidders won't be able to finance their bids, right?

11 A It creates -- it creates -- there's always risk in getting
12 credit approved. If the bidder is well-capitalized, the banks
13 will do the deal. It just takes longer. It's not that they
14 won't do it. I mean, look. We -- I do more sports
15 transactions than anyone. We can get the financing in place.
16 It just takes time. If it's properly capitalized -- I'm
17 sorry. Am I too close to this? If it's properly capitalized
18 and properly structured, the banks will lend. But it takes
19 time.

20 Even if it's the incumbent banker group -- by that, I mean
21 the incumbent first lien banker group -- you still have to go
22 through the same level of due diligence, the same level of
23 reporting, the same credit committees. It takes time.

24 Q No, it doesn't take time if it's an easy credit, right?

25 A It takes time even if it's an easy credit. You still have

1 to do the Patriot Act paperwork. You have to do everything.

2 Q All right.

3 A It takes time.

4 Q It --

5 A And that's what's -- that's the problem. It's been
6 slowing up. The credit markets are jammed up because the
7 regulators are watching every move the banks make, and banks
8 are going to be more cautious.

9 Q So --

10 A Whether it's a risky credit or not.

11 Q So it is your testimony that a bank cannot commit a loan
12 in less than what period of time, sir?

13 A Well, what size loan are we talking about? I'm not -- my
14 --

15 Q \$200 million.

16 A A \$200 million loan would take three to four weeks to get
17 done.

18 Q So it'd take three to four weeks to loan \$100 million to
19 Bill Gates or Microsoft?

20 A Bill Gates or Microsoft?

21 Q Yes. That's my question.

22 A Well, since Bill Gates has probably \$10 billion in cash on
23 hand, I don't think he's going to be borrowing all that much.
24 But if Bill Gates came and wanted a signature loan, no. We're
25 not talking about Bill Gates, though.

1 Q Well, I'm trying to explore this difficult market. You're
2 telling me that Bill Gates can get a \$100 million loan, a \$200
3 million loan, in less than three or four weeks, right?

4 A You're talking about a nonrecourse loan --

5 Q Sir, --

6 A -- to a money-losing -- I'm trying to answer your
7 question, sir. To a money-losing entity. It's a far cry from
8 lending money to Bill Gates.

9 Q Sir, we're going to get to -- first of all, you -- so this
10 is, again, a risky credit, since it's a money-losing
11 enterprise, right?

12 A No. It's a complicated credit. Because it's not doing a
13 signature loan to Bill Gates.

14 Q No, but --

15 A A signature loan to Bill Gates --

16 THE COURT: Let him finish, Mr. Kurtz.

17 MR. KURTZ: All right.

18 THE WITNESS: A signature loan to Bill Gates is easy.
19 All right? You know what he has, he gives you his personal
20 financial statement, and you make the loan. Here, --

21 THE COURT: So you're saying if, in this case, for
22 example, Mr. Crane, not to pick on him, were willing to do
23 this as a signature loan, then you might get it done more
24 quickly?

25 THE WITNESS: That's correct. But if he's --

1 THE COURT: All right.

2 THE WITNESS: If he's doing --

3 THE COURT: All right. That's -- the answer is yes.

4 Go ahead, Mr. Kurtz.

5 THE WITNESS: I'm sorry.

6 BY MR. KURTZ:

7 Q Okay. And another way other than to do it as a signature
8 loan would be to offer an operating support agreement, right?

9 A That's correct.

10 Q Okay. Which is commonplace in the purchase of sports
11 franchises, right?

12 A Yes, it is commonplace.

13 Q And if they offer guarantees and if they offer operating
14 support agreements, then it wouldn't take long to put their
15 financing in place. Correct?

16 A That's not true, sir. You have to negotiate the operating
17 support agreement, you have to negotiate the level, you have
18 to negotiate the mechanism. Every operating support agreement
19 is slightly different. It takes time. It's not as simple as
20 you make it out to be. I do this all the time. I can assure
21 you, you don't do it in a week.

22 Q Okay. So is a guarantee a complicated item that has to be
23 -- that have to have the terms negotiated over a period of
24 time, or is a guarantee a pretty simple boilerplate form by
25 banks?

1 A If you --

2 MR. LEBLANC: Objection. Compound.

3 THE WITNESS: I'm sorry. Am I allowed to answer?

4 THE COURT: Just a minute. Go ahead and break it
5 down.

6 BY MR. KURTZ:

7 Q Is a guarantee a complicated, highly-negotiated document?

8 A I have never seen a sports loan where an individual
9 guarantees the loan.

10 Q No, no, no. Sir, I'm asking about a guarantee.

11 A It's --

12 Q Is a guarantee -- have you ever -- surely, you've seen
13 personal guarantees, right?

14 A I have seen personal guarantees, but --

15 Q Okay.

16 A -- someone who's going to buy the team under a personal
17 guarantee might have to do a signature loan.

18 Q Okay. So you've seen signature loans, you've seen
19 personal guarantees, right?

20 A That's not the market. No one does that.

21 Q Shh. Shh. Okay. No. You've seen them, right?

22 A Not in sports loans.

23 Q Okay. Well, would it take a long time to put in place a
24 signature loan or a guarantee?

25 A In order to get a signature loan, you would have to be a

1 person of such high net worth that you're at the very tip of
2 the pyramid here. There aren't many people that can write a
3 signature loan for hundreds of millions of dollars.

4 Q But are you familiar with Mr. Crane's net worth?

5 A I believe that I testified that I've not done due
6 diligence.

7 Q Okay. So --

8 A That JPMorgan has told me he has the financial wherewithal
9 to close the deal. They did not say to me, "He has the
10 financial wherewithal to do an all-cash deal." No one would
11 do that. It's just not market standard. Yeah. I've never --
12 maybe you can find one instance, but, you know, I've done
13 many, many deals; I've never seen that happen before.

14 Q You spoke about being involved in the Warriors
15 transaction?

16 A Yes, sir.

17 Q And the Warriors did not accept the highest bidder, right?

18 A That is not true.

19 Q Were you quoted in *ESPN* last night saying that you didn't
20 accept the highest bidder?

21 A No. I said -- I said -- I don't care what it says in the
22 newspaper. I will tell you what happened in the process,
23 since I've been very public about it. We were at -- we were
24 ready to sign the purchase and sale agreement. Another party
25 came in with a marginally higher bid that was not negotiated.

1 I felt I was morally bound, because I had a handshake, to the
2 buyer group. People on Wall Street get criticized all the
3 time for walking away from deals and giving it somebody else.
4 That's not the way I operate.

5 Q Okay.

6 A And my seller agreed with me. So we did morally and
7 ethically the right thing.

8 Q Okay. The moral and ethical thing you did was you went
9 forward with the bidder that had prevailed at the time, right?

10 A We went forward with the bidder that we thought we had the
11 highest likelihood of closing. And after all the adjustments
12 were done, we did not know what the true cash proceeds to the
13 lenders would be if we took the other bid.

14 Q Okay. And here, of course, RBE was the prevailing bidder
15 that had the handshake before now, right?

16 A I'm -- I'm con...

17 Q Sir, you're confused. You just said to me that you did
18 the morally, ethical right thing by staying with the bidder
19 that had prevailed at the time. And I'm asking you, isn't
20 that in this case RBE? Aren't they the party that prevailed
21 at the time of the first auction, and are still the stalking
22 horse agreement today?

23 A After I looked at all the transactions -- and I'm not a
24 legal expert, but the financial legerdemain, if you will --
25 done it before the bankruptcy, I am amazed that you would make

1 that statement, that they won in a fair and open process. But
2 that's just my opinion.

3 MR. KURTZ: I'm going to move to strike. I didn't
4 say a fair and open process. My question to this witness was
5 whether they were the party that had the handshake agreement
6 following the process and through the stalking bid agreement
7 that's before the Court today.

8 MR. LEBLANC: Your Honor, I think that's obviously a
9 topic for a much lengthier discussion, if we're going to have
10 it. And if he wants to have that discussion, we're happy to
11 have it.

12 THE COURT: I'm not sure where it gets you, Mr.
13 Kurtz, but you do agree that Rangers Baseball Express was the
14 chosen bidder after the process run initially by Perella and
15 then by Major League Baseball. Is that not so?

16 THE WITNESS: I believe so. Yes, Your Honor.

17 THE COURT: All right. And that Rangers Baseball
18 Express understood that it had the support of both the owner
19 of the Rangers as well as Major League Baseball?

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: All right. Move on, Mr. Kurtz.

22 MR. KURTZ: Thank you.

23 BY MR. KURTZ:

24 Q And what was the purchase price for Golden State that was
25 accepted?

1 A \$450 million.

2 Q 4-5-0?

3 A 4-5-0.

4 Q And what was the purchase price offered by the other
5 bidder that you say was not the highest bidder?

6 A I believe that I'm bound by confidentiality.

7 Q More than \$450 million?

8 A No. Oh, was it more than four hundred --

9 Q Yes.

10 A I thought you said more than four -- yes. It was
11 marginally more.

12 Q Okay. So it was, in fact, a higher bid?

13 A No, it wasn't, because it wasn't a fully negotiated bid.
14 And as you know, there are deductions and adjustments that are
15 done. And we had a very clean deal. We didn't know what the
16 other deal was going to look like.

17 Q Okay. And there is a clean deal in place with RBE right
18 now, right?

19 A A very low price. Even lower than Mr. Greenberg's initial
20 bid.

21 MR. KURTZ: Move to strike.

22 THE COURT: Overruled. Go ahead.

23 BY MR. KURTZ:

24 Q Is there an agreement fully negotiated and committed with
25 RBE right now?

1 A I believe so.

2 Q And isn't it true that any bidder that now comes along
3 does not have a negotiated agreement?

4 A Obviously.

5 Q All right. And Mr. Crane and Mr. Beck have been around
6 for months, right?

7 A No, they have not.

8 Q Were they around in December 2009 and January 2010, --

9 A Yes.

10 Q -- looking at these assets?

11 A Yes.

12 Q Are they still here?

13 A Well, there was a gap. You're mischaracterizing it. They
14 weren't here the whole time. They left, their financing fell
15 away, and now they're restarting. So you can't -- it's a
16 mischaracterization to say they've been here all along. I
17 don't believe they've been here all along.

18 Q So you have firsthand personal knowledge that they didn't
19 continue to look at these assets for the interim period?

20 A My negotiations -- my conversations with Mr. Crane,
21 certainly, he stopped. And I know Mr. Beck stopped looking at
22 them.

23 Q Sir, do you have personal knowledge as to whether Mr.
24 Crane and Mr. Beck stopped looking at these assets at any
25 point in time between December 2009 and today?

1 A Can you define personal knowledge?

2 Q Yeah.

3 A I can tell you what they told me.

4 Q That would be --

5 A Is that personal knowledge?

6 Q No, that would be hearsay.

7 A Well, then I don't know how to respond.

8 Q Okay.

9 THE COURT: Well, you could say, "No, I don't have
10 any personal knowledge." That might be --

11 THE WITNESS: Okay.

12 THE COURT: -- a good way to respond.

13 THE WITNESS: All right. I'll try it. No, I don't
14 have any personal knowledge. Thank you, Your Honor.

15 BY MR. KURTZ:

16 Q Okay. You mentioned a break-up fee. Now, obviously, the
17 break-up fee -- strike that. The amount of the break-up fee
18 shouldn't impact any bidder who was prepared to bid the amount
19 of the RBE agreement plus the amount of the break-up fee,
20 right?

21 A Well, it would have to be more than the amount of the
22 break-up fee, right?

23 Q Or more, right?

24 A Well, not or more. If it's the same, --

25 Q They'd have to exceed it?

1 A Significantly, I would think.

2 Q I don't know -- what's your basis for saying they have to
3 exceed it significantly?

4 A Oh, if it's \$100,000 more and you have a negotiated deal,
5 you're obviously, you know, better off taking what you have.

6 Q Okay. At what point are you still better off taking what
7 you have?

8 A I think, in this instance, what you have -- are you asking
9 my opinion?

10 Q I'm asking you what's your opinion as to the amount in
11 excess of the break-up fee that the Debtor would still be
12 better off taking what they have.

13 A \$10 million. \$15 million.

14 Q Okay. So some amount, and maybe more than \$15 million?

15 A It could be \$50 million.

16 Q Could be \$50 million. So the Debtor would be better off
17 staying with the committed deal it has now even if a bidder
18 came along with more money, correct?

19 A No. That's not what I said. I'm sorry. Maybe I'm
20 confused. What you asked me was -- oh, the Debtor? I
21 apologize. I think the Debtor would be better off taking a
22 higher bid of \$10 to \$15 million.

23 Q In excess of --

24 A Of the break-up fee, yes.

25 Q Of the break-up fee? So you think the Debtor would be

1 better off taking a bid that equals RBE's bid plus the break-
2 up fee plus an amount of \$10 to \$15 million more?

3 A That's correct.

4 Q And anything beneath that, they'd be better off sticking
5 with RBE, correct?

6 A No. Economically, anything beneath that would have to,
7 correct?

8 Q Okay.

9 A I mean, it's a mathematical calculation.

10 Q Okay. And the break-up fee is paid not by the bidder;
11 it's just something that gets distributed to the Equity,
12 right?

13 A It's actually paid by us.

14 Q I'm sorry. Gets distributed to RBE, right?

15 A It's paid by the banks.

16 Q It's paid by the banks, effectively?

17 A So it's not paid by no one.

18 Q So, bidders don't care whether the banks have to pay that
19 amount, right?

20 A No.

21 Q Okay.

22 MR. KURTZ: No further questions.

23 THE COURT: Major League Baseball?

24 MR. ESSERMAN: No questions.

25 THE COURT: All right. Mr. Leblanc? Do you want to

1 give Mr. Kurtz time to get away from the lectern? I don't
2 want bloodshed in the court.

3 MR. LEBLANC: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. LEBLANC:

6 Q Okay. Good afternoon, Mr. Galatioto. Let me start with
7 the Golden State Warriors.

8 A Yes, sir.

9 Q How much did their lenders take relative to their debt,
10 based on the sale?

11 A The lenders were paid out 100 cents on the dollar,
12 obviously.

13 Q So the decision to take an offer other than the one that
14 came in after the bid --

15 A Uh-huh.

16 Q -- after the bid process closed that you described in your
17 discussions, whose ox was gored in that?

18 A It was the seller, Mr. Cohan. He made the decision, and
19 it was money going to him.

20 Q And who did you represent in that matter?

21 A I represented Mr. Cohan.

22 Q And what decision did he make with respect to which offer
23 to take?

24 A He decided to take a slightly lower bid.

25 Q Okay. Now, you were asked some questions about the level

1 of risk associated with this loan --

2 A Uh-huh.

3 Q -- and was this a risky credit, or something, words to
4 that effect. Do you recall those questions?

5 A Yes, sir.

6 Q Are you aware of any other situation in Major League
7 Baseball where lenders have not been paid in full?

8 MR. KURTZ: Objection. What's the relevance to the
9 capital structure of other baseball teams that have been sold?

10 THE COURT: Well, I'm going to sustain the objection.
11 In terms of payment in full, that \$75 million from the
12 perspective of the Rangers, I understand you're owed a lot
13 more by the HSG Group, but I think that I've already held that
14 in terms of your monetary obligation, the \$75 million plus
15 interest takes care of the Rangers. Now, that doesn't mean
16 that you don't have rights vis-à-vis Equity, but I'm going to
17 sustain the objection. Move on, Mr. Leblanc.

18 MR. LEBLANC: Well, Your Honor, am I permitted to ask
19 other questions to get to the same --

20 THE COURT: Well, you can ask other questions and
21 we'll see what happens.

22 MR. LEBLANC: Okay.

23 THE COURT: I'm not going to foreclosure you. I
24 mean, you can ask him if he has a date tonight, if you want,
25 and I would probably sustain an objection to that.

1 THE WITNESS: My wife would be very upset. That's
2 probably not a good one.

3 THE COURT: Well, especially if the answer is yes,
4 right?

5 (Laughter.)

6 THE WITNESS: On the record, the answer is no.

7 THE COURT: Okay. Well, I'm sure that you'll be glad
8 to have that reported.

9 THE WITNESS: Oh, yeah. I don't want any reporters
10 writing anything different.

11 THE COURT: All right.

12 THE WITNESS: Yes. Thank you.

13 THE COURT: Well, but you understand what I'm saying.
14 You can ask anything you want. I may sustain an objection to
15 it again. Go ahead.

16 MR. LEBLANC: That's fine, Your Honor.

17 BY MR. LEBLANC:

18 Q The structure --

19 THE COURT: If I get tired on the line, I'll tell you
20 to move on.

21 MR. LEBLANC: Okay. I wanted to make sure you hadn't
22 yet done that with the first question I asked him. That was
23 the main point.

24 BY MR. LEBLANC:

25 Q With the structure that's in place for this loan, where

1 there's a limited guarantee and then a larger loan to the
2 holding company, is that a structure that is common in sports
3 financing?

4 A Yes, it is.

5 Q Okay. And are you aware of a situation in any Major
6 League Baseball sale where the lenders to the holding company
7 are not paid in full from the disposition of assets by the
8 team?

9 MR. KURTZ: Objection. Relevance. The lender to the
10 Debtor is being paid in full. What's the difference?

11 THE COURT: I'm going to sustain the objection, Mr.
12 Leblanc. I understand your point.

13 MR. LEBLANC: Your Honor, can I respond before I
14 lose?

15 THE COURT: All right. Go ahead. Not necessarily.
16 I'm happy to let you lose before you respond. It makes life
17 much easier.

18 MR. LEBLANC: That's in large part why we're here
19 today, Your Honor. So --

20 THE COURT: Yes. Yes. Well, it's why I'm here.

21 MR. LEBLANC: Yes.

22 THE COURT: Go ahead.

23 MR. LEBLANC: Your Honor, there was a lot of
24 questions -- there were a lot of questions asked of the
25 witness about whether this was a risky loan, a risky credit,

1 things like that. I'm just trying to elicit testimony with
2 respect to whether a loan to a baseball team is in fact a
3 risky credit or if this one stands somewhat unique in the
4 world of baseball finance.

5 THE COURT: Well, you can ask -- how about if you ask
6 him that question?

7 BY MR. LEBLANC:

8 Q Do you believe that a loan to a prospective purchaser
9 here, in light of what's happened in this bankruptcy, is a
10 risky creditor?

11 A No, I do not.

12 Q Okay. Now, you were asked some questions about Merrill
13 Lynch, and I think you had an answer you wanted to give. Can
14 you describe for us your experience with Merrill Lynch in the
15 sports finance or sports investment banking --

16 A They are extremely marginal players. I believe it was
17 handled out of the Dallas office, which I don't believe does
18 any substantive sports transactions.

19 Q And have you worked with Merrill Lynch on a sports deal
20 before?

21 A I don't believe so.

22 Q You were asked some questions, and if you still have
23 Debtor Exhibit 1 there -- I don't know if you need to refer to
24 it. That's the e-mail from Mr. Herenstein. And you had begun
25 to give an answer of: Do you want me to tell you what I was

1 doing at around this time? I wanted to give you an
2 opportunity. What were you doing at or around the time that
3 these e-mails were being sent?

4 A I was talking to representatives of Major League Baseball
5 about getting an improved bid and hopefully doing a consensual
6 transaction to avoid a bankruptcy.

7 Q At some point in time, were you asked to provide
8 financing?

9 A Yes, sir.

10 Q Okay. Who were you asked to provide -- who asked you to
11 provide financing?

12 A I believe Mr. DuPuy asked me to go to a meeting at Major
13 League Baseball, where I met with Mr. Greenberg and some of
14 his representatives.

15 Q And what amount of financing were you asked to provide?

16 A I was asked to provide \$40 million in financing, \$20
17 million in the first lien, which they had not obviously closed
18 out, or I assume they hadn't, and \$20 million of second lien
19 financing so that they could raise their bid by \$11 million.

20 Q And so what -- the net effect to you would be the bid
21 would be raised by what amount of money?

22 A \$11 million.

23 Q And how much would you lend for that bid being raised by
24 \$11 million?

25 A \$40 million.

1 Q Now, and did you continue after the April 30th time frame
2 to try to negotiate a consensual deal with Major League
3 Baseball?

4 A Yes.

5 Q And how -- when did you -- how long did those discussions
6 continue?

7 A Right up until the Friday before the filing. The filing,
8 I believe, occurred on a Monday, if I'm not mistaken.

9 Q Were you advised by anyone in advance of that Monday that
10 there was going to be a filing by the Rangers?

11 A No, sir.

12 Q How did you find out about it?

13 A Actually, we were on a conference call and it came in over
14 the wire.

15 Q Now, you were asked a series of questions about --
16 hypothetical questions about a hypothetical buyer coming in
17 and saying -- talking about a hypothetical process. Do you
18 recall those questions?

19 A Yes, sir.

20 Q Do you believe that -- let's try to take it from the world
21 of hypotheticals and take it to this particular circumstance.
22 Do you believe that bankers would have had the series of
23 discussions that you're describing prior to there being an
24 open auction process here?

25 A If there were an open auction process, absolutely.

1 Q But prior to there being an open auction process, do you
2 believe those discussions would have happened?

3 A No.

4 Q Why not?

5 A People are going to concentrate their resources on
6 transactions that look they're going to happen. Every
7 institution has limited resources. They're going to allocate
8 those resources to deals that have a high probability of
9 closing.

10 Q Are there -- in your experience, are there banks that
11 routinely lend to Major League Baseball teams?

12 A Yes, sir.

13 Q What was your understanding at least of the public
14 statements made by Major League Baseball of their support for
15 the Greenberg-Ryan Group until two weeks ago today?

16 A It appeared that they were squarely in the corner of the
17 Greenberg Group and they were pushing forward with this
18 transaction.

19 Q And what effect, if any, do you think that those public
20 statements would have on the willingness of bankers in those
21 situations to get involved in a proposed bid by somebody
22 before the process was open?

23 A It would have a clearly chilling effect.

24 Q Now, when in your view is the latest or the time when the
25 process might be considered to be open?

1 A In a transaction like this? You mean when --

2 Q In a transaction like this.

3 A -- when is the deal done?

4 Q In a transaction like this. When would there be an open
5 process, in your view?

6 THE COURT: Just a minute.

7 MR. KURTZ: Your Honor, I object. I mean, we've done
8 a lot of leeway on this. I have no expert report. He's not
9 here to talk about when processes end and don't. He's not
10 giving factual evidence. He's just speculating, and he's
11 trying to offer opinions. He doesn't have a right to offer
12 opinions. He didn't comply with any of the expert discovery
13 rules.

14 MR. LEBLANC: I'll give two responses. As I said
15 before, under Rule 9014, Rule 726 does not apply. And I'm not
16 offering him as an expert testimony. I just think he's wrong
17 as a matter of law.

18 So, secondly, more importantly, I think, Mr. Beagles asked
19 a series of questions that dealt with the fact that the
20 process, the bankruptcy process, started way back on May 24th,
21 so haven't bidders had two months, four days from now, two
22 months to investigate and look at these assets? What I'm
23 going to try to ask the witness is whether in fact he believes
24 that bidders have had two months to look at the process. If
25 it was fair for Mr. Beagles to ask those questions, which I

1 believe it was, I just think that they were incorrect, the
2 premise behind them was --

3 THE COURT: Well, I had thought that he had testified
4 to the length of time that he thought the process required.
5 But since I was going to ask essentially the same question
6 that Mr. Leblanc is currently going to ask -- you figured that
7 one out when you started to sit down, Mr. Kurtz. Since I was
8 going to ask the same question, I'm going to let Mr. Leblanc
9 ask it. If you have an objection to the form of the question
10 or otherwise, such as on the basis that it's leading, I'm -- I
11 will entertain that objection. But I'm going to let you ask
12 your question.

13 BY MR. LEBLANC:

14 Q When do you believe the process -- do you believe -- let
15 me ask it in a -- try to ask it in a non-leading way. What
16 effect, if any, do you think the filing of the bankruptcy had
17 on opening up the process to other bidders?

18 A I think it chilled the process.

19 Q Okay. When do you believe, if at all, the process for the
20 sale of the Texas Rangers has become an open process?

21 A I don't believe it's become a completely open process even
22 now.

23 Q How long do you think from the time that it becomes an
24 open process, how long do you believe that is an adequate time
25 not for people to get in their bids, but to get their best

1 bids in?

2 A I think it'll take 90 to 120 days. On an expedited basis,
3 you might be able to do it in 90 days if everybody pulls
4 together. Obviously, it's -- August is coming up and I'm a
5 realist. Let's be honest. It's hard to get things done in
6 August. But if everybody pulls together and the bidders
7 really want to put in their best bids, they can do this in 90
8 days, 120 on the outside.

9 Q You had given some answers -- or, been asked some
10 questions about personal guarantees. Have you seen any sports
11 deals done with a personal guarantee?

12 A You know what? There may have been one. I cannot recall
13 one. With a full personal guarantee? No.

14 Q Have you seen any sports teams bought on a signature loan?

15 A That's a good question. Not that I have been a party to,
16 but I believe Paul Allen, when he purchased the Portland Trail
17 Blazers, may have borrowed under a signature loan.

18 Q Mr. Allen is a person of substantial means, is that fair
19 to say?

20 A Oh, Forbes says he's worth \$20 to \$22 billion.

21 Q Is it common for purchasers of sports teams to do so, to
22 pay cash for them?

23 A It's almost never done.

24 MR. KURTZ: Your Honor, we're into expert testimony.
25 There's no factual basis for this witness. This is not a part

1 of this transaction. This is purely opinion testimony.

2 THE COURT: Mr. Leblanc, I think you've covered about
3 what you can there.

4 MR. LEBLANC: Overall, or just on this topic?

5 THE COURT: No, you can --

6 (Laughter.)

7 THE COURT: You can go onto another subject, but I
8 think I understand, and I think we've covered this ground
9 before with this witness already. So, go ahead. Move on to
10 something else.

11 MR. LEBLANC: Well, Your Honor, I think, then, I will
12 conclude my questioning of the witness.

13 THE COURT: All right.

14 MR. LEBLANC: I appreciate Your Honor -- the Court's
15 time.

16 THE COURT: All right. Thank you, Mr. Leblanc.

17 MR. LEBLANC: Thank you, Your Honor.

18 THE COURT: Mr. Beagles?

19 RE-CROSS-EXAMINATION

20 BY MR. BEAGLES:

21 Q You have been -- you've testified at length about what
22 you've called the very tight lending environment. Do you
23 remember that?

24 A Yes, sir.

25 Q And you said, I believe, that it would take three to four

1 weeks to do a \$200 million loan for a baseball team. Did you
2 say something like that?

3 A I believe a baseball team that's cash flow negative, yes,
4 sir.

5 Q All right. Earlier today, Mr. Snyder testified that he
6 believed one of the four potential bidders, in addition to the
7 Greenberg-Ryan Group, was negotiating with the Lender Group
8 about what he called bridge financing. Do you recall that?

9 A Yes, sir, I do.

10 Q Is that true, that the Lender Group has been negotiating
11 bridge financing with one of the bidders?

12 A We did briefly. I cannot give you the date. It was here
13 in Dallas. With -- I believe it was part of a mediation that
14 Judge Nelms was holding.

15 THE COURT: All right. I might point out to you, Mr.
16 Galatioto, --

17 THE WITNESS: Thank you.

18 THE COURT: -- that there are folks here who would
19 resent this being called Dallas.

20 THE WITNESS: I'm sorry. Oh, I apologize.

21 THE COURT: That's perfectly all right. It's a
22 common mistake. But --

23 THE WITNESS: Well, no, actually, we did negotiate it
24 in Dallas. It was at the offices of one of the law firms. So
25 it was in Dallas.

1 THE COURT: Yes. But it wasn't here in Dallas.

2 THE WITNESS: Oh, I see. Very good point. I will --

3 THE COURT: Go ahead. I'm sorry.

4 BY MR. BEAGLES:

5 Q Are you familiar with the term "take-back notes"?

6 A Yes, sir.

7 Q Is the bridge financing that we're talking about now the
8 same as the take-back notes that you've been negotiating with
9 one of the bidders?

10 THE COURT: Just a minute.

11 MR. LEBLANC: Your Honor, --

12 THE WITNESS: I'm sorry.

13 MR. LEBLANC: -- I'm looking at my notes, but I
14 object. I believe this well exceeds the scope of the
15 redirect.

16 THE COURT: Well, that may be, but in this case I had
17 both requested and my questions are going to exceed the scope
18 not only of redirect but of direct. And this witness was to
19 be produced for both sides.

20 So it seems to me, unless you want to commit Mr. Galatioto
21 to necessarily return here -- and I assume you'd rather stay
22 in New York?

23 THE WITNESS: I like it here. Fort Worth is really
24 nice.

25 THE COURT: Well, you may get a lot of time to spend

1 here. You could move down here.

2 THE WITNESS: That'd be nice.

3 THE COURT: Yes. Well, there you go.

4 But what I'm saying is I'm going to let this go forward,
5 rather than requiring that they recall the witness.

6 MR. LEBLANC: And that's fine, Your Honor, as long as
7 I get my opportunity to ask my first questions of the witness
8 about this topic, if they want -- if I --

9 THE COURT: If you -- well, you've had your direct,
10 and this is their direct, as I see it. So we'll see when we
11 get there what the questions are. But I'm pretty flexible on
12 those types of issues, as I think by now you've recognized.

13 MR. LEBLANC: That's fine, Your Honor, as long as I'm
14 not foreclosed from asking questions. I would have redirected
15 if I felt the need to, if we get to a point that I feel we
16 need to.

17 THE COURT: Well, let's see where we go. Mr.
18 Beagles?

19 MR. BEAGLES: Thanks, Your Honor. And I'll be brief.
20 Why don't I just cut to the chase here?

21 BY MR. BEAGLES:

22 Q Isn't it true that eight days ago the Lender Group agreed
23 to provide nine-figure financing in take-back notes to one of
24 the potential bidders?

25 A No, not the Bank Group.

1 Q We discussed it. We never settled on terms and
2 conditions. We never went to the general bank group. So it
3 was very preliminary.

4 Q Did GSP agree to those terms?

5 A No, I did not get approval. I did not even go for
6 approval. We didn't get that far. So I can't agree until I
7 get formal approval from my investors.

8 Q All right. So you're denying that you signed a letter to
9 one of the bidders agreeing to take over nine figures back in
10 take-back notes as part of a --

11 A I'm not denying that. What I'm saying is we proposed it
12 but we needed to get internal approval. So I'm saying, yes,
13 I'm going to consider that. This is something we're going to
14 consider doing. But we didn't have formal credit approval,
15 and did not go to the general bank group. That's what I'm
16 saying.

17 MR. BEAGLES: No further questions.

18 THE COURT: Mr. Kurtz?

19 CROSS-EXAMINATION

20 BY MR. KURTZ:

21 Q On redirect you spoke about Merrill Lynch and the Dallas
22 office and your view of their level of experience, right?

23 A I'm sorry. Say that again?

24 Q Yeah. On redirect, you spoke about Merrill Lynch and
25 their Dallas office and --

1 A I --

2 Q -- your view of their experience. Right?

3 A Yes, sir.

4 Q But the process was run by Joe Ravitch, right?

5 A Joe Ravitch came very late to the process.

6 Q You know who Joe Ravitch is, right?

7 A Oh, of course I do.

8 Q He's an experienced banker, right?

9 A Yes, sir.

10 MR. LEBLANC: Asked and answered.

11 BY MR. KURTZ:

12 Q He represents --

13 THE COURT: Wait.

14 MR. LEBLANC: Asked and answered, Your Honor. That
15 was -- Joe Ravitch was the subject -- the name was a little
16 mispronounced, but that was the subject of the cross-
17 examination earlier.

18 THE COURT: All right.

19 MR. KURTZ: Asked and answered? I didn't realize I
20 was at a deposition, Your Honor. I'm recrossing on the idea
21 about whether this process was run by --

22 THE COURT: All right. Go ahead with your question,
23 Mr. Kurtz.

24 BY MR. KURTZ:

25 Q Mr. Ravitch represents MLB, right?

1 A Represents MLB?

2 Q Yes.

3 A Not to my knowledge.

4 Q Okay. You're not aware of that?

5 A No.

6 Q Are you aware that he represented the seller in the San
7 Diego Padres transaction?

8 A No.

9 Q Are you aware that Mr. Ravitch represented the buyer in
10 the Boston Red Sox transaction?

11 A Yes.

12 Q Okay. And are you aware that Mr. Ravitch represents the
13 NBA with respect to Chinese operations?

14 A Actually, Goldman Sachs does, not Mr. Ravitch.

15 Q Mr. Ravitch is -- is a Goldman Sachs investment banker, or
16 formerly Goldman Sachs, and he represented the NBA in China,
17 correct?

18 A I believe that -- the engagement letter between the NBA
19 and Goldman Sachs. I don't know if Joe Ravitch personally
20 represented the NBA in China.

21 Q You don't know one way or the other?

22 A No.

23 MR. KURTZ: No further questions.

24 THE COURT: All right. Anything else?

25 (No response.)

1 THE COURT: Okay. I've got a few questions for you,
2 Mr. Galatioto.

3 THE WITNESS: I'm loving the way you're saying my
4 name. I could definitely move down here.

5 THE COURT: Well, I wouldn't do it on that basis, if
6 I were you. You might want to stand outside for about 15
7 minutes before you decide you want to come here.

8 THE WITNESS: It's just as hot where I come from.

9 EXAMINATION BY THE COURT

10 THE COURT: All right. What is the value -- what
11 effort has the Lender Group made, to your knowledge, to
12 evaluate other sources of repayment besides the Texas Rangers?

13 THE WITNESS: We are also -- GSP has been engaged by
14 Mr. Hicks to sell the Dallas Stars, and his 50 percent
15 interest in COC, which is Center Operating Company, which owns
16 50 percent of the American Airlines Arena. So that will be a
17 source of repayment as well. And we are in active discussions
18 currently with three prospective buyers on that transaction.

19 THE COURT: All right. What about the British soccer
20 team?

21 THE WITNESS: We are not a party to that. I can't
22 speak for all the banks. GSP is certainly not involved in
23 that.

24 THE COURT: Well, is that owned by a member of the
25 HSG group?

1 THE COURT: No, it is not, Your Honor.

2 THE COURT: All right. All right. What do you think
3 you're going to realize from assets other than the Texas
4 Rangers?

5 THE WITNESS: I think throughout this process we
6 thought a fair price would be -- are you asking me what we
7 think we'll realize under this bid, or what we should realize?

8 THE COURT: No, I'm asking you --

9 THE WITNESS: Okay.

10 THE COURT: -- what do you think you will realize
11 other than from the sale of the Texas Rangers?

12 THE WITNESS: Oh, what do we think we'll realize
13 other than the sale of the Texas Rangers?

14 THE COURT: Right.

15 THE WITNESS: It's a little murky right now with the
16 Stars sale. Net proceeds to the banks are fluctuating between
17 \$140 and \$150 million.

18 THE COURT: All right. And that's all the assets of
19 HSG?

20 THE WITNESS: I believe substantially all the assets
21 of HSG. If it has any others -- I don't want to misspeak, but
22 those are substantively all the assets, --

23 THE COURT: All right.

24 THE WITNESS: -- I believe.

25 THE COURT: And do I understand that the banks do not

1 have Mr. Hicks' personal liability at all? Is that correct?

2 THE WITNESS: That's correct, Your Honor.

3 THE COURT: Okay.

4 MR. LEBLANC: Your Honor, can I just -- just to be
5 clear, contractually, you mean, correct?

6 THE COURT: Yes.

7 MR. LEBLANC: Okay. All right.

8 THE COURT: I'm referring to guarantees, signatures,
9 --

10 MR. LEBLANC: Okay.

11 THE COURT: -- what-have-you.

12 MR. LEBLANC: I wanted to make sure that we're not --
13 we're obviously reserving all rights to bring whatever tort
14 cases --

15 THE COURT: I understand that you may sue Mr. Hicks,
16 and that that may -- I may have the dubious pleasure of
17 hearing that soon.

18 All right. Now, you have indicated how difficult it is in
19 the present environment to make a loan, right? Would be \$40
20 million be a hard loan to make, say, to this club?

21 THE WITNESS: \$40 million?

22 THE COURT: Yes.

23 THE WITNESS: No.

24 THE COURT: Okay. As you know, you offered, your
25 counsel offered on your behalf, basically at the drop of a hat

1 on the second day of this case, to provide \$40 million of
2 financing at LIBOR plus 1 percent. So you'd come up with \$40
3 million pretty easily?

4 THE WITNESS: Yes. On a DIP basis? Absolutely.

5 THE COURT: All right. I gather you've done at least
6 one other bankruptcy sale, the Cubs sale?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. How long did that process
9 last in bankruptcy?

10 THE WITNESS: Oh, I don't remember when the Tribune
11 Companies went into bankruptcy. They were in bankruptcy for
12 quite a while the Cubs operated.

13 THE COURT: Uh-huh.

14 THE WITNESS: The Cubs themselves did not file. We
15 filed the Cubs after we had a fully-negotiated transaction
16 with the Ricketts, and it went in and out of bankruptcy very
17 quickly on a prepackaged basis with consent of all the
18 lenders.

19 THE COURT: All right. So you do not have any other
20 experience other than that with bankruptcy auctions?

21 THE WITNESS: That is correct, Your Honor.

22 THE COURT: Okay. And you understand -- or, do you
23 understand that a sale out of the Bankruptcy Court is cleaner
24 than a sale that you get in the real world?

25 THE WITNESS: Absolutely.

1 THE COURT: All right. So, nevertheless, you feel
2 that the bankruptcy negatively impacts the ability to find
3 bidders for this team?

4 THE WITNESS: I believe that bankruptcy put a halt to
5 the momentum that you would have. Yes, I think it's more
6 difficult until the bidders understand that it is a fair and
7 open process through the bankruptcy.

8 THE COURT: What momentum was there before the filing
9 of the bankruptcy?

10 THE WITNESS: I think the momentum I'm talking about
11 is negotiating with Mr. Greenberg and Major League Baseball to
12 get a higher and better bid for the team.

13 THE COURT: From Mr. Greenberg?

14 THE WITNESS: That's correct.

15 THE COURT: All right. I have in front of me -- at
16 least I had in front of me -- transcripts of the first two
17 days of May 26th, okay, in this Court, at which point -- and
18 again, I recognize that outside this courtroom, people may not
19 see my statements as being significant in this regard, but the
20 lawyers all certainly did.

21 I have made the statement, and I'll quote myself: "Let me
22 make it very clear. It would be my view that the Debtor in
23 Possession has an obligation to at least explore to some
24 extent alternatives that may be available to it as
25 alternatives to the asset purchase agreement and the

1 presently-filed plan of reorganization. I'm not saying that
2 they have an obligation to adopt these alternatives, but I do
3 think that they have that."

4 Okay?

5 THE WITNESS: Yes, sir.

6 THE COURT: So, really, at that point, Debtors would
7 have known that they had the ability to start shopping this
8 deal. Would that be fair?

9 THE WITNESS: That would be fair if that statement
10 were the only -- was the only -- I want to be precise here.
11 Yes, that statement should open up a bidding process. The
12 problem was, there was a lot of cognitive dissonance in the
13 market about Major League Baseball's view that they were
14 backing the Greenberg-Ryan Group and that it was a foregone
15 conclusion that they were going to win.

16 THE COURT: Okay. Do you understand -- are you aware
17 that Mr. Crane had a representative in the courtroom on May
18 25th and 26th?

19 THE WITNESS: I believe that I did know that, Your
20 Honor.

21 THE COURT: All right. I happen to know because he's
22 a former law clerk of mine. I didn't know who he was
23 representing then, but I now know who he's representing.

24 And are you aware that Mr. Crane and Mr. Beck, I believe,
25 had conversations with the mediator even prior to the July 6th

1 mediation?

2 THE WITNESS: I believe that they did. Yes, sir.

3 THE COURT: Yes.

4 THE WITNESS: I think I do know that, Your Honor.

5 THE COURT: And you know that they both came to the
6 July 6th mediation?

7 THE WITNESS: I only saw Mr. Crane, but --

8 THE COURT: Yes. I'm told. That's what I think Mr.
9 Strubeck told me, that Mr. Beck was there, or someone did, who
10 said he shook hands with Mr. Beck and that's how he knew he
11 was there, but it was somebody on this side of the room.

12 So, really, these parties have been looking at this team
13 at least since May 25th. Wouldn't that be a fair statement?

14 THE WITNESS: Yes.

15 THE COURT: All right. Now, you testified before, I
16 believe, that your view was that you would have trouble
17 getting financing until you had a deal. Is that right?

18 THE WITNESS: I believe until you had the parameters
19 of a transaction. You could get -- you could get a handshake
20 kind of -- but to get really firm financing, you need a deal.

21 THE COURT: All right. Well, let me ask you this.
22 If we have a bidding process with three bidders, none of those
23 bidders will have a deal, now, will they, when they bid?

24 THE WITNESS: No, but there is an installed bank
25 group right now that I think would work with the bidders to

1 get interim financing, so when --

2 THE COURT: All right. So what you're saying is if
3 you have a bidder that is real, at a bare minimum, the bidder
4 could at least, quote, "borrow" from the Bank Group what the
5 Bank Group would get under his deal?

6 THE WITNESS: I can't commit the Bank Group to that,

7 --

8 THE COURT: I understand. I understand.

9 THE WITNESS: -- but that certainly would be GSP's
10 position. Yes.

11 THE COURT: Yes. I understand. So, effectively, if
12 a buyer came in and had, as we've had testimony, as Mr. Beck
13 may have the equity all lined up, or if Mr. Crane had the
14 ability to finance -- let's say his bid was \$600 million.

15 THE WITNESS: Uh-huh.

16 THE COURT: And he came in with \$400 million. Then
17 the other \$200 million could be temporarily footed by the Bank
18 Group, potentially?

19 THE WITNESS: Yes, sir. I would certainly recommend
20 that to the Bank Group. Obviously, I --

21 THE COURT: I understand. I understand.

22 THE WITNESS: And so --

23 THE COURT: I'm not trying to pin you down on that.

24 THE WITNESS: But just my opinion, yes, --

25 THE COURT: All right.

1 THE WITNESS: -- I believe the Bank Group would be
2 favorably disposed to any bidder that would give us the
3 highest net proceeds, and so we would finance that bidder.

4 THE COURT: All right. Thank you. You may step
5 down.

6 THE WITNESS: Thank you very much, Your Honor.

7 (The witness steps down.)

8 THE COURT: We're going to take a recess for about
9 ten minutes, then we're going to resume for about 45 minutes,
10 and we'll quit at approximately 5:00 o'clock. I may go a
11 little past that. I do apologize to you. I know in other
12 courts they go longer, but I start losing my edge by about
13 5:00 o'clock, and I don't think it does anybody any good for
14 that to happen.

15 All right. We'll be in recess.

16 All right. Ms. O'Neil?

17 MS. O'NEIL: Your Honor, may Mr. Galatioto be
18 dismissed?

19 THE COURT: Does anyone want Mr. Galatioto to be
20 retained? (No response.) Can I release him? (No response.)
21 You're excused, Mr. Galatioto.

22 MR. GALATIOTO: Thank you very much, Your Honor.

23 THE COURT: Enjoy your trip back to New York and your
24 date with your wife.

25 THE WITNESS: It's going to be great. Middle seat in

1 coach will be awesome.

2 THE COURT: Been there, done that.

3 THE CLERK: All rise.

4 THE COURT: The federal judiciary does not pay for
5 first class seats.

6 THE WITNESS: I know. Thank you.

7 (A recess ensued from 4:04 p.m. until 4:19 p.m.)

8 THE COURT: Please be seated. All right. Mr.
9 Leblanc, who will you have next?

10 MR. LEBLANC: Your Honor, we -- the Lenders would
11 call Glenn West.

12 THE COURT: All right. Mr. West?

13 MR. LEBLANC: And I believe there's going to be a
14 little argument before this happens, --

15 THE COURT: All right.

16 MR. LEBLANC: -- so that's why I stayed over here.

17 THE COURT: All right. Okay.

18 MS. GARCIA: For the record, Yolanda Garcia on behalf
19 of Weil Gotshal & Manges.

20 Your Honor, as I know you're aware, the bedrock rule in
21 the Fifth Circuit is that before a party's attorney can be
22 compelled to testify, there must be a demonstration by the
23 party seeking to call them -- in this case, the Ad Hoc Lenders
24 Group -- a two-part test that has to be met. Specifically,
25 the *U.S. v. Crockett* case in the Fifth Circuit, which can be

1 found at 506 F.2d 759, states that for an attorney to be
2 compelled to testify, his testimony must be both necessary to
3 adjudicating the issue before the Court and must be
4 unobtainable from any other sources.

5 And the reason that the Fifth Circuit and other courts in
6 every circuit require that these stringent circumstances be
7 met before a party's attorney be allowed to testify is
8 obviously because of the nature of privileged communications.
9 There is obviously a chilling effect if a party's attorneys
10 can be called to testify regarding the nature of the
11 representation.

12 Moreover, it is very difficult if an attorney is called to
13 testify to ensure that that attorney does not go into the
14 communications regarding the nature of the legal advice. And
15 even more broadly, because work product is identified and
16 protected so broadly in the Fifth Circuit -- it protects an
17 attorney's mental impressions, their thoughts, their strategy
18 -- any kind of testimony that could be elicited might delve
19 into that work product that the Fifth Circuit as well as the
20 U.S. Supreme Court in the *Hickman* case say must be protected.

21 And therefore, Your Honor, I think that before Mr. Leblanc
22 and the Ad Hoc Lenders Group be allowed to call Mr. West, they
23 need to demonstrate the reason why they need him, how it is
24 probative, and to meet the burden to show that that factual
25 information is only available from Mr. West.

1 THE COURT: All right. Mr. Leblanc?

2 MR. LEBLANC: Your Honor, I -- well, let me begin by
3 noting that I understood that Mr. West was appearing at the
4 Court's direction.

5 THE COURT: Well, I wanted him here.

6 MR. LEBLANC: Okay. And we certainly have asked for
7 his deposition. They told us they won't make him available.
8 We do think he's an appropriate witness to put on the stand
9 with respect to the issues that are before the Court now. The
10 unredacted version of our motion sets forth certain of the
11 communications, the prior e-mails that the Court has seen that
12 show the central role that Mr. West played in this process.

13 We did have a dispute with the Debtors, who had asserted
14 previously that their communications prepetition with Major
15 League Baseball were subject to a common interest. Judge
16 Jernigan ruled on that and concluded that it was not, and as a
17 result of that we got a substantial trove of production that
18 details exactly what the plans -- the derivation, the delivery
19 of these plans.

20 And we're not here on the good faith test yet under this
21 plan of reorganization. But as Your Honor well knows from the
22 attachments, unredacted attachments to our brief, there are
23 real questions about whether this Debtor really wants to have
24 an open auction or is intending to do what it can to avoid
25 exposing the sale to the real risk of a higher and better

1 offer.

2 And so we think the Debtor's support -- and if the Debtors
3 have asserted, as I believe they have, although they haven't
4 put on any evidence, but if they believe that it's consistent
5 with their business judgment or any of the other tests for
6 approval of bid procedures, to have these bid procedures, then
7 I think we're entitled to make this inquiry of Mr. West.

8 THE COURT: All right.

9 MS. GARCIA: May I respond, Your Honor?

10 THE COURT: Yes, you may. Briefly.

11 MS. GARCIA: Your Honor, we are here today on a
12 motion for reconsideration. The party bearing the burden on a
13 motion for reconsideration is the party seeking that
14 reconsideration, and that would be the Ad Hoc Lenders Group.
15 Therefore, we do not have the burden to present evidence
16 regarding anything to do with the bid procedures. And
17 moreover, --

18 THE COURT: Well, I always understood that the burden
19 of proof in a situation like this was preponderance of the
20 evidence. And the Supreme Court has further regularly said
21 that that means if a fact is more likely than not to be true,
22 then it is met -- you've met your burden. If they put on all
23 the evidence and you put on none, then you're going to lose.

24 MS. GARCIA: On the motion to reconsider, Your Honor,
25 I was simply stating that, as it is their motion, they have

1 the burden to show that there is new evidence that they have
2 discovered that makes your ruling last week subject to being
3 overturned. And I think, you know, to focus on the issue of
4 whether or not Mr. West should be called to testify and
5 compelled to testify by this Court, given the Fifth Circuit
6 law, in this context, it simply is the case that these bid
7 procedures were only on file for a week, and ultimately it was
8 this Court's version of the bid procedures that were entered.
9 They have not articulated any factual inquiry that they need
10 from Mr. West for the last, you know, ten-day period of time,
11 and instead are seeking -- and they still have not articulated
12 exactly what they're seeking and why it would be relevant to
13 testing these bid procedures, but information from him that
14 far predates the question of whether or not these bid
15 procedures that this Court has entered should stand.

16 Under the U.S. -- under the Fifth Circuit case in
17 *Crockett*, Your Honor, they simply have failed to meet their
18 burden to show a necessity for Mr. West's testimony, and
19 therefore he should not be compelled to testify under these
20 circumstances.

21 THE COURT: All right. Here's what we're going to
22 do, Mr. Leblanc. We're going to make Mr. West come back on
23 Thursday, and I'm going to look into it overnight.

24 Now, let me stress to you, Ms. Garcia, two things. Number
25 one, the Lenders correctly point out that to the extent that I

1 relied on evidence in entering the bid procedures, that
2 evidence was elicited in other contexts, and there was no
3 evidence put on in support necessarily of those bid
4 procedures.

5 Number two, what we do here today and tomorrow is going to
6 be subsumed, if you will, into consideration of confirmation
7 of Debtor's plan.

8 And number three, that to the extent that Mr. West's
9 testimony would be appropriate in the last context, even if
10 this is not the best context in which to receive it, I will
11 consider receiving it. All right?

12 MS. GARCIA: And I appreciate that, Your Honor. And
13 if it is that he wants to make a showing that it's relevant
14 for a context beyond simply these bid procedures, you know, I
15 am prepared to hear that --

16 THE COURT: Well, I think --

17 MS. GARCIA: -- and try to --

18 THE COURT: I already think that it is. Based on
19 looking at the e-mails, it seems to me, among other things,
20 there is a question about the degree to which there was a
21 chilling of bidding procedures and other similar issues, or a
22 chilling of bidding or other similar issues.

23 So I've already decided, based on the e-mails, that his
24 testimony is potentially relevant and probative. The question
25 is whether it should be sheltered on some other basis.

1 MS. GARCIA: Yes, exactly, on the basis that perhaps
2 another witness could testify to it.

3 Obviously, Your Honor, though, our biggest concern here is
4 protecting privilege and not waiving any kind of work product.
5 Because as attorneys for our clients, we cannot unilaterally
6 waive privilege for them. We have to vigorously protect
7 privilege for the benefit of our clients. And so perhaps if
8 we can tailor his testimony in a way in this proceeding -- you
9 know, I don't want to jump up and object --

10 THE COURT: Well, we're going --

11 MS. GARCIA: -- every minute for privilege, --

12 THE COURT: We're -- we're --

13 MS. GARCIA: But that is our greatest sensitivity.

14 THE COURT: When I start talking, Ms. Garcia, you
15 stop talking.

16 MS. GARCIA: Excuse me, Your Honor.

17 THE COURT: All right. The same rule for you as
18 everybody else. Okay?

19 MS. GARCIA: I understand.

20 THE COURT: Okay. And what we're going to do is
21 we're going to -- I'm going to look at it between now and
22 Thursday and come to a conclusion, because there is a mass of
23 Fifth Circuit precedent on this issue, and some of it does not
24 go the same way that you're referring to. For example, in
25 connection with a debtor's preparation of schedules, just by

1 way of example. That's been called to my attention recently.
2 So I want to take a closer look at the question.

3 And Mr. West can come back Thursday, and after we hear
4 from Mr. Washington, perhaps we will hear from Mr. West. All
5 right?

6 MS. GARCIA: Okay, Your Honor. Thank you.

7 THE COURT: Thank you. All right, Mr. Leblanc? Do
8 you have any other witnesses besides Mr. West whom you wish to
9 call?

10 MR. LEBLANC: Well, Your Honor, I think the answer to
11 that is no, although I'd defer to my colleagues at the bar
12 with respect to the other lender groups.

13 I want to make sure. We do anticipate vigorously cross-
14 examining any witnesses that are put on by the Debtors. We
15 anticipated that this would have been the Debtor's opportunity
16 to support the business justification, to the extent that
17 that's the standard that the Court deploys, from the
18 *Integrated Resources* case, that today would have been that
19 opportunity, and we would have had the opportunity to cross-
20 examine them.

21 We're happy to take Mr. West out of order, --

22 THE COURT: Yes.

23 MR. LEBLANC: -- but I think, subject to that, we
24 don't have -- I don't believe we have a burden of proof in an
25 evidentiary basis on a motion for reconsideration where there

1 wasn't a hearing actually held and there was no evidence
2 presented. I think the burden still lies with the party
3 moving for the substantive relief, which is the imposition of
4 the bid procedures and the approval of the stalking horse.

5 THE COURT: Frankly, Mr. Leblanc, I think they'd be
6 just as happy to -- if they're going to bear the burden, I
7 think they'd rather propose their own bid procedures. If you
8 like, I'm the one that has the burden here.

9 MR. LEBLANC: Well, Your Honor, they certainly -- and
10 everybody had something to say last week, but it was certainly
11 based upon the procedures that the proposed, and they
12 certainly -- I didn't hear much of a complaint from Mr.
13 Sosland about the bid procedures. So, to the extent that
14 there's -- I assume there's some justification, and they
15 certainly, I presume, were prepared to present evidence at
16 some point in time on those.

17 THE COURT: Well, we'll see. We'll see. We'll see.

18 First of all, does anyone else on this side have evidence
19 that they wish to produce? All right. Mr. Sosland?

20 MR. SOSLAND: Your Honor, we had consulted with
21 chambers and we were told that the order of presentation would
22 be the Lenders, the CRO, Greenberg, and then the Debtor. We
23 submitted -- and Your Honor, --

24 THE COURT: Okay.

25 MR. SOSLAND: -- we submitted a declaration of Kevin

1 Cofsky, who's not --

2 THE COURT: Yes.

3 MR. SOSLAND: -- able to be here today because, as is
4 stated in the declaration, he's actually meeting with a
5 potential bidder in New York today.

6 THE COURT: Yes.

7 MR. SOSLAND: He, however, will be here when we
8 reconvene on Thursday morning.

9 THE COURT: All right. All right.

10 MR. SOSLAND: And --

11 THE COURT: Well, if you're suggesting that we should
12 go to -- I assume, since Mr. Strubeck didn't jump to his feet,
13 that the CRO does not wish to present further evidence. Am I
14 correct, Mr. Strubeck?

15 MR. STRUBECK: That's correct, Your Honor.

16 THE COURT: All right. Then, if Express wants to
17 proceed. Frankly, I have some doubt that we'll be able to get
18 done with Mr. Greenberg today, but we can start. What's your
19 pleasure, Mr. Kurtz?

20 MR. KURTZ: Can I respond from here, Your Honor?

21 THE COURT: Sure.

22 MR. KURTZ: You know, this was on relatively short
23 notice. We thought these witnesses would go before. We
24 intended to speak with Mr. Greenberg, organize his documents,
25 which aren't presently organized for the Court, including, you

1 know, loan documents and the like, and present them tomorrow.
2 I don't think he'll be a lengthy witness on -- or Thursday, as
3 the case may be -- on direct, either he or Mr. Nolan Ryan, but
4 we intended to present them both tomorrow. Or Thursday.

5 THE COURT: All right. Well, do I understand, then,
6 that it's your pleasure to at this point recess for the day,
7 or --

8 MR. KURTZ: It is.

9 THE COURT: All right. Anybody object to that?

10 (No response.)

11 THE COURT: All right. Before we do, there's a
12 couple things that I want to make very clear, and I thought I
13 made them clear before. You can sit down, Mr. Sosland. This
14 is for everybody.

15 Number one, this is going to be an open process. We've
16 overlooked in our discussions today perhaps the fact that
17 under the bidding procedures that I directed be put in place,
18 unlike in the real world, absent the intervention of a court,
19 this Court has the ability to ensure that Major League
20 Baseball does not distort the process. I'm not suggesting
21 that you would or that you have, but you will not now, and I
22 think that that's very clear.

23 I've retained the ability, which ordinarily would not be
24 the case in the sale of a Major League Baseball team, to
25 second-guess, if you will, both the qualification of a bidder

1 and the actual decision on the part of the owners to accept
2 the winning bidder as an owner. That's something you don't
3 get in the real world. So let's start off by understanding:
4 This playing field is as level as I can get it.

5 Now, I haven't decided the motion for reconsideration, but
6 I want it very clear. I expect the parties to go forward as
7 if that order is in place. We're sitting here having this
8 hearing when perhaps we might be working toward getting other
9 bids on the table, and I'm glad Mr. -- I'm sorry, Mr. Cofsky
10 -- is speaking with other bidders.

11 Mr. Snyder, are you going to have any trouble complying
12 with my order if I leave these bidding procedures in place?

13 MR. SNYDER: No, Your Honor.

14 THE COURT: All right. So we're going to go forward.
15 And until I decide this motion to reconsider, we are going to
16 go forward as if those bidding procedures are going to be in
17 place.

18 I am going to share with those who were not a party to the
19 e-mail that I sent to principal counsel yesterday the
20 statement that I included in that e-mail. And that is that
21 bidders should assume that this is their opportunity to
22 acquire the Rangers and that there won't be one after this.
23 And the Debtor and Express should assume that I will not
24 consider the bid of Express to have been market-tested if we
25 get no other bidders, unless, of course, the reason we get no

1 others is because we have truncated the three weeks we started
2 with to two weeks by virtue of this hearing. All right?

3 All right. On that note, we will be adjourned for the
4 day.

5 Now, let me tell you first. What I'm going to do
6 tomorrow, I have a trial scheduled, as I've told you several
7 times. And I've just glanced at it, and it's far messier than
8 I feared. So my suspicion is that we will not be able to
9 resume the trial tomorrow. If you are prepared to and you
10 wish to do so, I will hear discovery disputes at noon. In
11 other words, instead of lunch, which I don't eat anyway, I
12 will hear your discovery disputes. I will have noon until
13 about 1:15, probably. And if you are able -- and I would ask
14 you attorneys to try to agree on what those disputes are so
15 that we can get these matters resolved. The sooner we get
16 them resolved, the better it is for everyone.

17 And I would also remind you that, like all judges, I have
18 a very strong distaste for discovery disputes. And in fact,
19 hearing them motivates me to get -- to cause as much
20 discomfort to the lawyers as possible. So you can keep that
21 in mind.

22 I think to some extent my ruling earlier today respecting
23 Express being a party in interest may help resolve some of
24 those disputes. I hope so.

25 But I will hear you if you are prepared to go forward at

1 noon. You may contact Mr. Vasek or Mr. Lynch. I don't know
2 which one will be back in the Clerk's Office tomorrow, but you
3 can contact either one during the morning to let them know.
4 Please let them know by, say, 11:30 in the morning. All
5 right?

6 Yes, Mr. Leblanc?

7 MR. LEBLANC: Your Honor, in connection with the
8 discovery -- potential discovery dispute conference or
9 setting, do you want motions to compel, or can we just arrive
10 --

11 THE COURT: You can arrive naked, if you -- please,
12 just without motions. But you can arrive *sans* motions if you
13 wish.

14 But I'd like the parties to have agreed on what the issues
15 are, and perhaps you could provide them by e-mail to my law
16 clerk so that I will at least know what I'm going to be
17 hearing before I get out on the bench.

18 MR. LEBLANC: Yes.

19 THE COURT: All right?

20 MR. LEBLANC: Thank you, Your Honor.

21 THE COURT: Any other questions? Any other concerns?

22 (No response.)

23 THE COURT: All right. Well, thank you all very
24 much. I appreciate the fact that this has been as civil as it
25 has been. We'll be adjourned.

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THE CLERK: All rise.
(Proceedings concluded at 4:36 p.m.)

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CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

Kathy Rehling
Certified Electronic Court Transcriber
CET**D-444

Date

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