

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
) Wednesday, July 21, 2010
Debtor.) 1:00 p.m. Docket
)
) EXPEDITED JOINT MOTION OF
) LENDER PARTIES FOR
) RECONSIDERATION OF COURT'S
) ORDER ADOPTING BIDDING
) PROCEDURES
) DISCOVERY CONFERENCE
)
) *Continued from 07/20/2010*
)

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

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1 FORT WORTH, TEXAS - JULY 21, 2010 - 1:09 P.M.

2 THE COURT: Please be seated. All right. This is the
3 Texas Rangers Baseball Partners case. Could I have
4 appearances, please? Okay. Wait a minute. Let me get the
5 phone. And where is my phone list? Ah, here. We have Mr.
6 D'Apice for the Commissioner of Baseball on the phone?

7 MR. D'APICE: Good afternoon, Your Honor.

8 THE COURT: And Mr. Seltzer for Major League Baseball
9 Players Association?

10 MR. SELTZER: Good afternoon, Your Honor.

11 THE COURT: Okay. In the courtroom, then?

12 MR. SOSLAND: Good afternoon, Your Honor. Martin
13 Sosland, Vance Beagles and Yolanda Garcia of Weil Gotshal &
14 Manges for the Debtor, Texas Rangers Baseball Partners.

15 MR. FINE: Good afternoon, Your Honor. Jeffrey Fine
16 of K&L Gates on behalf of the Unsecured Creditors' Committee.

17 MR. AVERCH: Good afternoon, Your Honor. Craig Averch
18 and Glenn Kurtz with White & Case on behalf of Rangers Baseball
19 Express.

20 THE COURT: You're back, Mr. Kurtz?

21 MR. KURTZ: I am. Good morning, or good afternoon,
22 Your Honor.

23 MR. LEBLANC: Good afternoon, Your Honor. Andrew
24 Leblanc and Aaron Renenger of Milbank Tweed Hadley & McCloy on
25 behalf of the Ad Hoc Group of First Lien Lenders.

1 MR. STRUBECK: Good afternoon, Your Honor. Louis
2 Strubeck of Fulbright & Jaworski on behalf of the Ranger Equity
3 Holding entities.

4 MR. SEIDER: Good afternoon, Your Honor. Mitchell
5 Seider and Michael Rochelle on behalf of JPMorgan Chase as
6 agent on the first lien debt.

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

10 THE COURT: Okay. Mr. Roberts, I want to -- give me
11 just a second. This is not something that I think anyone else
12 wants to --

13 (Side bar.)

14 THE COURT: Okay. Go ahead. Sorry.

15 MR. LECLAIR: Good afternoon, Your Honor. Lewis
16 LeClair; McKool Smith; on behalf of interested party Thomas O.
17 Hicks.

18 THE COURT: All right.

19 MR. JESSUP: Good afternoon, Your Honor. Clifton
20 Jessup from Greenberg Traurig on behalf of an undisclosed
21 potential bidder. We're hoping we can disclose that soon.

22 THE COURT: All right.

23 MS. O'NEIL: Good afternoon, Your Honor. Holly O'Neil
24 and David Sullivan. Holly O'Neil with Gardere Wynne, David
25 Sullivan and Jason Young with Clifford Chance, for GSP Finance,

1 the second lien agent.

2 THE COURT: All right.

3 MR. ESSERMAN: Good afternoon, Your Honor. Sander L.
4 Esserman of Stutzman Bromberg Esserman & Plifka, and Stephen
5 Shimshak of Paul Weiss --

6 THE COURT: All right.

7 MR. ESSERMAN: -- for the Office of the Commissioner
8 of Major League Baseball.

9 THE COURT: All right. All right. Mr. Leblanc, I
10 believe we had agreed that we were going to take Mr. Ryan out
11 of turn. Is that all right?

12 MR. LEBLANC: That's fine, Your Honor. I can tell the
13 Court that if Mr. Ryan didn't testify I'd have no questions for
14 him.

15 THE COURT: All right.

16 MR. LEBLANC: So we don't need his appearance.

17 THE COURT: All right.

18 MR. LEBLANC: But if he does testify, we will reserve
19 the right to cross-examine on the topics of his direct.

20 THE COURT: All right. It's up to you, then. I
21 wanted Mr. Ryan and/or Mr. Greenberg to testify specifically to
22 address the August 12th deadline. If you feel you can elicit
23 sufficient testimony from Mr. Greenberg, Mr. Ryan can be
24 excused.

25 Mr. Ryan, I apologize for any inconvenience to you if you

Ryan - Direct

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1 are indeed excused. If you're not, well, too bad. Okay.

2 MR. KURTZ: Your Honor, I think the testimony will be
3 relatively brief. Mr. Greenberg is here. He will testify. He
4 will testify about the August 12th date. Mr. Ryan, who is the
5 President of the Texas Rangers, will testify as to the other
6 impact, negative impact, that results from not having this team
7 and this organization out of bankruptcy by mid-August.

8 THE COURT: All right. And I suspect Mr. Leblanc will
9 cross-examine. Is that correct?

10 MR. LEBLANC: I think that's right, Your Honor. I
11 thought Your Honor had set up different procedures to try to
12 get that testimony, given the conflict.

13 THE COURT: Well, I think we understand that from the
14 in-chambers conference, but we'll do -- I mean, I'm not going
15 to prevent them from putting Mr. Ryan on if they feel it would
16 be useful to them or to the Court. So, you may call Mr. Ryan,
17 then.

18 MR. KURTZ: RBE calls Nolan Ryan.

19 THE COURT: Mr. Ryan, if you'll step over here, the
20 court reporter will swear you in, and then you may have a seat.

21 NOLAN RYAN, RANGERS BASEBALL EXPRESS'S WITNESS, SWORN

22 DIRECT EXAMINATION

23 BY MR. KURTZ:

24 Q Mr. Ryan, you have an extensive background. Most of it is
25 a matter of public record, and I'm going to skip it. And I'm

Ryan - Direct

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1 going to ask you instead what your position is today with the
2 Texas Rangers.

3 A President.

4 Q And what are your duties and responsibilities as President?

5 A The day-to-day operation of the ball club and the
6 organization.

7 Q Okay. Now, the reason you're here today is I'd like to ask
8 you whether the delay in transferring ownership of the Texas
9 Rangers has had any impact on the organization.

10 A Yes, sir, it has.

11 Q Okay. Can you describe the impact to the Court?

12 A Well, it's had many impacts. The one to date is, with the
13 trade deadline coming up at the end of the month, we have been
14 able to make two trades that have been beneficial to the ball
15 club, but they both came at a very expensive cost to us where
16 we had to ask the organizations, like Seattle with the Cliff
17 Lee deal and the San Francisco Giants with the Bengie Molina
18 deal, that they had to send money over with the players. And
19 so Molina, Molina, they sent \$1.8 million over, and with Cliff
20 Lee they sent \$2.25 million over for their salaries.

21 And because of that, we had to give up additional talent
22 that was in our system that we really didn't want to give up.
23 And so what we are seeing is that, to try to capitalize on the
24 situation that we have this year, being in first place at this
25 point in time, to strengthen the ball club, we're having to

Ryan - Direct

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1 deplete our minor league system --

2 Q And that's because --

3 A -- of our top talent.

4 Q Okay. And that's because you can't afford to make trades
5 without asking for financial accommodations from the opposing
6 team?

7 MR. LEBLANC: Objection. Leading.

8 THE WITNESS: That is correct.

9 THE COURT: I think he'd answered, so go ahead.

10 BY MR. KURTZ:

11 Q And is there any other trade deadline that's coming up?

12 A Well, after the 31st, for the month of August, you can
13 trade with a team that has waivers on a player. And if that
14 player clears waivers, then you can trade with them. And what
15 you have to do is have those people on your roster prior to
16 September 1st. So there is another trade deadline coming up,
17 in that sense, through the month of August.

18 Q And how will a delay in the transfer of ownership impact
19 the Rangers with respect to the August 31st trade deadline?

20 A Well, what it will do, it will put us in a situation where
21 we would have to -- if we have a specific need for the ball
22 club, we feel like, and for us to be able to fulfill that need,
23 we have to find another organization that would be willing to
24 pay the player's salary is coming over to us because of the
25 existing salary structure we have right now.

Ryan - Direct

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1 Q Okay. Now, how does the team sign international players?

2 A On July the 1st, you're able to sign kids that have turned
3 16 prior to July the 1st. You cannot sign before July the 1st.
4 And then we would normally sign those kids right at July 1st
5 because there's not a draft for those players and there's a lot
6 of competition for the key players that are coming out.

7 Q Are international players important to your organization?

8 A Very much so. If you look at our existing line-up right
9 now, three of our key players are international players.

10 Q And how will a delay in the transfer of ownership beyond
11 mid-August impact, if at all, your ability to sign
12 international players?

13 A Well, what we had chosen to do is that what we budgeted for
14 international players this year, we chose to take that money
15 and try to use it on acquiring players that we need for the
16 pennant race. And so we chose not to sign international
17 players because of that. We're just trying to make the most of
18 our dollars. And so what it's going to do with the depletion
19 of our minor league system with the additional players that
20 we're having to put in deals, and then not signing the
21 international players, we're going to have a void in our
22 system.

23 Q And are those players still available to sign if a deal is
24 consummated and there are funds made available for purposes of
25 picking up international players?

Ryan - Direct

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1 MR. LEBLANC: Objection. Leading.

2 THE COURT: Rephrase, Mr. Kurtz.

3 BY MR. KURTZ:

4 Q Are there still -- is it still possible to sign
5 international players? If you had the money?

6 A If you had the money. Yeah, right.

7 Q Okay. And are there international players that will
8 continue to be important after June 1st? There will be players
9 that will be available, like you sign some during the fall,
10 some in the wintertime, even in the spring if you've followed
11 some kids and you've seen the development that you're looking
12 for with them.

13 Q Okay. Now, do the Rangers have a summer team?

14 A In the Dominican, we have an Academy, and normally we have
15 two teams in the Dominican Republic. But because of our
16 situation, we only have one this year.

17 Q Okay. And how will that affect the future of the
18 franchise?

19 A Well, what happens is you deal in numbers with kids of that
20 age. And so what you're doing is reducing them by half.

21 Q Can you identify any other adverse impact to the Texas
22 Ranger organization based on a delay in the transfer of
23 ownership by mid-August?

24 A Well, there's a lot of things that are time-sensitive. One
25 of the big projects that we have that we anticipated having

Ryan - Direct

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1 done this off-season is a new video board. The one that we
2 have is antiquated. It's been there since 1994, when the
3 stadium opened. The manufacturer gave us until the end of
4 August, the last week of August, to place our order, because
5 they have to do the creative work, they have to build it, and
6 then they have to ship it down, and then they have to install
7 it, to have it by Opening Day. And they notified us this past
8 week that if we don't place our order by then we won't be able
9 to put it in. And that's a big item for us because it will
10 affect our marketing.

11 The challenge that we're having with marketing now is that
12 a lot of companies have limited dollars available for
13 marketing, so there's much more competition for the marketing
14 dollar. And what happens is that, with the electronic media
15 that we have now, that they're not interested in static signs,
16 stuff of that nature. They want the wow factor. And so we
17 feel like, to be able to compete for those dollars, we need
18 that board. And also for the entertainment of the fans.

19 Q And what is the price of the new scoreboard or video board?

20 A It will range anywhere from \$5 to \$12 million, depending on
21 what size we end up going with.

22 Q Will a delay in the transfer of ownership of the Texas
23 Rangers have any other adverse impact on the Texas Rangers?

24 A Well, it's had a lot of effects on us. We have lost our
25 Executive VP of Marketing, our Ticket Manager, and we've lost

Ryan - Direct

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1 our VP of Sponsorships. And we haven't filled those three
2 positions because of the current situation that we're in, so we
3 have other executives doing two jobs.

4 And the morale of the employees is not good because they
5 haven't had a raise in two years, and they read on a day-to-day
6 basis about the issues that we have and they're very concerned.
7 We've had layoffs, and they've seen their fellow employees let
8 go. And they're concerned about their livelihood and their
9 family. So there's a lot of anxiety within the ranks over
10 there, and we don't have anything to really tell them, you
11 know, is that -- with the unknown that we're dealing with.

12 And then the other thing is, in our development system,
13 because we were rated the number one minor league organization
14 in 2009 and number two in 2010, we have a lot of young
15 instructors and scouts that a lot of organizations are looking
16 at, and they don't know what their situation is, and there will
17 be, starting now, there will be other organizations offering
18 some of our key people jobs in multi-year contracts, things of
19 that nature, that we're not able to do right now. So we're
20 getting -- the Baseball Department and myself are getting quite
21 anxious about what we might lose in that area.

22 Q And will a delay in the emergence from bankruptcy have any
23 potential impact on the 2011 team itself?

24 A Well, depending on what the delay is, it very much could,
25 because starting in September we start our budget process. We

Ryan - Direct

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1 have our budget in place by around the 15th of October. Our
2 players' salary is the biggest item on our budget expense, and
3 we have players, because of the year we're having, that are
4 going to be looking at large increases in their salaries. And
5 then we also will be looking at the free agent market, we'll be
6 looking at, the Winter Meetings coming up the first week in
7 December, of how we might strengthen the club through trades,
8 as we did this past winter.

9 So all these things are affected if we don't know what our
10 structure is going to be. And without knowing, what will
11 happen is Baseball will look at, on a player by player basis,
12 what we think that salary of that player should come in at, and
13 we will budget accordingly and come up with a budget figure
14 that we think is realistic in that budget, even though we won't
15 know for sure maybe until as late as February or March. But
16 that has to be in place.

17 Q So, what would happen to the Texas Rangers if they were
18 required to operate on a budget that was consistent with a
19 budget that they've operated on for the 2010 season?

20 A We would have a lesser product on the field. I feel like
21 that we would possibly stand a chance of losing a Josh
22 Hamilton, because he's arbitration-eligible and he makes
23 somewhere around \$3.2 million this year. With the year he's
24 having, and it's hard to predict, if there's post-season
25 involved, if he were to win an MVP or a Triple Crown, and then

Ryan - Direct

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1 he went to arbitration, I would think that his salary would
2 probably go from \$3.2 [million] to somewhere around \$8 to \$10
3 million. And if you don't have that budget, then you're going
4 to have to look at the ball club and figure out what you can do
5 within the budget that we had this year. And I'm going to tell
6 you, I don't know that I want to be there when Josh Hamilton
7 doesn't come back next year.

8 Q And what other players on the Texas Rangers that are well
9 known or free agents at the conclusion of the season?

10 A Well, Guerrero would be, and we have a mutual agreement
11 with him for next year, and both sides have to agree to it or
12 he can -- if he chooses not to come back, he can walk. Frankie
13 Francisco will be a free agent. Cliff Lee will be a free
14 agent. Bengie Molina will be a free agent. And I may be
15 overlooking somebody else.

16 MR. KURTZ: I have no further questions, Your Honor.

17 THE COURT: All right. Anyone else on this side? All
18 right. Mr. Leblanc?

19 CROSS-EXAMINATION

20 BY MR. LEBLANC:

21 Q Good afternoon, Mr. Ryan.

22 A Good afternoon.

23 Q My name is Andrew Leblanc. I'm with Milbank Tweed, and we
24 represent the Ad Hoc Group of First Lien Lenders. You've been
25 in court throughout much of the proceedings in this case. Is

1 that right?

2 A That is correct.

3 Q And I will apologize to you for taking you away from the
4 Rangers for that time. Your current budget is provided to you
5 by Major League Baseball. Is that right?

6 A The budget was -- our current budget was approved by Major
7 League Baseball and Tom Hicks.

8 Q And Major League Baseball is a lender to the Rangers today,
9 right?

10 A That's correct.

11 Q And so to the extent that you wanted to change your budget
12 or deviate from your budget, you'd have to get Major League
13 Baseball's consent. Is that right?

14 A That's correct.

15 Q You will recall, at the very beginning of the case, the
16 lenders tried to lend the Rangers money. Do you recall that?

17 A Yes, sir.

18 Q And it was their view of the Debtor at the time that they'd
19 rather have their money from Major League Baseball. Is that
20 correct?

21 A That's correct.

22 Q And in fact, you've been operating under a Major League
23 Baseball budget since last season, the end of June of last
24 season. Right?

25 A That's correct.

Ryan - Cross

18

1 Q And Major League Baseball has had to approve everything
2 that you've done, every deviation from the budget that you've
3 had, since June 29th of two thousand --

4 A Yes, sir.

5 Q I'm sorry. 2009. Right? You signed both of the first
6 round draft picks you selected this season. Is that correct?

7 A Yes, sir.

8 Q Last year, who'd you pick in the first round? Matt Purke,
9 right?

10 A Right.

11 Q And you couldn't get him signed, right?

12 A We were unable to sign him.

13 Q And at the time that you were unable to sign him, you were
14 operating under a budget imposed by Major League Baseball,
15 right?

16 A That is correct.

17 Q Did you ask Major League Baseball to allow you to expand
18 the budget to sign Mr. Purke?

19 A Right. What you have is slot limits, and Matt Purke was
20 going to be out of slot. And so to sign out of slot, you have
21 to get approval from Major League Baseball.

22 Q Okay. And that approval didn't come?

23 A They gave us the approval to go to a figure above slot. We
24 chose not to sign Matt Purke. One, because we did not agree
25 with the figure that they were asking. And two, it was over

1 the figure that we talked to Major League Baseball about.

2 Q And when you say the figure they were asking, that was him
3 and his agent, Mr. Borris?

4 A That's correct.

5 Q Okay. Now, in this season, the Rangers are operating ahead
6 of the budget that you had predicted, in terms of revenue. Is
7 that right?

8 A That's correct.

9 Q In fact, the first day Mr. Lee pitched for the Rangers, I
10 think the stadium sold out, right?

11 A It wasn't quite sold out, but it was close.

12 Q Pretty close, right?

13 A Right.

14 Q More than 46,000 people came to that game?

15 A Right. Uh-huh.

16 Q And on a typical -- what day of the week was that? Was it
17 a Saturday?

18 A It was a Saturday, I believe, yeah.

19 Q Against -- who were you playing? Was it Cleveland?

20 A No, we were playing Baltimore.

21 Q That's right. Okay. And you are -- what would you have
22 budgeted for a game against Baltimore on Saturday at the end of
23 July?

24 A Well, Saturdays are our biggest draw, so you could probably
25 think that he probably added 10,000 to the gate.

1 Q Okay. And I've heard a number. Are you guys about \$5
2 million ahead of budget on revenue?

3 A That's close.

4 Q And what about on expenses? How far ahead or behind
5 revenue -- expense budget are you?

6 A You know, I would have to look, because I haven't looked at
7 it since the team went on the road. I would think that we're
8 running pretty close.

9 Q Okay. So --

10 A So our expenses, we have watched that very close.

11 Q And you talked a little bit in some questions from your
12 counsel about layoffs. You haven't done any layoffs since you
13 file for bankruptcy, right?

14 A No, sir.

15 Q So the layoffs that you referred to were all done before
16 you filed for bankruptcy?

17 A Right.

18 Q And those were done because Major League Baseball required
19 you to reduce your operating expenses?

20 A It wasn't from Major League Baseball. It was from Tom
21 Hicks.

22 Q Okay. When were those lay-offs done?

23 A I would have to check with Kelly, but I would think that
24 they were done during the season of '09.

25 Q Okay. So, the season of '09?

1 A Yes, sir.

2 Q Not in this season?

3 A Not this year, no.

4 Q And have you lost any personnel in the front office as a --
5 after the bankruptcy was filed?

6 A Right. Well, I would think that it was probably prior to
7 the bankruptcy being filed that we lost a couple executives.

8 Q Casey Coffman was one of them?

9 A Well, Casey left after the -- after we filed bankruptcy. I
10 believe. Now, don't hold me to that because I think it was --
11 I think she might have left the 1st of June, and when did we
12 file, the 24th of May?

13 Q May 24th, yeah.

14 A Yeah. And so it was close to that, but then we also lost
15 our marketing guy, and then our Ticket Manager. But our Ticket
16 Manager I want to say left before the filing.

17 Q Okay. But you haven't done any lay-offs --

18 A No, sir.

19 Q -- since the filing?

20 A No, not since the bankruptcy was filed.

21 Q Did you ask Major League Baseball to approve paying more of
22 Mr. Lee's salary so you didn't have to trade the players you
23 didn't want to trade?

24 A No. We were operating on the thought that we had to stay
25 within our budget, and that was our understanding. And so when

Ryan - Cross

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1 we approached teams that players that we had an interest in
2 were above what we could absorb salary-wise, we had to present
3 that to those particular clubs, that they were going to have to
4 send money with them.

5 Q But let's just use the case of Mr. Lee, for example. Or
6 actually, why don't we use Mr. Molina? The player that you
7 added into that was Mr. Main. Is that right?

8 A Yes. The player we had to give up that normally wouldn't
9 have been in that deal was Main.

10 Q Right. And you did that because you wanted them to absorb
11 some of the salary?

12 A Yes. They were going to send \$1.8 million with us. And he
13 was a first round choice for us in 2007, and he cost us about
14 \$1.2 million.

15 Q Okay. So you -- they were sending you \$1.8 million, and
16 the Seattle Mariners, for Mr. Lee, sent you \$1.5 million?

17 A No. \$2.25 [million].

18 Q Two point two. Okay. So, between the two of those, about
19 \$4 million in salary were sent to you by teams involved in
20 those two transactions?

21 A On those two players, yes.

22 Q Okay. And you're -- but you're operating currently \$5
23 million ahead of your budget, right?

24 A Correct.

25 Q But is it because you didn't have a line item there for

1 player salary that you didn't want to just shift that money to
2 the budget for -- without giving up Mr. Main?

3 A Well, any adjustment to the budget, we would have to get
4 approval from Major League Baseball. The only adjustment that
5 we had made is that we took the money that we have budgeted for
6 international signings to add to our ability to try to acquire
7 people.

8 Q But you didn't even ask the question of Major League
9 Baseball, "Can we use some of this \$5 million to trade for
10 players?" like Mr. Lee?

11 A No.

12 Q And the Rangers are currently in first place. Is that
13 correct?

14 A That's correct.

15 Q Best record in baseball since you filed for bankruptcy. Is
16 that correct?

17 A I hadn't looked at it that way, but --

18 Q Because --

19 A -- that very well could be.

20 Q -- you guys are playing very, very well.

21 A Right.

22 Q You've put a very professional product on the field,
23 haven't you?

24 A We're very pleased with the way they're performing.

25 Q You beat my Red Sox three out of four this past weekend in

1 Fenway, right?

2 A Well, you weren't pulling for Baltimore.

3 (Laughter.)

4 Q Fair enough. It's your expectation that the team is going
5 to soon start selling playoff tickets. Is that right?

6 A We will -- we have a process that everybody goes through,
7 through Major League Baseball. And because of the position
8 we're in, we're starting to do that.

9 Q All right. And that -- in a season when you're not
10 expected to make the playoffs, you don't go through that
11 process, right?

12 A That's correct.

13 Q So Baltimore, for example, --

14 A Right. They --

15 Q -- they're not preparing themselves to sell playoff
16 tickets?

17 A They won't do that.

18 Q Okay. That's all money that's going to be added to your
19 budget, right? Or not your budget, but to your revenue side?

20 A Right.

21 Q And so how much do you expect to sell in playoff tickets?
22 About \$11 to \$14 million?

23 A You know, I can't honestly say, but I would think that's
24 within reason.

25 Q Right. You'll expect that every playoff game, particularly

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1 given that that's going to happen in October, when it's a
2 little more cool down here, --

3 A Right.

4 Q -- people are going to go to the games, right? You expect
5 that --

6 A That's correct.

7 Q You expect you'll sell out each of those playoff games?

8 A I would think so. I'll be disappointed if we didn't.

9 Q And so that's going to be money available to the team as it
10 moves forward, regardless of what happens with -- in this
11 court, right?

12 A Well, there will be that money coming in. Now, is it
13 available to the club? It obviously would have to be approved
14 by Major League Baseball. And our agreement with Major League
15 Baseball is that we will operate within our budget.

16 Q But you do have an agreement with Major League Baseball
17 that you can ask them to deviate from the budget, right?

18 A Right. We could -- we can ask them, but, you know, I don't
19 know what they would think about that, because, you know, it's
20 -- obviously, we're being underwritten by the other clubs, and
21 so it's not like they're a bank.

22 Q Would you like to borrow money again from the Lenders and
23 have us be the ones defining the budget?

24 A (laughs)

25 MR. KURTZ: Objection, Your Honor.

1 THE COURT: Overruled. I think your answer is a laugh
2 anyway, so --

3 BY MR. LEBLANC:

4 Q But you understand that you could go to Major League
5 Baseball and ask them to deviate from the preapproved budget?

6 A Right. We have the ability to request deviation from the
7 budget, and, you know, then it would depend on Major League
8 Baseball, whether they were willing to do that or not.

9 Q Do you understand that if they weren't willing to do that,
10 your lawyers could come back to court here and ask the Court to
11 require that? Do you understand that?

12 A Well, I --

13 MR. KURTZ: Objection.

14 THE COURT: No. Overruled.

15 THE WITNESS: I understand that --

16 THE COURT: I was going to ask the same question, so
17 I'm glad he did it first. Go ahead, Mr. Ryan.

18 THE WITNESS: I understand that with us being in
19 bankruptcy, that obviously there's another approval process.

20 BY MR. LEBLANC:

21 Q When you say there's another approval process, but do you
22 understand if Major League Baseball says no, you can't expand
23 your budget for that item, your lawyers could come to court and
24 ask the Court to require that to happen?

25 MS. GARCIA: Your Honor, --

1 THE WITNESS: To be honest, --

2 BY MR. LEBLANC:

3 Q Do you know one way or the other?

4 MS. GARCIA: And I'm just going to object to the
5 extent it's calling for privileged information and he's learned
6 the information from an attorney, and I'm going to object.

7 THE COURT: You have to speak into a microphone, Ms.
8 Garcia, or we don't get you on the record.

9 MS. GARCIA: I apologize, Your Honor. I'm going to
10 object to the extent his answer would provide attorney-client
11 privileged information where an attorney has informed him what
12 the process would be.

13 THE COURT: Well, I think he's asking him a
14 hypothetical question, which is, do you understand that -- and
15 effectively what we're talking about here is that you borrowed
16 money or the Debtor has borrowed money pursuant to court order
17 and Major League Baseball has committed to lend up to a certain
18 amount. And to the extent that you want to vary your budget
19 and Major League Baseball says no, I can essentially overrule
20 them on that. That's what I think Mr. Leblanc is getting at
21 there. And I think that the question is, did you understand
22 that, and now, if you didn't, you do, right?

23 THE WITNESS: That's correct. I had not thought of it
24 from that perspective. The way I looked at it was that any
25 deviation would have to be approved by both Major League

1 Baseball and the Court. And I never thought about the fact
2 that, if Major League Baseball turned it down, that you could
3 still go to the Court. No, I didn't -- I hadn't thought about
4 that.

5 BY MR. LEBLANC:

6 Q Okay. Now, in considering any other trades you might want
7 to do either between now and July 31st, or now and August 31st,
8 with that in mind, will you consider whether to request a
9 deviation from Major League Baseball on the budget, given the
10 \$5 million you're ahead of budget today?

11 MR. KURTZ: I am going to object to the \$5 million. I
12 thought the witness said \$.5 million, which is my understanding
13 of where they are on a revenue basis.

14 MR. LEBLANC: Your Honor, that -- I thought the
15 witness was pretty clear. I don't think he needs to be coached
16 from his lawyer on that or any other question. I think that's
17 totally inappropriate.

18 THE COURT: Well, let's put it this way. You're ahead
19 of budget, and let's just leave it at they're ahead of budget.
20 All right?

21 MR. LEBLANC: That's fine, Your Honor.

22 THE COURT: Yes.

23 BY MR. LEBLANC:

24 Q On the international players, and particularly the teams in
25 the Dominican, when did you disband the second team in the

1 Dominican?

2 A We chose not to field a team this year. In trying to
3 reduce our budget for 2010, that was a decision that we made
4 last September/October when we were doing our budget process.

5 Q Okay. So does the decision not to have a second team in
6 the Dominican have anything to do with the filing for
7 bankruptcy?

8 A No, sir.

9 Q Now, you are one of the members seeking to acquire the
10 Texas Rangers, correct?

11 A That's correct.

12 Q You're in the ownership group that would buy it?

13 A Correct.

14 Q And so you would have liked to see this thing get done back
15 on the originally-scheduled date of July 2nd, I believe it was,
16 right?

17 A Yes, sir.

18 Q Okay. And you'd like to see it get done -- you want to see
19 it sold to the Greenberg-Ryan Group, correct?

20 A Yes, sir.

21 Q Okay. Whether that's fast or not, you just want to see it
22 sold to your team? To your group, right?

23 A Well, I just think, for the overall health of the
24 organization and the best interests of the organization, the
25 sooner the better.

1 Q Right. And -- but, of course, you'd like to be -- the
2 sooner the better would be good?

3 A I would like that to be the end result. Yes, sir.

4 Q Right. That you own the team, right?

5 A Right.

6 MR. LEBLANC: No further questions, Your Honor.

7 THE COURT: Okay. Wait a minute, Mr. Kurtz. Anyone
8 else on this side?

9 (No response.)

10 THE COURT: All right. Mr. Kurtz?

11 REDIRECT EXAMINATION

12 BY MR. KURTZ:

13 Q Mr. Ryan, was any of the testimony you gave about the
14 adverse impact on the team based on a delay in the transfer of
15 ownership based in any way on your role as a stalking horse
16 participant?

17 A Would you mind repeating?

18 Q You provided testimony about the various ways in which a
19 delay in emerging from the bankruptcy was harming the team,
20 correct?

21 A Correct.

22 Q Was any of that testimony based on your participation in
23 RBE?

24 A No, sir. It strictly from being Resident of Texas Rangers.

25 Q All right. Now, is the team ahead of budget by \$500,000 or

1 \$5 million?

2 MR. LEBLANC: Objection. Leading.

3 THE COURT: Overruled.

4 THE WITNESS: It's somewhere in the neighborhood of \$5
5 million.

6 THE COURT: Now, aren't you glad I overruled your
7 objection?

8 MR. LEBLANC: I am. I want to make -- it was \$5
9 million, Your Honor?

10 THE COURT: That's what he said.

11 MR. LEBLANC: Okay.

12 BY MR. KURTZ:

13 Q You were asked some questions about the playoff money. DO
14 you recall that?

15 A Yes, sir.

16 Q And what percentage of the playoff money goes to the
17 players as opposed to the organization?

18 A I would have to -- since we haven't been in the playoffs in
19 a while and haven't been in this position during that, I would
20 have to ask Kellie Fischer --

21 Q Okay.

22 A -- to answer that for me, because I don't know. I think
23 that the money actually comes from the World Series, not the
24 playoff games. But I could be wrong.

25 Q Are you aware of what -- well, in the first place, do you

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1 know that there is some portion of the playoff money that will
2 go to players?

3 MR. LEBLANC: Objection. Leading.

4 THE WITNESS: Yes, there is.

5 BY MR. KURTZ:

6 Q All right. Is there some portion that goes to Major League
7 Baseball Central Fund?

8 MR. LEBLANC: Leading, Your Honor.

9 THE COURT: Okay. Wait a minute. Mr. Ryan, if he
10 stands up and says "Objection," you have to wait to answer
11 until I rule on the objection.

12 THE WITNESS: Yes, sir.

13 THE COURT: Now, --

14 MR. LEBLANC: Leading, Your Honor.

15 THE COURT: Overruled. Go ahead. Now you can answer.

16 THE WITNESS: I think that's correct.

17 BY MR. KURTZ:

18 Q Okay. And does the club have expenses during that extended
19 season into the playoffs?

20 A Yes, it will.

21 Q Okay.

22 MR. KURTZ: No further questions, Your Honor.

23 THE COURT: Okay. Anything else, Mr. Leblanc?

24 MR. LEBLANC: No, Your Honor.

25 THE COURT: Okay.

1 EXAMINATION BY THE COURT

2 THE COURT: Mr. Ryan, if I understood your testimony
3 correctly, to the extent that the team has suffered from its
4 situation, the situation you're speaking of really began a year
5 or so ago when Major League Baseball became a necessary
6 participant in the funding. Is that right?

7 THE WITNESS: That's correct.

8 THE COURT: Okay. And as I understand it, it's been
9 more constraint on the team by reason -- and I'm not
10 suggesting there's anything wrong with this -- by reason of
11 the Major League Baseball loan that has caused the problems
12 that you referred to?

13 THE WITNESS: (no immediate response)

14 THE COURT: And I understand that there's a certain
15 stigma associated with being in bankruptcy court, like General
16 Motors and Delta Airlines and Northwest and Ford. Or, not
17 Ford. They're the ones that stayed out. Right?

18 THE WITNESS: That's correct. As far as the budget
19 is concerned, and this I would have to ask Kellie Fischer
20 about also, is that the -- Tom Hicks gave us a challenge of
21 where he wanted to see our budget brought into.

22 THE COURT: Uh-huh.

23 THE WITNESS: Now, what were the driving forces
24 behind that, I don't know, you know, if --

25 THE COURT: Okay.

1 THE WITNESS: I don't know what relationship Major
2 League Baseball had at that --

3 THE COURT: Okay.

4 THE WITNESS: -- time with it.

5 THE COURT: Mr. Kurtz, I thought you had concluded
6 with this witness.

7 MR. KURTZ: Oh, I --

8 THE COURT: Was I mistaken? I thought you said --

9 MR. KURTZ: I was standing just because the next
10 witness was coming. I'm happy to sit down.

11 THE COURT: All right. Why don't you?

12 All right. And now you understand, actually, to some
13 extent -- and I'm certainly not -- I try to look for silver
14 linings in clouds. I since in this court I'm usually dealing
15 with clouds, it's nice to find a silver lining. But now you
16 understand that, actually, although Major League Baseball
17 still has a right to review your budget, that you have the
18 opportunity to have Major League Baseball overruled, right?

19 THE WITNESS: Yes, sir, I understand that.

20 THE COURT: Yes. And that wasn't true when you were
21 out of bankruptcy, right?

22 THE WITNESS: That's correct.

23 THE COURT: Okay. All right. Well, I want you to
24 understand something. This team is going to get through this
25 season, and I hope win a pennant and the world championship.

1 And the bankruptcy is not going to interfere with the
2 operation of the team on the field. And to the extent that
3 the Debtor comes to this Court and says it needs more money,
4 we and I suspect Major League Baseball's lawyers will be
5 cooperative in that. And if not, you have another group of
6 lenders over here.

7 So I want this -- I recognize there is no way I can keep
8 this Chapter 11 from causing ripples, but I want you to
9 understand and I want your staff to understand, it isn't going
10 to cause pain if I can possibly help it. You understand me?

11 THE WITNESS: Yes, sir. Thank you.

12 THE COURT: All right. All right. Well, thank you.
13 Go back and win some more games, okay?

14 THE WITNESS: Thank you.

15 THE COURT: Okay. You're excused. Anybody have an
16 objection to excusing Mr. Ryan?

17 (No response.)

18 THE COURT: All right. You're excused, Mr. Ryan.

19 (The witness steps down.)

20 THE COURT: All right. I think -- do we -- where are
21 we with your case, Mr. Leblanc?

22 MR. LEBLANC: Your Honor, we had called all our
23 witnesses yesterday.

24 THE COURT: All right.

25 MR. LEBLANC: So I think --

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1 THE COURT: All right. Then Express, I believe, wants
2 to call Mr. Greenberg. Is that correct?

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

4 MR. LEBLANC: Your Honor, if possible, could we take a
5 short break? I didn't get -- I was caught up before, between
6 the chambers conference and coming back out when we had the
7 five minutes, so I wasn't able to actually get out of the
8 courtroom. So if we could take a short recess, I would
9 appreciate it. Or we can proceed. That's fine, too, Your
10 Honor.

11 THE COURT: No. It's always fun to watch a lawyer
12 squirm. But we'll take ten minutes.

13 MR. LEBLANC: Thank you, Your Honor.

14 THE CLERK: All rise.

15 (A recess ensued from 1:50 p.m. until 2:02 p.m.)

16 THE COURT: Please be seated. Do I understand we now
17 have Mr. Greenberg, Mr. Kurtz?

18 MR. KURTZ: Yes, we do, Your Honor.

19 THE COURT: Okay. Mr. Greenberg? If you'll step over
20 here, the court reporter will swear you in and then you may
21 have -- oh, Mr. Greenberg, let me ask you. Are you admitted to
22 practice in the Northern District of Texas, by chance?

23 MR. GREENBERG: I am not.

24 THE COURT: All right. Then you'll have to be sworn
25 in.

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1 CHUCK GREENBERG, RANGERS BASEBALL EXPRESS'S WITNESS, SWORN

2 MR. KURTZ: Your Honor, can I hand up an exhibit book
3 which will look like this is going to take longer than it is?
4 I'm only going to use a couple exhibits from it.

5 THE COURT: Very well. I know you've shared them with
6 counsel?

7 MR. KURTZ: Yes. We've --

8 THE COURT: All right. Thank you, Mr. Kurtz. Oh, do
9 you have another set for my law clerks? (Pause.) Did we lose
10 Major League Baseball there? That's all right. They're
11 welcome -- they don't have to come in. Go ahead.

12 DIRECT EXAMINATION

13 BY MR. KURTZ:

14 Q Mr. Greenberg, can you describe for the Court your
15 educational background and your work history, and in particular
16 with respect to sports representations and work?

17 A Sure. I'm in 1982 graduate of Tufts University with a B.A.
18 Graduated from the University of Michigan Law School in 1985,
19 and began a legal practice that continued until relatively
20 recently, for most of 25 years. During that time, my practice
21 was heavily concentrated in the sports industry. By the early
22 1990s, that was essentially the exclusive focus of my practice.
23 During that time, I worked on quite a few franchise
24 acquisitions in many different sports and different leagues and
25 different levels.

1 I also spent a considerable amount of time working in-house
2 with sports organizations as well. During the mid-1990s, I
3 worked for close to two years for the Pittsburgh Penguins,
4 handling a series of facility projects for them, including the
5 last major renovation of Mellon Arena in Pittsburgh. And after
6 leaving the Penguins -- well, also continuing my legal practice
7 at the same time.

8 Then, in the late 1990s, after the Penguins had filed for
9 bankruptcy, I played a leading role in putting a deal together
10 for Mario Lemieux and his investor group to purchase the
11 Penguins out of bankruptcy. And that was a most interesting
12 process that I didn't think I'd ever come quite this close to
13 replicating again. But during that process, my role went well
14 beyond the normal parameters of the legal practice. I helped
15 put the ownership group together. I solicited and played a
16 major role in raising the equity. I did all of the
17 projections. I put together a business plan. I ultimately
18 hired the management team. And, really, reconstructed --
19 helped to reconstruct the entire franchise, and that obviously
20 has been a great success, both on and off the ice since then.

21 Not long after that -- well, then throughout the ensuing
22 decade, I continued my work with the Penguins, most notably,
23 negotiating their deal for a new arena which will open in
24 Pittsburgh next month, and also worked with quite a few other
25 franchises in terms of acquisitions and in a general advisory

1 capacity as well.

2 In 2001, I had a chance to cross over and begin as an owner
3 and operator of minor league baseball franchises when the two
4 owners of the Pittsburgh Pirates AA affiliate in Altoona,
5 Pennsylvania contacted me about the possibility of buying them
6 out. And so we agreed to that deal in short order in August of
7 2001. Shortly thereafter, as I was about to begin raising the
8 capital, of course, 9/11 took place. Raised the capital and
9 the group together during a very tough capital environment and
10 environment throughout the country in so many ways. And we
11 took over the team officially on April 1, 2002. Owned and
12 operated the Altoona Curve for seven seasons, had a tremendous
13 run there. We were able to elevate the franchise into being
14 one of the tops in minor league baseball. During that time, we
15 won every major award that the industry bestows, the awards
16 given out for best promotions, best marketing, best community
17 relations, best at the AA level. And then in 2006, we won the
18 John H. Johnson trophy for being the top franchise in all of
19 minor league baseball.

20 During that time, we grew revenues and attendance
21 dramatically. In fact, at one point we were drawing attendance
22 of nine times the population of Altoona, which would be the
23 equivalent of the Rangers drawing about 40 million fans a year,
24 which wouldn't be bad. And just had a tremendous run, and
25 ultimately sold the franchise at the end of 2008 for what at

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1 that time was the highest price in the history of AA baseball.

2 During that time, I also had the opportunity to purchase
3 two other franchises, the Myrtle Beach Pelicans, who were the
4 High Class A affiliate of the Atlanta Braves, in the middle of
5 June of 2006. And also in June of 2006 was able to culminate
6 about a two and a half year project, working in tandem with
7 Penn State University, where I purchased a team in the New
8 York-Penn League, which is Short Season Class A, and relocated
9 it to State College, Pennsylvania to play in a new facility
10 that I co-developed with Penn State University. It was a very
11 unique project where the University delegated to me the
12 opportunity to design and construct a ballpark. And we were
13 able to design and construct the first environmentally-
14 certified or LEED-certified ballpark in the United States. And
15 that began a trend which has since continued at the major
16 league level. We're very proud of that role as well.

17 At the end of 2008, I sold the Altoona Curve and launched
18 Greenberg Sports Group, which is a sports consulting company,
19 and that brings my professional endeavors up to the time that I
20 began pursuing the Texas Rangers.

21 Q And how did you come to be interested in the Texas Rangers?

22 A I had read in, I believe it was March of 2009, that due to
23 the issues that Mr. Hicks was having with his lender group,
24 that there was a possibility of the team offering a minority
25 piece of ownership in the franchise. I was contacted at the

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1 beginning of May 2009 by a former client of mine who I had
2 represented in another sports franchise acquisition, who lived
3 in Fort Worth, who had been contacted by Mr. Hicks about
4 possibly investing. He felt that there might be an opportunity
5 to acquire a controlling interest in the team, and called me to
6 ask if I was interested in partnering with him, and then
7 ultimately running the operation. I was interested, and I came
8 down for the first time in May, participated in a management
9 presentation. And although the individual who contacted me
10 decided not to pursue the acquisition, I did decide to go
11 forward, and so my efforts began back in May of 2009.

12 Q Okay. And how did you come to be partnered with Nolan
13 Ryan?

14 A Well, I met Nolan for the first time at the initial meeting
15 that I attended with Mr. Hicks and his management team at both
16 Hicks Sports Group and the Rangers on May 12th. Nolan and I
17 had not met before, but I did have a friendship and a
18 professional relationship with his son Reid. Nolan and his
19 family own two minor league franchises in Texas, and Reid and I
20 gotten to know each other through various minor league baseball
21 functions. We also had both played a significant role in
22 forming Minor League Baseball's digital media rights company,
23 which had then negotiated a deal with Major League Baseball's
24 digital media rights company. So Reid and I were well
25 acquainted with one another. And I stayed in touch with him

1 over a period of two or three months after I'd first come down
2 in May.

3 And then one day in July, I got a phone call from Nolan
4 Ryan saying, "Why don't you come down to Texas and let's get to
5 know each other?" And one day turned into three, and at the
6 end of those three days, we decided to become partners and
7 we've been pursuing it together ever since.

8 Q What entity did you form for the purpose of acquiring the
9 assets at issue in this case, which I'll generally refer to as
10 the Rangers?

11 A We formed Rangers Baseball Express, LLC, although it went
12 through a couple of other acronyms and iterations, but
13 ultimately it became Rangers Baseball Express, LLC.

14 Q And how is RBE financed?

15 A RBE is completely financed through a combination of equity
16 and debt. We have over a quarter of a billion dollars of
17 equity from a group of investors. And all of that money is not
18 only committed, but it has been fully funded. It is actually
19 in two Rangers Baseball Express bank accounts as we speak. We
20 also have a loan in the amount of \$160 million from a loan
21 syndicate consisting of seven lenders, and that loan is
22 manifested by a signed credit agreement that is essentially
23 without contingencies. And so, as a result, that's as
24 committed as money can possibly be without actually having
25 closed on the transaction.

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1 Q Okay. Can you turn to the first exhibit in your binder,
2 which we'll refer to as RBE Exhibit #1, and identify it for the
3 Court, please?

4 A Yes. This is the form of investor subscription agreement
5 that investors signed on February 12, 2010.

6 MR. KURTZ: Your Honor, I would offer RBE Exhibit #1
7 into evidence.

8 MR. LEBLANC: Your Honor, our objection is only -- no
9 objection to authenticity or foundation. It's only with
10 respect to the fact that it's so heavily redacted it's of
11 almost no use to us. And I'll get into that in cross-
12 examination, but it --

13 THE COURT: All right. It'll be admitted for whatever
14 it's worth, and you can address it in cross.

15 (Rangers Baseball Express Exhibit 1 is received into
16 evidence.)

17 BY MR. KURTZ:

18 Q Do the subscription agreements have a termination
19 provision?

20 A Yes, they do.

21 Q Can you walk us through that, please?

22 A Yes. I believe that is Section 4(c) on --

23 Q Okay. That's Page 5 of the agreement?

24 A Correct. And Section 4(c) reads, "If the consummation of
25 the transactions contemplated by the APA does not occur on or

1 prior to the date 180 days after the first funding date, then
2 this subscription agreement shall terminate."

3 Q Okay. And when was the funding date?

4 A The initial funding date was the same day as the
5 subscription agreement, February 12, 2010.

6 Q So when do the subscription agreements expire or terminate?

7 A On August 12, 2010.

8 Q Do your equity investors need to make a demand for the
9 return of their money?

10 A No, they do not.

11 Q How does it work?

12 A Well, there have subsequently been two other funding
13 notices, and with each funding notice there has been an
14 increasing clarity as to that question. And in the most recent
15 funding notice, which was sent out in May, there is language
16 that makes it explicit that the return of the funds -- or,
17 excuse me, the most recent funding notice that was sent out in
18 June -- I believe it was June 29th -- it's explicit that I'm
19 obligated to return the funds automatically, without any
20 demand.

21 Q Okay. Well, was there ever a document that suggested that
22 a demand had to be made?

23 A No, there was not.

24 Q All right. The subscription agreements from the outset
25 terminated within 180 days, right?

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1 A That is correct.

2 Q Okay. Can you turn to Tab 20A, which we'll refer to as RBE
3 Exhibit #2. And can you identify this document for the Court?

4 THE COURT: Now, you said Tab 20?

5 MR. KURTZ: 20A.

6 THE COURT: Okay. And so you're using 20 -- what is
7 20 in the book as Exhibit 2?

8 MR. KURTZ: Correct. I'm happy to call it 20A, Your
9 Honor, but I hadn't introduced any other exhibits, so --

10 THE COURT: Well, it's certainly --

11 MR. KURTZ: -- I was concerned --

12 THE COURT: I certainly enjoy confusing the Court of
13 Appeals.

14 MR. KURTZ: Okay. Well, then I'm going to have this
15 designated as RBE Exhibit 20A.

16 BY MR. KURTZ:

17 Q Can you identify --

18 THE COURT: That's probably going to be safer.

19 BY MR. KURTZ:

20 Q Okay. Can you identify that document, Mr. Greenberg?

21 A Yes, I can. This is a voting letter agreement.

22 Q Okay.

23 MR. KURTZ: Your Honor, we offer this exhibit into
24 evidence.

25 MR. LEBLANC: Same objection as before, Your Honor.

1 THE COURT: All right. Overruled. It will be
2 admitted.

3 (Ranger Baseball Express's Exhibit 20A is received into
4 evidence.)

5 BY MR. KURTZ:

6 Q Okay. Can you read Section 1(A)(1), please?

7 A Yes.

8 THE COURT: If he can read 1(A)(1), that'll be good,
9 because my -- there is no 1 under A, and what is A is
10 completely redacted. Do you mean 1(B)(1)?

11 MR. KURTZ: I'm sorry. 1(B)(1).

12 THE COURT: Okay.

13 MR. KURTZ: Thank you, Judge.

14 THE WITNESS: (reading) "First, each party hereto
15 agrees that no funding notice shall be delivered after August
16 12, 2010, and that the commitment to fund capital to the
17 company of each investor executing a confirmation letter shall
18 terminate on August 12, 2010." And that is defined as the
19 termination date.

20 BY MR. KURTZ:

21 Q Okay. Can you turn to Tab 24, which we'll refer to as RBE
22 24? And can you identify that document for the Court?

23 A Yes. This was the third and most recent funding notice
24 that I sent to our investors.

25 Q Okay.

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1 MR. KURTZ: Your Honor, we'd offer RBE Exhibit 24 into
2 evidence.

3 THE COURT: Same objection?

4 MR. LEBLANC: Same objection.

5 THE COURT: Okay. Overruled. It will be admitted.
6 This one is pretty slim, but go ahead.

7 (Rangers Baseball Express Exhibit 24 is received into
8 evidence.)

9 MR. LEBLANC: And Your Honor, just to be clear, you're
10 overruling the objection but you're going to allow me to --

11 THE COURT: Oh, absolutely.

12 MR. LEBLANC: -- raise issues on --

13 THE COURT: Absolutely.

14 MR. LEBLANC: -- cross, and you'll give whatever
15 weight is appropriate to the document?

16 THE COURT: Absolutely.

17 MR. LEBLANC: Thank you.

18 MR. KURTZ: I mean, Your Honor, the issue as we
19 understand it is the termination date, and that's what we're
20 trying to address here. We're not trying to address the
21 internal financial terms.

22 THE COURT: I understand.

23 MR. KURTZ: That's confidential.

24 THE COURT: Go ahead.

25 MR. KURTZ: Okay.

1 BY MR. KURTZ:

2 Q Mr. Greenberg, why did you call for 100 percent of the
3 equity investment on June 29, 2010?

4 A Well, on February 12th, investors had funded 2 percent of
5 their commitment as an advance against expenses. In May,
6 funded an additional 1.25 percent. And in late June, I
7 determined, in conjunction with my two lead investors, that we
8 would call the remaining 96.75 percent of the commitment in
9 cash from our investors. We at that time were anticipating a
10 potential confirmation hearing on July 9th. We also were
11 getting ready for our initial meeting, which was to be the
12 following day, with the new Chief Restructuring Officer for the
13 Rangers Equity companies. We were anticipating the possibility
14 of mediation the following week as well.

15 And so in order to eliminate any doubts, any rumors of any
16 kind about our wherewithal and the fact that we were completely
17 ready, willing and able to close at any time, we determined
18 that we should call all of the remaining funds, put it in cash
19 in the bank in an RBE bank account, and at the same time to
20 consummate our credit agreement with our lenders as well, so
21 that all of our money would be up, would be hard, would be
22 committed, would be binding, and we would literally be ready to
23 close at a moment's notice.

24 Q Can you read Romanette (v) into the record, please?

25 A (reading) "If the closing has not occurred on or before

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1 August 12, 2010, then funds will be returned to each investor
2 that has funded its portion of the funds pursuant to this
3 transmission unless each investor has provided to the company a
4 written acknowledgement extending that investor's subscription
5 agreement to a date beyond August 12, 2010."

6 Q And do you have written acknowledgements from each investor
7 extending the subscription agreement beyond August 12th?

8 A No, I do not.

9 Q And can you obtain such extensions?

10 A No, I do not believe that I can.

11 Q Okay. Why not?

12 A Well, because I've asked and I've been told no, on more
13 than one occasion. The subject of the expiration date first
14 came into focus in May, when we were in the process of not only
15 calling for additional funds from our investors but also
16 renewing and refreshing all of our subscription agreements.
17 And at that time, I argued quite forcefully to extend the date
18 beyond August 12th, and I was told emphatically that the answer
19 was no. I have renewed that request over the last couple of
20 weeks as this process has unfolded, and I've been told, once
21 again, no.

22 Q And have they explained to you why they won't agree to
23 extend the subscription agreements?

24 A Well, they're worn out. This has been a long process. You
25 know, we -- I've -- I mean, I've been in this since, as I said,

1 since I first looked at in May of 2009. But most of my
2 investors made their initial commitment to me back in November.
3 And so for investors to be committed at any level for eight
4 months, and by the time we get to August 12th it will be about
5 nine months, is an extraordinarily long period of time for
6 people to keep capital available. And during that time there
7 have been an innumerable number of ups and downs throughout
8 this process that have been well-chronicled, well before the
9 bankruptcy took place, and there were a great many
10 disappointments that ultimately preceded the bankruptcy being
11 filed.

12 And throughout that process, although I've continued to
13 work at it very hard and my passion to try to get this done
14 remains, our investors are worn out. And it's very difficult
15 for me to try to make the case to them, though I have,
16 unsuccessfully, that there is necessarily light at the end of
17 the tunnel. We, of course, made this call just before -- and
18 our investors fulfilled the call in June, just after -- our
19 initial meeting with the CRO, when we thought we had agreed to
20 terms under which we would, with great trepidation, waive the
21 rights of exclusivity that we thought we had. And the fact
22 that unfortunately that agreement was not consummated was yet
23 another source of disappointment. And coming on the heels of
24 our investors just having gone to extraordinary lengths of
25 actually liquidating their individual portfolios to fund this

1 investment was -- you know, it was another pebble in
2 everybody's shoe. So, though I've argued strenuously and
3 passionately, this is not an argument I've been able to win,
4 and I don't really see any circumstance where I will.

5 Q Well, do you see any circumstance where you could obtain
6 any kind of an extension?

7 A Well, if the only reason for the extension is for the
8 logistics of closing, I'd like to think that I could succeed
9 with that. Now, understanding that I would have to get every
10 single investor and every single lender to agree as well.
11 We've got seven lenders and we've got over a dozen investors.
12 So the failure of any one of them to say yes would jeopardize
13 our entire financing. So, you know, if for example it took
14 another day or two for, say, Major League Baseball or if it
15 took a day or two to set up the logistics of the closing in the
16 wake of what hopefully would be approval from Major League
17 Baseball, then, you know, I'm fairly confident. But not
18 because I have any assurance of that, not because anyone has
19 promised me that, and there's substantial risk that I could be
20 wrong. But if it's just a matter of staging the closing, I'd
21 like to think that I could prevail upon people to hang in
22 there.

23 Q Okay. Can you turn to Exhibit #5, RBE Exhibit #5? And can
24 you identify this for the Court?

25 A Yes. This is the credit agreement between RBE and Bank of

1 America on behalf of our lender group.

2 Q Okay.

3 MR. KURTZ: Your Honor, we offer to introduce RBE
4 Exhibit #5.

5 MR. LEBLANC: Your Honor, this one I don't think
6 should be admitted. I'm presuming the credit agreement
7 contains -- and given that the third page of the document, the
8 fourth page of the document is numbered 123, I'm assuming that
9 it contains something more than the six pages that are attached
10 to this.

11 MR. KURTZ: Your Honor, it's not a complete document,
12 but it is a document that contains highly confidential terms.
13 And the portions that we have marked and sought to introduce
14 into evidence are the portions of the credit agreement that are
15 relevant to a determination of the financing, which is the core
16 issue, as I understand it, if not in this matter and motion,
17 certainly with respect to this witness's testimony. And we
18 have made productions or will make productions, properly
19 redacted for confidential information, but the interest rate is
20 not relevant to the proceedings and the other events or terms
21 aren't relevant to the proceedings. All that's relevant to the
22 proceedings are the termination dates, the maturity of the
23 loan.

24 THE COURT: I don't see any termination date in here,
25 in the few pages that I have.

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1 MR. KURTZ: We can -- why don't I walk the witness
2 through this, Your Honor, and then come back and seek to
3 introduce the document after we have the testimony?

4 THE COURT: All right. You'll do that.

5 MR. KURTZ: Okay.

6 THE COURT: Go ahead.

7 BY MR. KURTZ:

8 Q Mr. Greenberg, does the credit agreement have a term or an
9 expiration?

10 A Yes, it does.

11 Q Can you walk the Court through that, please?

12 A Certainly. Well, again, this is a somewhat unusual step to
13 sign the credit agreement without having closed, so we needed
14 to come up with a mechanism to do that, and that comes through
15 the definition of "Maturity Date."

16 Q Okay. And can you turn to what's been marked as RBE
17 Exhibit #5, Page 24?

18 A Yes.

19 Q And what's that provision?

20 MR. LEBLANC: Your Honor, the document hasn't been
21 admitted. I don't think it's appropriate to have the witness
22 read the document into the record. I think that comes after
23 it's admitted.

24 MR. KURTZ: Your Honor, I'm certainly entitled to put
25 a document in front of the witness without it ever being

1 introduced into evidence.

2 MR. LEBLANC: That may be true, Your Honor, for
3 certain purposes, like refreshing a witness's recollection, but
4 you can't have a witness just have a document that's not
5 admissible and just talk about it.

6 MR. KURTZ: Your Honor, I could easily have this
7 witness just give you the date. I would assume that perhaps
8 the Court would want to understand the mechanics of the
9 agreement. If --

10 THE COURT: Why don't you have him give me the date
11 and then walk --

12 MR. KURTZ: Okay.

13 THE COURT: -- walk him through the terms?

14 BY MR. KURTZ:

15 Q When does the debt financing for RBE terminate or expire?

16 A August 12, 2010.

17 Q Now, Mr. Snyder had testified yesterday that he thought
18 perhaps there was some provision that would permit RBE to
19 extend that loan for a fee beyond August 12th. Were you here
20 for that testimony?

21 A Yes, I was here.

22 Q Is that correct? Is there such a right to extend?

23 A No, that's incorrect. Mr. Snyder was mistaken.

24 Q Okay.

25 THE COURT: Actually, I think his testimony was that

1 the loan would go hard at that point. That is, the money would
2 be borrowed based upon the payment of that fee. That's what I
3 understood his testimony was. Was I mistaken, Mr. Strubeck?

4 MR. STRUBECK: I don't believe so, Your Honor.

5 THE COURT: All right. Go ahead.

6 BY MR. KURTZ:

7 Q Well, can a loan go hard without a closing on the Texas
8 Rangers assets at issue in this case?

9 A No. It's all or nothing by August 12, 2010. We can't
10 borrow the money unless we own the assets, and if we don't own
11 the assets by August 12, 2010 we're not allowed to close, and
12 therefore the loan will have matured without ever having
13 closed. Or the simpler answer is, if we don't close by August
14 12, 2010, the credit agreement is nullified.

15 Q And could you close without the equity financing?

16 A No.

17 Q Okay. Can you walk the Court through the maturity date
18 provision on Page 24?

19 A Well, the most relevant portion is -- begins on the fifth
20 line, and it reads, "And provided, however, that if the initial
21 funding of the loans hereunder has not occurred on or before
22 August 12, 2010, then the maturity date shall be August 12,
23 2010."

24 Q Okay. And has there been an initial funding of the loans?

25 A No, there has not.

1 MR. KURTZ: All right. I have no further questions,
2 Your -- well, actually, Your Honor, I again offer RBE Exhibit
3 #5 into evidence.

4 MR. LEBLANC: The same objection, Your Honor.

5 MR. KURTZ: Also, you know, Your Honor, before we do
6 that.

7 BY MR. KURTZ:

8 Q Can you turn back to Page 6? Okay. Can you walk through
9 the availability period provision?

10 A (reading) "'Availability Period" means, in respect of the
11 revolving credit facility, the period from and including the
12 funding date to the earliest of (a) the maturity date for the
13 revolving credit facility, (b) the date of termination of the
14 revolving credit commitments pursuant to Section 2.05, and (c)
15 the date of termination of the commitment of each revolving
16 credit lender to make revolving credit loans and of the
17 obligation of the L/C issuer to make L/C credit extensions
18 pursuant to Section 8.02."

19 Q Okay.

20 MR. KURTZ: Your Honor, I offer the exhibit.

21 THE COURT: All right. I'm going to sustain the
22 objection and rely on Mr. Greenberg's testimony respecting the
23 termination of funding on August 12, 2010.

24 MR. KURTZ: Okay. I have no further questions, Judge.

25 THE COURT: All right. Mr. Leblanc? Well, first, is

1 there anyone else on this side that wants to question the
2 witness? Mr. Sosland, is that an indication that you want to
3 get up?

4 MR. SOSLAND: No, Your Honor.

5 THE COURT: Okay. Mr. Leblanc?

6 MR. LEBLANC: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. LEBLANC:

9 Q Mr. Greenberg, we've made a couple of times in court. My
10 name is Andrew Leblanc, and I represent the Ad Hoc Group of
11 First Lien Lenders.

12 We have not had a chance to spend a few hours together in a
13 deposition, have we?

14 A No, we have not.

15 Q I believe, if I recall correctly, we were scheduled to do
16 so on the Fourth of July, was that correct, at one point?

17 MR. KURTZ: Objection. Is there some relevance to the
18 scheduling of counsel?

19 MR. LEBLANC: I apologize, Your Honor. I didn't -- I
20 think --

21 THE COURT: I'm inclined to agree, but --

22 MR. LEBLANC: I'll withdraw the question.

23 THE COURT: Good.

24 BY MR. LEBLANC:

25 Q Now, Mr. Greenberg, you have had discussions with your

1 equity investors over time regarding the developments in the
2 bankruptcy court. Is that right?

3 A Correct.

4 Q Have you had written discussions with them? E-mail?

5 A On a very limited basis.

6 Q What about prior to the bankruptcy filing? Did you have
7 written discussions with them?

8 A Yes.

9 Q You are one --

10 THE COURT: You might want to narrow that, because he
11 may have discussed the weather with them, and I assume you're
12 saying, did you have petition discussions respecting
13 bankruptcy? Am I correct?

14 MR. LEBLANC: You are correct, Your Honor.

15 BY MR. LEBLANC:

16 Q Can you answer that question?

17 A I'm sorry. Could you repeat it?

18 Q Sure. Yeah. Did you have -- I'll try to capture what the
19 Court said. Did you have prepetition discussions with your
20 equity investors regarding the Rangers transaction?

21 A Regarding the Rangers transaction --

22 Q Yes.

23 A -- generally?

24 Q Yes.

25 A Yes.

1 Q And did you have those types of communications in writing?

2 A Yes.

3 Q Now, are any of your equity -- would any of your equity
4 investors -- let me strike that. Are any of your equity
5 investors looking to leave now and not continue in this
6 process?

7 A Well, managing the emotions of a group of investors who are
8 used to being drivers instead of passengers is an interesting
9 challenge, and I do that on a regular basis every day.

10 Q Are any of your equity investors looking to leave this
11 transaction now?

12 A No one has told me that they're hoping the clock strikes
13 midnight on August 12th so that they can get their money back
14 the next day, if that's what you're asking.

15 Q Okay. So, if given the chance, if you called them up and
16 said, "You can get out now. I'm done with this," do you know
17 if anyone would take that opportunity?

18 A I don't know whether anyone would or anyone would not.

19 Q It's not a discussion that you've had?

20 A Well, I have had discussions with investors in the past who
21 were of a mind that they wanted to exit, and I reminded them
22 that they were committed through August 12th, and the
23 conversation ended there.

24 Q Okay. And so you've relied on the fact that they've been
25 committed through August 12th to hold them into this deal?

1 A In certain cases, yes.

2 Q Take a look with me, if you would, at Exhibit 1, which I
3 believe you described it as your subscription agreement. Is
4 that right?

5 A Correct.

6 Q And I want to actually focus on the very same provision
7 that you looked at with your counsel on Page 5 of the document,
8 which is our Page 3, the third page. And in particular,
9 Paragraph 4(c). "If the consummation of the transactions
10 contemplated by the APA does not occur on or prior to the date"
11 and it goes on from there. Do you see that?

12 A Yes.

13 Q How is the phrase "the APA" defined in this agreement?

14 (Pause.)

15 MR. KURTZ: Your Honor, before we spend a lot of time
16 on this, it's been redacted. My understanding is Mr. Averch
17 has had conversations with counsel in connection with today's
18 discovery proceedings, and said we would supply the definition
19 for him.

20 THE COURT: All right. So you're going to supply the
21 definition? Why don't you?

22 THE WITNESS: Well, I --

23 MR. KURTZ: I mean, this was requested, Your Honor,
24 just -- in the discovery conference just prior to starting, so
25 Mr. Averch, do we have it with us? I mean, it was requested as

1 we were starting court, effectively, today.

2 MR. LEBLANC: Your Honor, we were provided with the
3 exhibits, I believe, I could be wrong, --

4 THE COURT: Nobody's quarreling. Nobody's suggesting
5 anyone did anything not here. So let's just see if we can
6 establish that. And I assume also that you're going to ask
7 about what "Funding Date" is defined as?

8 MR. LEBLANC: I think he's testified to that, Your
9 Honor, and I'm frankly less concerned with that, --

10 THE COURT: All right.

11 MR. LEBLANC: -- because I do think there's a document
12 that suggests there was a funding request of 2 percent on
13 February 12th.

14 THE COURT: Okay.

15 BY MR. LEBLANC:

16 Q Mr. Greenberg, at the time that this was signed -- let's
17 just try to work around the issue. When was this executed?

18 A On February 12, 2010.

19 Q What was the APA at the time on February 12, 2010?

20 A There was an APA dated January 23, 2010.

21 Q Now, you have -- that APA has been terminated, correct?

22 A It was replaced by a subsequent APA.

23 Q In fact, the subsequent APA, which we refer to as the May
24 APA -- is that fair? Do you understand that term?

25 A Sure.

1 Q That was the APA you signed the day before the team filed
2 for bankruptcy, right?

3 A I signed it in May. I don't recall exactly the day.

4 Q Okay. That APA, the May APA, has subsequently been amended
5 yet again, correct?

6 A That is correct.

7 Q Now, your subscription agreement requires your equity
8 financiers only to fund with respect to "the APA," right?

9 A In the February 12th subscription agreement, that's
10 correct.

11 Q So, and you've asked -- I presume you've asked your equity
12 subscribers whether they would fund under the May APA, right?

13 A Well, there was a subsequent funding notice in May.

14 Q Okay. The APA you signed -- or, not the APA, but the
15 amendments that you proposed last week, did you discuss those
16 with your equity subscribers?

17 A No, I did not.

18 Q You didn't even discuss them with them?

19 A Not -- well, with some, but not all.

20 Q Okay. With which equity subscribers did you discuss that?

21 A With Ray Davis --

22 MR. KURTZ: Your Honor, we -- I think we have an
23 understanding about the confidentiality of the names of the
24 investors, at least with respect to most of them.

25 MR. LEBLANC: I'm actually not sure that that's the

1 case. I don't know why the investors of the stalking horse
2 bidder would be confidential, Your Honor. But I think there
3 were substantive changes made to an APA last week. We don't
4 know what the definition of "the APA" is under these documents,
5 but if it is the old APA -- and we don't even know if his
6 equity -- the rest of his equity component is going to
7 subscribe to the APA that was amended last week.

8 THE COURT: Am I right, Mr. Greenberg, that the money
9 is up and in bank accounts?

10 THE WITNESS: Yes, Your Honor. And our investors did
11 not subscribe to an APA. They subscribed to an LLC. And so
12 the terms of the APA -- unless I would be required based on an
13 amendment to give them their money back, it's not relevant.

14 THE COURT: All right. Well, here's what my ruling is
15 going to be. I don't -- it seems to me that you're going to
16 have produced to you a less-redacted version of this, and if it
17 becomes germane at the confirmation hearing you can raise it
18 then. I think the point here is that he's got the money up and
19 that, even assuming that "the APA" is read as broadly as
20 possible, he's got to give the money back on August 12th, as I
21 understand his testimony. So I'm not sure that it matters who
22 they are at this point. Okay?

23 MR. LEBLANC: Your Honor, let me just be clear about
24 where I'm trying to --

25 THE COURT: Okay.

1 MR. LEBLANC: -- to move this. To the extent that
2 "the APA" means the January 23rd APA and not some other APA,
3 then his equity subscribers could pull their money back at any
4 point in time, because that's not what's being --

5 THE COURT: Well, but it's my understanding they
6 funded on June 29th, by which point in time, unless they were
7 oblivious to the rest of the world, they were aware that, since
8 it's been reported repeatedly in the media, that there was --
9 that this APA, the original APA, was gone and there was another
10 APA in its place. Am I mistaken about that?

11 MR. LEBLANC: Well, I'm not -- even if that were true,
12 Your Honor, there's been a subsequent amendment to the APA
13 that, while it hasn't increased materially --

14 THE COURT: All right.

15 MR. LEBLANC: -- the compensation or consideration
16 coming to the banks at the end of the day, it has reduced
17 substantially the escrowed funds.

18 THE COURT: Right.

19 MR. LEBLANC: And so I think it's a fair line of
20 inquiry.

21 THE COURT: Did you give your investors notice of what
22 you were doing?

23 THE WITNESS: Not all of them, because the changes
24 that were made were within the parameters of the authority that
25 I have to make decisions for the entity.

1 THE COURT: All right. Well, it seems to me that you
2 can inquire into the source of that authority. All right?

3 MR. KURTZ: Your Honor, I also would note, counsel is
4 representing the subscription agreement as requiring use of the
5 money, which isn't true, as the witness just said, even for an
6 APA. It's for the transactions contemplated by the APA, and
7 the transaction is fundamentally the same.

8 THE COURT: I understand. I understand. Go ahead,
9 Mr. Leblanc.

10 MR. LEBLANC: Okay.

11 BY MR. LEBLANC:

12 Q In connection with the filing of the bankruptcy, none of
13 the investors asked to get their money back. Is that right?

14 A After I had spoken with each of them and had brought them
15 up to date on what was happening and what all the circumstances
16 were, everyone agreed to honor the commitment that they had
17 executed on February 12th.

18 Q And did anyone raise objection to your request to fund the
19 full amount of their equity obligations on June 29th?

20 A Yes.

21 Q Okay. And what objections did they raise?

22 A "Why are we doing this?"

23 Q And what was your answer to that?

24 A Well, I told them that I believed that, particularly given
25 the fact that there were persistent rumors in the media,

1 sometimes in the name of lenders and sometimes not, that we
2 didn't have the money, that the best way to eradicate any
3 question about it would be to actually have it all in the bank
4 and be able to have bank statements that showed that the cash
5 was all there. I thought the same was true with respect to
6 signing the credit agreement.

7 So, number one, it was a good way to eradicate any doubts
8 or any -- persistent rumors, I believe, was one of the ways
9 that it was phrased in the media -- that we didn't have our
10 capital.

11 The second thing is I felt that, again, with a confirmation
12 hearing coming up, which at that time was scheduled for July
13 9th, with mediation, was meeting with the new CRO, and being of
14 the general understanding that cash and committed capital and a
15 sure thing speaks quite powerfully, that we should go ahead and
16 do this. So I made that case to my investors, and some of them
17 quite willingly and some of them kicking and screaming just a
18 little bit all agreed to do that.

19 Q Now, you are personally an investor. Is that right?

20 A Correct.

21 Q How much are you investing?

22 MR. KURTZ: Objection. Your Honor, there's no
23 relevance, and this is confidential information.

24 MR. LEBLANC: Your Honor, I think it completely goes
25 to Mr. Greenberg's own personal bias in this matter.

1 MR. KURTZ: Your Honor, that makes no sense at all.
2 He is a part of the entity that has made the stalking horse
3 bid. He is clearly in favor of it, and it has nothing to do
4 with bias. It doesn't matter whether he holds none or all.
5 He's a part of the stalking horse. It's no more than a way to
6 pull out confidential information for their continued misuse.

7 MR. LEBLANC: I'm sorry, Your Honor. I didn't hear
8 the last word. Continued--?

9 MR. KURTZ: Misuse. I mean, they're --

10 MR. LEBLANC: Misuse?

11 MR. KURTZ: It has been persistent in a press, and we
12 went through some of it in e-mails yesterday, about these
13 parties. And there's -- what conceivable relevance could this
14 have to a motion to reconsider?

15 MR. LEBLANC: Your Honor, I think -- let me actually
16 ask a different question, then we'll see if it becomes
17 relevant.

18 THE COURT: All right.

19 BY MR. LEBLANC:

20 Q Mr. Greenberg, you are -- in the capital-raising parlance,
21 you're a promoter of this deal. Is that right?

22 A Well, I -- I mean, I've never used that word.

23 Q Are you familiar with what a promoter is of a capital
24 raise?

25 A Yes.

1 Q Okay. And you're being compensated for promoting this
2 deal. Is that right?

3 A In what sense?

4 Q You're getting -- you're being compensated for raising the
5 capital here. Is that right?

6 A There is -- I'm receiving no consideration currently. If
7 the deal doesn't close, I will not have anything to show for it
8 other than a lot of expenses and living in a hotel for 10
9 months.

10 Q And if the deal does close, you will be paid for having put
11 the deal together, correct?

12 A Well, I'll be the managing partner and the chief executive
13 officer, and I'll --

14 THE COURT: Do you get any commission merely by virtue
15 of closing? If the day after closing you say, "Okay, that was
16 nice. Free time. I'll keep my share of the Rangers. Mr. Ryan
17 or Mr. Kurtz, you can take over and run the team," would you
18 get any payment for having made the deal happen, other than
19 your equity interest in the team?

20 THE WITNESS: Simply for closing the deal, no.

21 THE COURT: All right. So you would receive
22 compensation for the work that you did going forward as
23 president and CEO. Is that correct?

24 THE WITNESS: Correct. As well as --

25 THE COURT: And --

1 THE WITNESS: As well as there would -- there is
2 equity which over a period of time would vest for my continuing
3 to --

4 THE COURT: All right.

5 THE WITNESS: -- fulfill my duties as the managing
6 partner and CEO.

7 THE COURT: All right. Is your equity contribution
8 commensurate with your share of the team that you will receive?

9 THE WITNESS: My cash contribution is valued dollar-
10 for-dollar with every other investor's cash contribution, yes.

11 THE COURT: All right. And to the extent that you
12 have future vesting, ownership is -- well, no, I'm not going to
13 ask any more. I think that that covers some of the things that
14 you wanted to get to --

15 MR. LEBLANC: Some of --

16 THE COURT: -- without doing so in an objectionable
17 action. Go ahead, Mr. LeBlanc.

18 MR. LEBLANC: And certainly when it comes from you, it
19 doesn't gain an objection, which is always useful, Judge.

20 BY MR. LEBLANC:

21 Q Is the amount of the carried interest or the amount that
22 you would earn in equity beyond -- for operating the team,
23 could that be in excess of the amount of equity that you're
24 receiving by virtue of participating in the equity raise?

25 A I'm sorry. Could you repeat the question again?

1 Q Sure. Do I understand correctly that, over time, you can
2 earn additional equity because you'll be managing or operating
3 the team? Is that right?

4 A That is correct.

5 Q Okay. And the amount of equity that you would receive
6 through that program, does that exceed the amount of equity
7 that you're buying through your capital contribution?

8 THE COURT: Just a minute, Mr. Greenberg. Go ahead,
9 Mr. Kurtz.

10 MR. KURTZ: Objection, Your Honor. Again, there's no
11 element of this motion which relates in any fashion to the
12 amount that any particular investor or participant could make
13 in connection with this matter.

14 THE COURT: Okay.

15 MR. KURTZ: It's just utterly irrelevant.

16 THE COURT: Leaving aside Mr. Kurtz's objection, what
17 is the relevance of that?

18 MR. LEBLANC: Your Honor, I think it's relevant to
19 understand if the witness, who's testifying as to a pretty
20 critical element here, stands to gain more from closing the
21 transaction personally than simply --

22 THE COURT: He's already testified that by virtue of
23 simply closing that he gains nothing, and that he is a dollar-
24 four-dollar participant on the same level with other equity
25 owners. So if he's putting up 10 percent of the equity, he's

1 getting 10 percent of the equity. I get that right, Mr.
2 Greenberg?

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: And to the extent that he is entitled to
5 future equity, it will be by virtue of his service to the team
6 in the future. So I'm going to rule that the question is
7 irrelevant.

8 MR. LEBLANC: Your Honor, can I just be clear that
9 that won't apply when we're at -- that that ruling doesn't
10 apply to any other --

11 THE COURT: Not necessarily. I don't -- I'm going to
12 have to wait and see what issues we're addressing at
13 confirmation. And if we get to something where it's relevant
14 -- obviously, a question that is not relevant today may be
15 relevant then.

16 MR. LEBLANC: I just want to make clear, because we'll
17 be doing a deposition of Mr. Greenberg between now and
18 confirmation, and I want to make sure --

19 THE COURT: Well, and Mr. Greenberg will be more
20 forthcoming in a deposition that he would be in this courtroom
21 at this point in time. Is that not so, Mr. Greenberg?

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. KURTZ: Your Honor, we will reserve all objections
25 that -- to questions made at the deposition.

1 THE COURT: I understand that you will reserve all
2 objections, and I may have to resolve them. And you and Mr.
3 Leblanc may get to write essays if I have to resolve them.
4 Yes. And this time, you'll write it, not Lauria.

5 MR. KURTZ: I haven't even objected yet, Your Honor,
6 so --

7 THE COURT: I understand. I'm just telling you, when
8 and if we have one, if you can't resolve it and I have to
9 resolve it, just understand that -- keep your fingers limber.

10 MR. KURTZ: And can I remind the Court that I own no
11 villa in Tuscany?

12 THE COURT: No, I just -- it doesn't make any
13 difference to me. I've sentenced other people other than
14 Tuscany villa owners to write essays, as you're aware. There
15 was Mr. Weisfelner, who merely has a 40-room mansion on Long
16 Island.

17 MR. KURTZ: Can I note that I don't have a 40-room
18 mansion on Long Island?

19 THE COURT: Well, that's just because you're working
20 20 hours a day, Mr. Kurtz.

21 MR. KURTZ: That's why I don't need one.

22 THE COURT: That's true. Go ahead, Mr. Leblanc.

23 MR. LEBLANC: Thank you, Your Honor.

24 BY MR. LEBLANC:

25 Q Mr. Greenberg, let me try to find the -- well, without even

1 looking at the credit agreement, you -- there are conditions
2 precedent to the closing of your credit agreement. Is that
3 correct?

4 A Yes, there are.

5 Q Okay. And can you describe for us, define what those
6 conditions precedent are?

7 A Well, I can't cite them chapter and verse, but
8 fundamentally the most important thing is that we have all of
9 our equity and that we close on the acquisition.

10 Q Well, and your lenders under the new credit agreement are
11 going to be secured by, for example, the ballpark stadium. Is
12 that correct? The lease on the stadium?

13 A I -- yes, but I don't understand the reference to the new
14 credit agreement.

15 Q Well, you've signed a credit agreement now. Is that right?

16 A Correct.

17 Q Okay. And let's actually, before we go there, do you have
18 -- let's look at Exhibit 2 of your binder, which is I guess
19 what we'll call Lender Exhibit --

20 MR. LEBLANC: I think we could actually -- should
21 actually call it Lender Exhibit G, because we attached A
22 through F to our motion, if that's okay with the Court.

23 THE COURT: Okay.

24 BY MR. LEBLANC:

25 Q So we'll mark Exhibit 2 in your binder as Lender Exhibit G

1 for identification. This is the redacted version of your
2 credit agreement. Is that right? I'm sorry, of your
3 commitment letter?

4 A It appears to be.

5 Q Okay. And so this again is not our document, but the
6 second page of the document, which is Page 7, --

7 A Yes?

8 Q -- that requires, if I understand it correctly, requires --
9 or, it states that the commitments will expire on August 12,
10 2010, "unless definitive documentation for the senior credit
11 facility is executed and delivered prior to such date." Do you
12 see that?

13 A Yes, I see that.

14 Q So, you have met the commitment -- the requirement of the
15 commitment letter in executing the credit agreement. Is that
16 right?

17 A No, that's incorrect.

18 Q Okay. You have not executed and delivered the definitive
19 documentation for the senior credit facility before August
20 12th?

21 A No, because it's a different context. At that time, we
22 were contemplating a traditional approach where the credit
23 agreement was to be signed as a part of the closing. But as I
24 said earlier, in the end of June/the first week of July, we
25 took the extraordinary step of executing the definitive credit

1 agreement without having had a closing. So this refers to a
2 different set of circumstances than the ones that have played
3 out.

4 Q Well, and this commitment letter, if you look at Page --
5 the first page, was signed on May 15th. Is that right?

6 A Correct.

7 Q Now, on May 15th, you knew that you -- that the team was
8 going to file for bankruptcy, right?

9 A I knew that it was being planned, yes.

10 Q The team's filing for bankruptcy, that was an effort that
11 was coordinated with you. Is that right?

12 A Well, what do you mean by coordinated with me?

13 Q Well, you were aware of it, right?

14 A I was aware of it.

15 Q You reviewed the plan before was filed, right?

16 A I never -- I mean, I personally did not ever read the plan.

17 Q You didn't?

18 A No.

19 Q The executives at the team consulted with you on the
20 statements they would make to their executives. Is that right?

21 A I believe so.

22 Q All right. You commented on that yourself personally,
23 right?

24 A I believe so.

25 Q All right. You engaged -- you personally engaged in

1 discussions with your lenders to describe to them what had
2 happened, right?

3 A What had happened?

4 Q Yeah, with the filing of the bankruptcy, right?

5 A As in after the fact?

6 Q Right.

7 A Yes.

8 Q Right. And you had that discussion, actually, the day --
9 the first day that the case was filed, right?

10 A I can't recall if it was the day it was filed or the day
11 after, but it was on or about that day, yes.

12 Q Right. And in that discussion, you told your lenders that
13 there will be no disruption of the team, its ticket holders,
14 even marketing programs will continue. Right?

15 A That I told them that?

16 Q Or somebody on that call told them that. Is that right?

17 A I recall language like that being in a release that the
18 team sent to its ticket holders. If I -- I mean, I don't
19 recall specifically saying that, but that was my understanding.

20 Q All right. And you told your lenders that it was a
21 "tremendous effort by Hicks' advisors, MLB and us" -- meaning
22 Rangers Baseball Express -- "coordinated to accomplish the same
23 purpose," right?

24 A Correct.

25 Q And so it was a coordinated effort? The bankruptcy filing

1 was a coordinated effort?

2 A Well, I mean, obviously, we signed the new APA in
3 conjunction of it, so we -- all three parties had to
4 participate in it in their own way.

5 Q Well, all three parties had to participate in their own
6 way, but it was a coordinated effort. Is that a fair
7 statement?

8 A If you'd call that coordination, then yes.

9 Q Let me turn back to the question of conditions --

10 MR. KURTZ: I'm just going to caution the witness that
11 counsel will use all words and then try to make something a
12 little later, so use your own words, please, and don't just
13 agree, "If you say so."

14 MR. LEBLANC: Your Honor, I've never seen that before
15 in my career.

16 THE COURT: Just let him ask the questions. This is a
17 -- you keep forgetting this is a bench trial, and you all seem
18 to think I'm a moron. And in case you haven't figured it out,
19 I'm not. So you go ahead and ask your question, okay? I
20 understand what's going on here, and I understand what I can
21 take from the witness' testimony and what I can't. Okay. Go
22 ahead, Mr. Leblanc.

23 MR. LEBLANC: Thank you, Your Honor.

24 BY MR. LEBLANC:

25 Q You --

1 THE COURT: I mean, if he says, "Mr. Greenberg, have
2 you stopped beating your wife?" I'm going to -- if Mr.
3 Greenberg can't protect himself, I'm going to understand that
4 the answer should be taken with a grain of salt. Go ahead, Mr.
5 Leblanc.

6 BY MR. LEBLANC:

7 Q Let me turn back to the credit agreement. Did I understand
8 your testimony un direct that there are, in your words,
9 essentially no conditions precedent to that agreement?

10 A The -- I believe my testimony was that the critical
11 conditions precedent are actually acquiring the assets and
12 having our equity, and those are the two that I've always
13 focused on.

14 Q Are there a material adverse conditions or material -- MAC
15 clauses?

16 A There may be. I'm not personally familiar with what they
17 would be.

18 Q Would an appeal by the Lenders of a decision confirming the
19 plan be MAC?

20 A No.

21 Q Now, the plan as it's currently proposed -- actually, leave
22 the plan aside. The May 23rd APA, as amended, has -- requires
23 that the Hicks overdraft payment be made. Is that correct?

24 A I believe that's referenced --

25 MR. KURTZ: Objection. I think Your Honor has already

1 indicated what that means to this Court.

2 THE COURT: Okay. What was the question again? I'm
3 sorry.

4 MR. LEBLANC: Your Honor, the question was: Does the
5 May APA require the Hicks overdraft protection be paid, the
6 amount payable to Hicks be paid?

7 THE COURT: Overruled. You can answer the question.

8 THE WITNESS: I believe it has that provision, but
9 it's not an obligation of ours.

10 BY MR. LEBLANC:

11 Q Well, and -- okay. But the May APA requires all of the
12 conditions to the land sale agreement also to be met. Is that
13 right?

14 A I believe the two agreements are related to one another.

15 Q Right. And they're related in the way that I just
16 described: All of the conditions in the land sale agreement
17 have to be met for you to be able to close on the APA.
18 Correct?

19 A You know, I'm -- I believe so, but I'm not certain.

20 Q Okay. And similarly, your APA, the May APA, requires the
21 payment of the financial advisors that were retained by Mr.
22 Hicks. Is that right?

23 A I'm not sure how the mechanics work. My understanding is
24 that -- are these obligations that show up with the
25 consideration? And how it gets divided has never been a matter

1 that I'm -- that I've taken great interest in.

2 Q Is it a condition to your loan, a condition precedent to
3 your loan, that you close on the land sale agreement?

4 A I believe so.

5 Q And the land around the ballpark that you're acquiring
6 through the land sale agreement, that is a -- that's going to
7 be part of the security for your lenders. Is that right?

8 A I believe that's correct.

9 Q And so do you expect, even if you don't recall it and we
10 don't have it here in front of us, that your lenders anticipate
11 that they're going to have a security interest on the land
12 around the stadium at that time? At the time that they close
13 on the loan?

14 A That's correct.

15 Q Have you had discussions with Mr. Hicks in the last two
16 weeks about his not getting paid his \$5.7 million overdraft
17 protection agreement -- protection payment?

18 A I don't recall if I have.

19 Q You don't recall one way or the other?

20 A No, I've spoken with Mr. Hicks. I don't recall if that
21 subject ever came up.

22 Q Have you had discussions -- have you had discussions with
23 him at any time about what happens if we can't pay you the \$5.7
24 million?

25 A If who can't pay who the \$5.7 [million]?

1 Q What happens if you can't be paid the \$5.7 million?

2 MR. KURTZ: Your Honor, I just object to the extent
3 that -- and I don't know what the answers are, but to the
4 extent that this is in connection with any kind of settlement
5 discussion, that settlement discussions obviously are
6 inadmissible and shouldn't come out. If this wasn't related to
7 a resolution issue, I have no objection.

8 THE COURT: I always thought the Federal Rule of
9 Evidence applying to settlement discussions concerned
10 settlement discussions of the dispute before the Court. That
11 was always my understanding. And at this point and until such
12 time as a dispute is joined -- am I mistaken about that?

13 MR. KURTZ: I think, Your Honor, any time the parties
14 sit down and try to resolve something, they're protected under
15 408. And I think that there are discussions that have taken
16 place with the parties, and I don't know if this is one of them
17 or not. I'm just cautioning that, if it is, there is live
18 settlement negotiations and they're not admissible and it would
19 be inappropriate to air them in open court.

20 THE WITNESS: Well, at the risk of my counsel --

21 THE COURT: Just a minute.

22 MR. KURTZ: Your Honor, --

23 THE COURT: Just a minute, Mr. Greenberg.

24 THE WITNESS: Okay. Sorry.

25 THE COURT: Keep quiet. (Pause.) Okay. I don't

1 agree with you on your reading of Rule 408. It says,
2 "Prohibited Uses: Evidence is not admissible when offered to
3 prove liability for, invalidity of, or the amount of a claim
4 that was disputed where such evidence is conduct or statements
5 made in compromise negotiations regarding that claim." And I
6 don't see that we're talking about a dispute respecting that
7 claim here. So I'm going to overrule the --

8 MR. KURTZ: Maybe I haven't -- maybe -- I'm not sure
9 I've been clear. I'm just talking about to the extent that
10 there's ongoing negotiations to try to settle this dispute
11 that's the subject --

12 THE COURT: It was my understanding from Mr.
13 Greenberg's testimony that he is putting up the money and he
14 doesn't care where it goes. Is that correct, Mr. --

15 MR. KURTZ: That's true. That --

16 THE COURT: Shh. Shh. Shh. Is that correct, Mr.
17 Greenberg?

18 THE WITNESS: That's -- our obligation is to bring the
19 money to the table to pay TRBP in the case of the APA --

20 THE COURT: Okay.

21 THE WITNESS: -- and BRE in the case of the LLC.

22 THE COURT: So I do not understand that Mr. Greenberg
23 has a dispute respecting whatever claim Mr. Hicks is asserting.

24 MR. KURTZ: He has absolutely no dispute. I haven't
25 been clear. I just was cautioning, and maybe it's for no

1 reason.

2 THE COURT: Yes.

3 MR. KURTZ: I know there's ongoing discussions that
4 include --

5 THE COURT: Right.

6 MR. KURTZ: -- all the participants --

7 THE COURT: Right.

8 MR. KURTZ: -- and this Court on how to get through
9 all of this, --

10 THE COURT: Okay.

11 MR. KURTZ: -- which would include perhaps the
12 subjects that are being addressed. But --

13 THE COURT: Well, I would expect Mr. Leblanc would --
14 since Mr. Leblanc faces a real possibility that eventually this
15 sale will be approved, I would assume he would not want to
16 explore something that might adversely affect what his client
17 will receive under the sale.

18 So I'm going to overrule the objection and allow you to ask
19 the question, if you wish, and let the chips fall where they
20 may.

21 BY MR. LEBLANC:

22 Q Have you had discussions with Mr. Hicks about his overdraft
23 protection not being paid as part of your APA?

24 A And I apologize, but not being paid by us or not being paid
25 at all? I just want to make sure I understand your question.

1 Again, it's our view, we've never viewed it that we were paying
2 particular obligations to particular parties. We're just
3 bringing consideration to the table for TRBP in the one
4 agreement and BRE in the other agreement.

5 MR. LEBLANC: Your Honor, may I approach the witness?

6 THE COURT: Sure.

7 MR. LEBLANC: And may I approach the bench?

8 THE COURT: Yes. Remember, though, if you don't talk
9 into the microphone, we don't get you.

10 (Pause.)

11 MR. LEBLANC: Do you want an extra copy for your
12 clerk, Your Honor?

13 THE COURT: That would be nice.

14 BY MR. LEBLANC:

15 Q Now, Mr. Greenberg, I'd like to -- this -- do you recognize
16 this document?

17 A Yes. I recognize the cover page.

18 Q All right. And we've marked this as Exhibit -- Lenders'
19 Exhibit H.

20 A Okay.

21 Q And I want you to turn to Page 28 of the document, if you
22 could. And while you're doing that, you recognize this to be
23 the May version of the asset purchase agreement. Is that
24 right?

25 A Yes.

1 Q And it's the May version of the asset purchase agreement
2 that you executed, right?

3 A Yes.

4 Q It's the one that you asked the Court to approve as part of
5 this bankruptcy, correct?

6 A Yes.

7 Q In Section 3.2, the "Payment of the Purchase Price" defines
8 where you are to wire the money. Is that right?

9 A Correct.

10 Q All right. And among the places that you are to wire the
11 money, in Romanette iv, is to an account designated by Hicks,
12 "an amount necessary to discharge the full outstanding
13 principal, interest, fees and expenses payable as of the
14 closing pursuant to the overdraft protection agreement in
15 respect of the overdraft protection advance." Do you see that?

16 A Yes.

17 Q All right. So, at closing, you are supposed to, under this
18 agreement, wire that amount to Mr. -- an account designated by
19 Mr. Hicks, right?

20 A Yes.

21 Q And that provision, Section 3.2, is not a provision that
22 you have to date amended as part of the amendments that you've
23 made to the APA. Is that right?

24 A I believe that's correct.

25 Q And so if you are unable to make that wire, by virtue of

1 any reason, including an order of the Court saying that you
2 can't, do you know if you could close under this APA?

3 A Are you asking for a legal conclusion? I'm not sure --

4 Q I'm asking your understanding.

5 A -- I understand the question.

6 Q Your understanding, Mr. Greenberg. Do you have an
7 understanding?

8 A My understanding has always been that we show up with the
9 money and what happens to it after that is other people's
10 concerns.

11 Q You read the contract before you --

12 A I had.

13 Q -- signed it, right?

14 A And I'm telling you what my understanding is of our
15 obligations.

16 Q Okay. But again, a failure to close on the land sale
17 agreement as part of your acquisition would result in an
18 inability to close under the APA. Or, I'm sorry, under your
19 credit agreement. Is that right?

20 A The credit agreement contemplates that we fulfill -- that
21 we consummate both transactions.

22 Q Well, have you had that discussion with your lenders,
23 whether they would close without the land sale agreement?

24 A No, I have not.

25 Q Now, in the May APA, you negotiated an outside date for

1 closing. Is that right? An outside termination date?

2 A That is correct.

3 Q And the date that you negotiated was October 31, 2010,
4 right?

5 A I don't recall if that was the outside -- the initial
6 outside date or date to which we could extend, but I do recall
7 that, whether it was the initial date or an extension date,
8 that it gets out to that, around the end of October.

9 THE COURT: Excuse me, Mr. Leblanc. Just as you had
10 an issue before, we have someone up here, --

11 MR. LEBLANC: Absolutely, Your Honor.

12 THE COURT: -- other than me, that has an issue at
13 this point. So when you come to a convenient stopping point,
14 can we take a recess?

15 MR. LEBLANC: This is perfectly fine, Your Honor.

16 THE COURT: All right. We'll take ten minutes.

17 THE CLERK: All rise.

18 (A recess ensued from 3:05 p.m. to 3:18 p.m.)

19 THE COURT: Please be seated. Okay. Mr. Leblanc?

20 MR. LEBLANC: Thank you, Your Honor.

21 CROSS-EXAMINATION, RESUMED

22 BY MR. LEBLANC:

23 Q Mr. Greenberg, do you still have the APA there in front of
24 you, Exhibit H?

25 A I do, yes.

1 Q Okay. If you could, look at Page 74, Article 9. Do you
2 have that there in front of you?

3 A I'm getting there.

4 Q Okay.

5 A Okay. I've got it. Thank you.

6 Q All right. And these are the conditions to closing,
7 correct?

8 A Correct.

9 Q And so these are some of the conditions precedent that we
10 described earlier, right?

11 A Well, these are conditions to our obligations.

12 Q Okay. And when you say to your obligations, these are --
13 the first part it, 9.1, are conditions to the purchaser
14 obligations; 9.2, carryover on Page 75, those are the
15 conditions to the obligations of the seller. Right?

16 A Correct.

17 Q Within your conditions, and particularly on Page 75, Letter
18 J, requires that "The transactions contemplated by the BRE land
19 purchase agreement shall have occurred or shall occur
20 simultaneously with the closing." Do you see that?

21 A Yes.

22 Q Okay. So your obligation is to, as a condition precedent
23 to closing on the APA, is to consummate the land sale
24 agreement, right?

25 A We are not obligated to close on the APA unless we are also

1 able to close on the land sale agreement.

2 Q And there's a similar provision in Section 9.2(i) as a
3 condition precedent to the obligations of the seller, that "The
4 transactions contemplated by the BRE land purchase agreement
5 shall have occurred or shall occur simultaneously with the
6 closing," right?

7 A Correct.

8 Q Okay. And those -- so those obligations are the
9 obligations of TRBP, right?

10 A That's correct.

11 Q And those are -- and it's TRBP now is the only seller
12 pursuant to the May APA, correct?

13 A Correct.

14 Q And that's different from the January one because all the
15 assets were moved into TRBP, right?

16 A It's -- I know that the principal seller in April was HSG.

17 Q All right. And the principal seller now is TRBP, correct?

18 A That's correct.

19 Q And any assets that you were purchasing were moved into
20 TRBP in the days leading up to the bankruptcy, right?

21 A I'm not sure which assets were moved from which entity to
22 what entity, but ultimately we're acquiring the same assets
23 under the May APA that we had negotiated to acquire in the
24 January APA.

25 Q Now, among the obligations of the land sale agreement are

1 the obligations to fund Mr. Hicks' overdraft protection. Is
2 that right?

3 A I don't recall exactly how it was styled. I recall what
4 the overall economic obligations were, but how and what it was
5 characterized, I'm not certain.

6 Q Okay. Well, let's take a look at it.

7 A Okay.

8 MR. LEBLANC: May I approach the witness and the
9 bench, Your Honor?

10 THE COURT: Yes.

11 BY MR. LEBLANC:

12 Q Mr. Greenberg, I've handed you what's been marked as
13 Exhibit I for identification. Do you recognize this document?

14 THE COURT: Incidentally, Mr. Leblanc, did you offer
15 H?

16 MR. LEBLANC: I did not, Your Honor. It's actually of
17 record already in the Court, but I will offer its admission.

18 THE COURT: I think so. Any objection?

19 MR. KURTZ: No objection, Judge.

20 THE COURT: I will be admitted. Or, H will be
21 admitted.

22 (Lenders' Exhibit H is received into evidence.)

23 MR. LEBLANC: I'll offer I, too, while we're at it,
24 Your Honor.

25 THE COURT: Any objection?

1 MR. KURTZ: Is that the land sale agreement?

2 THE COURT: Yes.

3 MR. KURTZ: I just ask because mine says D. No
4 objection.

5 THE COURT: It will be admitted.

6 (Lenders' Exhibit I is received into evidence.)

7 MR. LEBLANC: Your Honor, just for the record, I
8 believe it's Exhibit D, I'm not sure to what, actually. Maybe
9 the disclosure statement. But this is the version that we had.
10 But for the purposes of this, it's Lenders' Exhibit I, now
11 admitted.

12 THE COURT: Correct.

13 BY MR. LEBLANC:

14 Q Mr. Greenberg, do you -- this is the land sale agreement
15 that you entered into with Mr. Hicks. Is that right?

16 A That we entered into with Ballpark Real Estate, LP.

17 Q Okay. And you corrected me there because Mr. Hicks only
18 owns 80 percent of Ballpark Real Estate. Is that right?

19 A I don't know.

20 Q But you do understand Mr. Hicks has a controlling interest
21 in Ballpark Real Estate, right?

22 A That's my understanding, yes.

23 Q Now, and you see here that, on the first page of the
24 agreement, Texas Rangers Baseball Partners is also a party to
25 this agreement. Do you see that?

1 A I do see that.

2 Q All right. And that was a change to what -- how the
3 agreement existed previously. Is that right?

4 A I don't recall.

5 Q You don't recall one way or the other?

6 A No.

7 Q Okay. And if you could turn to the next page of the
8 document, which is the first page of the agreement, and it
9 begins with, "This amended and restated land sale agreement."
10 Do you see that?

11 A Yes.

12 Q And it identifies the parties to the agreement, and then at
13 the very last couple of clauses, it says, "And for the sole
14 purpose of Section 6.12 hereof, Texas Rangers Baseball
15 Partners, a Texas general partnership, Rangers, GP," -- you see
16 that?

17 A I do, yes.

18 Q Okay. So is it at least your understanding -- if you don't
19 know if this is a change, that's fine -- but is it at least
20 your understanding as you sit here today that the Rangers are a
21 party solely for the provisions of Section 6.12?

22 A That's what this appears to say, yes.

23 Q All right. You don't believe that TRBP is gaining any
24 advantage from this land sale agreement, right?

25 A No, that's incorrect.

1 Q Okay. They're not -- TRBP is not getting any proceeds paid
2 to BRE. Is that right?

3 A I don't know.

4 THE COURT: You mean proceeds from the land sale paid
5 to them?

6 MR. LEBLANC: Proceeds from the land sale, correct.

7 BY MR. LEBLANC:

8 Q They're not gaining any proceeds from the land sale itself,
9 right?

10 A Not to my knowledge.

11 Q Okay. Well, let's look at what 6.12 is. That's on Page --
12 Internal Page 26 of the document. (Pause.) Are you there with
13 me?

14 A Yes.

15 Q All right. And I want to just focus, really, on a couple
16 of the provisions. And Section B, on the page that's -- it
17 starts on Page 27. Or B actually is entirely on Page Section
18 27. Do you have that there in front of you?

19 A Yes, I do.

20 Q Okay. And it was -- is it your understanding that, as part
21 of this Section 6.12, TRBP is granting a release to BRE?

22 A This was a level of nuance in the agreement that I -- I
23 mean, I just didn't get into. That's what I rely on lawyers
24 for.

25 Q Okay. So it wasn't relevant to you one way or the other

1 whether TRBP was granting a release to BRE?

2 A No, I didn't say that. I said that what I focused on was
3 the business aspect of this, and I leave the legal work to the
4 lawyers.

5 Q Well, among -- do you consider the granting of a release to
6 Mr. Hicks personally an issue for the lawyers or a business
7 one?

8 A Well, my business interest is in acquiring control of the
9 real estate 365 days a year, 24/7, because I think it's
10 essential to have a successful platform on which to operate and
11 grow and succeed with the Texas Rangers.

12 Q Okay.

13 A That's my business objective.

14 Q All right. My question actually was, do you consider the
15 granting of a release to Mr. Hicks by the Debtor a business
16 point or a lawyer's point?

17 A Well, I think I explained what my objective was in
18 negotiating it.

19 THE COURT: Am I correct that your testimony is that,
20 for you, it wasn't a business point?

21 THE WITNESS: That is correct, Your Honor.

22 THE COURT: As I understand it, you're buying the
23 assets of the Debtor. Correct?

24 THE WITNESS: Correct.

25 THE COURT: Okay. You don't care what the Debtor does

1 afterwards?

2 THE WITNESS: That is correct.

3 THE COURT: Okay. Sorry, Mr. LeBlanc.

4 MR. LEBLANC: That's quite all right, Your Honor.

5 BY MR. LEBLANC:

6 Q Now, Section of the C of the same -- of that same
7 provision, Section 6.12, says that "Upon the consummation of
8 the transaction contemplated by the new purchase agreement,
9 Rangers GP shall cause the overdraft protection advance to be
10 discharged in full," and then it goes on from there. Do you
11 see that?

12 A Yes.

13 Q So the payment by the Rangers of the overdraft protection
14 has been made a condition of the land sale agreement that you
15 signed, right?

16 A It appears that way, yes.

17 Q And the signing and the consummation of the transaction as
18 contemplated in the land sale agreement is a condition to your
19 asset purchase agreement as it stands as of May 23rd. Correct?

20 MR. KURTZ: Asked and answered.

21 THE COURT: Go ahead.

22 THE WITNESS: As I recall that provision, it was a
23 series of instructions on where payments should go. I don't
24 recall that I characterized it one way or the other.

25 BY MR. LEBLANC:

1 Q Let's look at Section -- Exhibit H, Page 75, Section 9 --
2 I'm sorry. Page 76, Section 9.2(i).

3 MR. KURTZ: Your Honor, we've already been through
4 this testimony and this section.

5 THE COURT: Well, let's hear what the question is.

6 MR. LEBLANC: Sure.

7 THE COURT: Go ahead, Mr. Leblanc.

8 BY MR. LEBLANC:

9 Q Now, you testified a minute ago that there was -- you
10 referred to the payment provisions, but you do understand, do
11 you not, Mr. Greenberg, that the consummation of the land sale
12 agreement and the meeting of its conditions is a condition
13 precedent to the closing of your asset purchase agreement.
14 Right?

15 A Yes.

16 Q And the closing of your asset purchase agreement is a
17 condition precedent to the loan, the credit agreement that
18 you've executed. Is that right?

19 A That's correct.

20 Q Now, to the extent that there is litigation around the
21 ballpark lease, is that a condition precedent, that there not
22 be disputes about the validity of the transfer of the ballpark
23 lease? Is that a condition precedent to your loan closing?

24 A Could you be more specific?

25 Q Than the question?

1 A Yes.

2 Q All right. You understand there's been litigation about
3 the transfer of the ballpark lease, right?

4 A Yes.

5 Q And is the resolution of that -- well, let me step back and
6 ask a foundational question. The ballpark lease is part of the
7 collateral package that you're providing your lenders under
8 your new credit facility. Is that correct?

9 A Well, the ballpark lease is part of what we're paying to
10 acquire.

11 Q Well, but is it a part of the collateral that you're
12 providing to your lenders?

13 A I assume it's so, yes.

14 Q Okay. And so you have to deliver that ballpark lease to
15 your lenders, right?

16 A Presumably, yes.

17 Q And if you can't deliver the ballpark lease to your
18 lenders, it's your expectation that they wouldn't be required
19 to close under their loan, right?

20 A Well, I mean, that's getting one step ahead of things. The
21 business deal that we negotiated, that we contemplate, includes
22 acquiring the ballpark lease, so it's kind of a chicken-and-egg
23 thing.

24 Q So if you can't acquire the ballpark lease for whatever
25 reason through the APA that you signed with TRBP, then you

1 couldn't close the agreement, right?

2 A Well, it wouldn't be the same business deal we bargained
3 for.

4 Q And so if it's not -- I mean, just to be clear, if it's not
5 the same business deal that you bargained for, you would be
6 forced to go back to your financiers, both equity and debt, and
7 ask them either to agree to a new business deal or to change
8 the terms upon which they previously agreed. Right?

9 A Well, but even before that, I would have to reconsider the
10 value of the assets being acquired.

11 Q But if you wanted nonetheless to go forward with it, you'd
12 have to go back to them and asked them if they would consent to
13 the deal as it's now been changed, right?

14 A Again, I mean, to me, the fundamental thing is: Would that
15 change the business deal in a way that would change the value
16 to me? If I were still willing to go forward, then the next
17 step would be to go and assure that we still had financing.
18 But the threshold question is whether it changes the business
19 deal in a way that I'm satisfied with.

20 Q Now, let's go back, if we could, to Exhibit 1, which is the
21 exhibit you went over with your counsel. Do you have that
22 there in front of you?

23 A Yes. Yes.

24 Q Now, was your testimony -- did I understand you correctly
25 that the initial funding that occurred was 2 percent of each

1 investor's commitment? Is that right?

2 A That's correct.

3 Q And that occurred on or about February 12th. Is that
4 right?

5 A Correct.

6 Q And then the remainder of the commitment was funded on what
7 day?

8 A Well, there were two subsequent fundings. The initial one
9 was on or about February -- well, on February 12th, which was 2
10 percent. And then I believe in May we funded an additional
11 1-1/4 percent. And then in late June I put out the funding
12 notice for the remaining 96.75 percent.

13 Q So the remainder of the commitment was funded through wire
14 transfer on June 29th?

15 A Through -- no. The funding notice went out on June 29th.
16 I believe we received the wires on -- I think on Friday, July
17 2nd. We got some of them on Thursday, July 1st, others on
18 Friday, July 2nd, and we also received two checks.

19 Q Okay. And so let me see if I can ask a better question
20 than -- that was a fair clarification. The remainder of the
21 commitment was funded through a wire transfer or transfers of
22 immediately-available funds not later than three business days
23 following the transmission by Rangers, LLC of a funding notice
24 on June 29th. Is that right?

25 A I'm sorry. I apologize.

1 Q Sure.

2 A Can you repeat that?

3 Q You transmitted the funding notice on June 29th, seeking
4 parties, your commitment parties, to fund the remainder of
5 their commitments through a wire transfer within three days.
6 Is that right?

7 A I -- we had formerly specified the three business days. It
8 was a funding notice, and we asked for everybody to fund by the
9 end of the week.

10 Q All right. But the date that you asked for the remainder
11 of their -- for them to fulfill the remainder of their
12 commitment, that was June 29th? That was the date you sent
13 that out, right?

14 A That was the last of the three funding notices.

15 Q Well, you said it was the last of the three funding
16 notices. If you have Exhibit 2 there in front of -- Exhibit 1
17 there in front of you, look with me, if you would, at Page 2 of
18 that. (Pause.) And I think we have the full definition here
19 of the funding date. Do you see the definition of the "Funding
20 Date" there?

21 A That's correct.

22 Q Yeah. The definition -- the "Funding Date" is defined in
23 the, well, I assume, penultimate sentence of the paragraph. It
24 looks like the last one might be just one paragraph that's
25 redacted. But the full definition says, "Assuming the

1 fulfillment of the conditions described in Section 1,
2 subscriber must fulfill the remainder of the commitment through
3 a wire transfer or transfers of immediately-available funds no
4 later than three business days following transmission by
5 Rangers, LLC of a funding notice." And that's defined as a
6 "Funding Date." Do you see that?

7 A Right. Right. That's talking about a funding date, not
8 the funding date.

9 Q Okay. But what's described as a funding date is the date
10 upon which you transmit the request to fulfill the remainder of
11 the commitment, right?

12 A That's what the language says.

13 Q Right. And in fact, the 2 percent funding that happened on
14 February 12th, that was actually done pursuant to the
15 subscription agreement, right?

16 A Yes.

17 Q All right. So the 2 percent that's referenced in the
18 preceding sentence of this paragraph, the February 12th
19 funding, that was the 2 percent that's referenced in the
20 preceding sentence of the paragraph. Correct?

21 A Correct.

22 Q All right. Now, if we look at the termination provisions
23 that you went through with your counsel, and in particular,
24 Paragraph C, Subparagraph C of Paragraph 4 on Page 5, which is
25 -- immediately follows Page 2, that provision says, "If the

1 consummation of the transactions contemplated by the APA does
2 not occur on or prior to the date 180 days after the first
3 funding date," -- do you see that?

4 A I do.

5 Q And funding date there is the defined term, "Funding Date,"
6 capital F, capital D, right?

7 A It does --

8 MR. KURTZ: Objection. Modified by "the first."

9 THE COURT: Let him get there. Go ahead.

10 BY MR. LEBLANC:

11 Q You see that that's the defined term, correct?

12 A I do see that they use the defined term here.

13 Q Well, when you say "they," this is --

14 A Well, it's drafted.

15 Q -- your agreement, right?

16 A Bad use of pronouns. Yeah. I do see the capital F and the
17 capital D.

18 Q There's no name on it, but I assume on Page 7 that's your
19 signature, right, as CEO?

20 A Correct.

21 Q Okay. So you used the defined term, capital F, capital D,
22 Funding Date?

23 A That's correct.

24 Q Now, what would the date six months -- with the definition
25 of Funding Date as provided on Page 2 as -- if we use the date

1 of the remainder of the funding commitment through wire
2 transfers, if we use that as the definition, what's the date
3 six months thereafter?

4 A Mr. Leblanc, that's not anybody's interpretation within our
5 group. Everybody understood they were making a commitment for
6 six months from the date of their commitment. I understand how
7 you're interpreting it and applying it, but it's really dancing
8 on the head of a pin, because it doesn't make any sense
9 otherwise. Otherwise, this would contemplate that people would
10 fund their entire commitment and it would sit around for six
11 months. That wasn't anybody's contemplation. At the time of
12 the notice in February, we were anticipating a closing in early
13 April. The idea of being committed for six months seemed like
14 a very long time at that point. No one was contemplating it
15 was six months beyond a date that didn't have a fixed starting
16 point.

17 Q All right. And you obviously, like Mr. Ryan, would like to
18 own this asset, right?

19 A Of course.

20 Q Right. And you understand, do you not, that an earlier --
21 having a process that has less time for other bidders, that
22 that makes it more likely that you will own the asset. Right?

23 A I guess we'll see.

24 Q Well, but you understand that -- you've had -- how much
25 time did you have to diligence these assets?

1 A Well, are you asking me how long it takes to diligence
2 these assets?

3 Q No, no. I'm asking you how much time did you have? I
4 don't need opinion testimony. You. How much time did you
5 have?

6 A Well, I started looking at this after a number of other
7 investors, but I began in May of 2009.

8 Q And you've been in an exclusive arrangement with the Debtor
9 since January 23rd at the latest, right?

10 A I hope so.

11 MR. KURTZ: Objection. I don't think that's accurate.
12 Exclusive since? Through today, apparently.

13 THE COURT: Well, that's up to the --

14 MR. KURTZ: Because if it is, then --

15 THE COURT: Up to the date of filing. All right. Go
16 ahead.

17 BY MR. LEBLANC:

18 Q Well, up -- okay. At least up to the date of filing,
19 correct?

20 A That's what we're contractually entitled to.

21 Q Well, but you have been in that, correct?

22 A I -- that's what our rights are. I believe up to the date
23 of filing, from January 23rd to the date of filing, we had the
24 right of exclusivity.

25 Q And in fact, after the filing, you were -- you, the --

1 Baseball Express was asked if Mr. Crane could communicate with
2 the Lenders. Is that right? Do you recall that happening?

3 A Third-hand, I had heard about that, yes.

4 Q Okay. But you heard about that after the filing happened,
5 right?

6 A No, I heard of communications between Mr. Crane and the
7 Lenders well before the filing.

8 Q But you were asked to authorize the Lenders to speak with
9 Mr. Crane after the filing. Isn't that correct? You either
10 know or you don't. That's fine if you don't.

11 A There was a request that was made to one of our attorneys
12 to authorize it.

13 Q All right. And the request that came back from your
14 attorney was, "Provide us with every prepetition communication"
15 -- that was the request made of the Debtor -- "and we'll
16 consent to them talking to the Lenders." Isn't that right?

17 A That's what I recall.

18 Q Right. And you didn't at that time authorize the Debtors
19 to speak to any other bidder. Is that correct?

20 A I believe that's correct.

21 Q All right. And in fact, you only -- you're now agreeing to
22 allow the Debtors to speak with other bidders, right?

23 A We were willing to waive whatever right of exclusivity we
24 had as part of approved bidding procedures.

25 Q Right. But not as part of approved bidding procedures.

1 You took the position with the Debtors that you had
2 exclusivity, did you not?

3 A We believed that was our right, and -- but we also --

4 THE COURT: So, the answer to the question is yes?

5 THE WITNESS: Yes.

6 THE COURT: Okay. Remember when you were practicing
7 law?

8 THE WITNESS: Yes.

9 THE COURT: And do you remember how mad you got at
10 witnesses who answered yes or no questions with a paragraph or
11 two?

12 THE WITNESS: Yes.

13 THE COURT: Okay. Good.

14 (Laughter.)

15 THE WITNESS: Thank you.

16 THE COURT: Go ahead, Mr. Leblanc.

17 BY MR. LEBLANC:

18 Q And you took --

19 THE COURT: Lawyers are the worst witnesses in the
20 world. I know that.

21 THE WITNESS: I'm sure I'll be told that after this.

22 BY MR. LEBLANC:

23 Q You took that position, that the Debtors couldn't negotiate
24 with anyone, notwithstanding anything the Court may have said.

25 Correct?

1 A Yes.

2 MR. KURTZ: Your Honor, this is all well outside the
3 scope of the direct examination.

4 THE COURT: That's all right. Overruled. We've let
5 you both go both ways on that, and that's what we're going to
6 do. I don't want them to recall Mr. Greenberg after you rest.
7 Go ahead.

8 MR. LEBLANC: I don't want to do that either, Your
9 Honor.

10 BY MR. LEBLANC:

11 Q And so, until the bid procedures were entered by the Court
12 last Thursday -- right? You recall that?

13 A Yes.

14 Q And until that time, you had taken the position that the
15 Debtors could not negotiate with anybody else because that
16 would violate your exclusivity provision. Right?

17 A We believe we had that right, yes.

18 Q And you communicated that to the Debtors, correct?

19 A I believe we did.

20 Q Now, you personally have met with Mr. Beck, haven't you?

21 A Yes.

22 Q And you did so after the bankruptcy was filed, right?

23 A Correct.

24 Q And you recommended that he not take part in the bidding
25 process, did you not?

1 A Well, that's more than a little out of context.

2 Q Well, I just want to know if you actually made it that
3 recommendation to him.

4 A Did I recommend it to him, that he not?

5 Q Yeah. Or you suggested to him?

6 A I don't -- I don't recall that.

7 Q You met with Dennis Gilbert last week at the All Star Game,
8 did you not?

9 A I didn't meet with him. We came across each other at a
10 number of social functions.

11 Q And you discussed with him the potential Rangers
12 transaction, did you not?

13 A Well, not in any substance.

14 Q All right. But did you suggest to him that he not take
15 part in the bidding process?

16 A No, I did not. (Pause.) No, I did not make that
17 suggestion to him, just to clarify.

18 Q Clarify. That's fine. At the time that the bankruptcy was
19 filed, did you have all \$160 million of your debt committed by
20 lenders?

21 A At the time of the filing of bankruptcy, no, we did not
22 have all \$160 [million].

23 Q You had \$130 million of it committed, correct?

24 A I believe that's correct.

25 Q You had a meeting at Major League Baseball's offices with

1 Mr. Galatioto, correct?

2 A Before the bankruptcy.

3 Q Before the bankruptcy.

4 A Correct.

5 Q And as part of that meeting, you asked Mr. Galatioto if he
6 would provide an additional \$40 million of financing. Is that
7 correct?

8 A No, that's incorrect. He offered us financing.

9 Q And the amount that you had identified in a discussion with
10 him was \$40 million of financing?

11 A No, that's out of context.

12 Q Well, but is it correct?

13 MR. KURTZ: Objection. He just said he didn't ask for
14 it.

15 MR. LEBLANC: And the question, Your Honor, was: The
16 amount that you identified in that discussion with him was \$40
17 million, whoever asked or --

18 MR. KURTZ: "You" identified meaning the witness
19 identified?

20 MR. LEBLANC: Your Honor, --

21 THE COURT: Yes, I guess so.

22 MR. KURTZ: Okay.

23 THE COURT: Did you identify to Mr. Galatioto that you
24 were looking for \$40 million?

25 THE WITNESS: We did not identify that we were looking

1 for \$40 million. We were being asked to come up with
2 additional consideration to try to settle this matter. He felt
3 very strongly that he wanted to lend money to us. He said that
4 he was prepared to lend anywhere from \$40 to \$100 [million],
5 and we said, "We have no use for a larger figure," and the
6 minimum figure he said was \$40 [million] and we were discussing
7 \$40 [million], but not because we were \$40 million shy in our
8 financing.

9 THE COURT: All right. Go ahead.

10 BY MR. LEBLANC:

11 Q But you were -- at the time you filed, you were \$30 million
12 shy in your financing, right?

13 A That's correct.

14 Q And you got the last commitment in your financing on June
15 14th. Is that right?

16 A I don't recall the date.

17 Q But U.S. Bank was the last one that came in?

18 A That is correct.

19 Q Okay. So at the time that you filed for bankruptcy, you
20 did not have -- I asked that question already, so I'll pull
21 that. And the terms of your financing commitments required you
22 to have the full \$160 million committed. Is that right?

23 A Without having additional equity, yes.

24 Q And the question of your proof of financing was one that
25 you had discussions with the Debtors about leading into the

1 bankruptcy filing. Isn't that right?

2 A I'm sorry. Could you repeat that, please?

3 Q The question of the financing commitments and whether you
4 actually had the financing committed is something that you had
5 many discussions with the Debtors about, correct?

6 A We discussed it with the Debtor, yes.

7 Q All right. And -- all right. Let me move to a different
8 topic. One of your main investors, and I'll try not to
9 identify them, asked for a call with Mr. Selig. Isn't that
10 correct?

11 A Not that I'm aware -- not that I can recall.

12 MR. LEBLANC: Your Honor, it's frankly going to be
13 very difficult to have -- to go into this line of questioning
14 without actually giving the name of the person. And I don't --
15 I think it's public, but I think that there shouldn't be a
16 limitation on our ability to do that.

17 THE COURT: All right. Let's -- why don't you --

18 MR. KURTZ: He can use his name. His name is public.

19 THE COURT: All right. Go ahead, then.

20 BY MR. LEBLANC:

21 Q Bob Simpson is one of your primary investors, right?

22 A Yes, he is.

23 Q And he's one -- there's two -- the big money people in your
24 deal are two people, right?

25 A Yes.

1 Q And Mr. Simpson is a person of substantial means. Is that
2 correct?

3 A Yes.

4 Q And are you aware of Mr. Simpson's representatives seeking
5 an audience with the Commissioner of Baseball?

6 MR. KURTZ: Assumes facts not in evidence.

7 MR. LEBLANC: Your Honor, if I may approach, I'll mark
8 this --

9 THE COURT: All right.

10 MR. LEBLANC: -- as the next exhibit.

11 THE COURT: Go ahead.

12 MR. LEBLANC: May I approach the bench as well, Your
13 Honor?

14 THE COURT: Yes.

15 MR. KURTZ: Counsel, can I have a copy of that?

16 MR. LEBLANC: Yes. As soon as we get one marked,
17 we'll give you a copy.

18 (Pause.)

19 MR. LEBLANC: Your Honor, before we -- I don't want to
20 talk -- before we talk about this, the document that we've
21 marked for identification as Exhibit J is marked confidential
22 by Major League Baseball. The provisions of the protective
23 order, I believe, require us, unless it's de-designated, to
24 file it under seal. And I don't know if it requires us to
25 clear the courtroom or not. I just don't recall. So I -- and

1 if Your Honor would like me to, I'll take a -- we can take a
2 look at the protective order.

3 THE COURT: All right. Do that.

4 (Pause.)

5 MR. KURTZ: Your Honor, I will say there is one name
6 here that I'm not familiar with, and I can't seem to find
7 anybody who is. I could --

8 THE COURT: Is that the name right after the
9 reference?

10 MR. KURTZ: It is.

11 THE COURT: Okay.

12 MR. KURTZ: And so I don't know if that's an investor,
13 whether that's confidential or not.

14 THE COURT: Well, I thought the first line of the e-
15 mail that is below the May 6th date at 11:05 a.m. --

16 MR. KURTZ: Yeah. That --

17 THE COURT: -- explains who it is.

18 MR. KURTZ: That may not be the only capacity. I'm
19 just not sure.

20 THE WITNESS: Okay.

21 MR. KURTZ: Okay? You've seen it? Okay.

22 THE WITNESS: It's okay.

23 THE COURT: All right?

24 MR. KURTZ: We have no objection to the use --

25 THE COURT: Okay. Does Major -- how does Major League

1 Baseball have to say, if anything, about this?

2 MR. SHIMSHAK: I'm sorry, Your Honor?

3 THE COURT: What does Major League Baseball have to
4 say about this, if anything? Do you have a problem with us
5 discussing this exhibit?

6 MR. SHIMSHAK: I'd like to confer with the client for
7 a second, Your Honor. I just --

8 THE COURT: Okay. You need to speak into a
9 microphone.

10 MR. SHIMSHAK: Unless this is for attorney's eyes
11 only.

12 MR. LEBLANC: No. I believe it's just confidential.

13 MR. SHIMSHAK: Okay. Then I -- could I just have a
14 moment --

15 THE COURT: Yes, --

16 MR. SHIMSHAK: -- to confer with the client?

17 THE COURT: -- but you need to speak into the
18 microphone, too. That's -- I heard you. You want a moment,
19 and you have a moment.

20 MR. SHIMSHAK: Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. LEBLANC: And while he's doing that, Your Honor, I
23 do have the protective order here, and if we need to -- I think
24 we can actually use it without clearing the courtroom.

25 THE COURT: That would be good.

1 MR. LEBLANC: Yes.

2 THE COURT: While we're waiting, it's my understanding
3 that some issues have arisen respecting bringing telephones,
4 cell phones, into the courtroom. And I want to be clear that,
5 except for attorneys, who are allowed to bring cell phones into
6 the courtroom, no other person is supposed to bring cell phones
7 into the courtroom.

8 Now, I'm going to look into whether or not I can change
9 that by my order. I would prefer not -- I'll be happy to have
10 you all ask Judge McBryde to change it for you. But I'm not
11 sure I want to do that. So, and I'll be honest with you. I'd
12 be surprised if Judge McBryde would consider the interests of
13 media representatives sufficient to overcome his general rule.
14 If I can do it by court order, I will, but I probably will not
15 get it done today, and very likely will not get it done before
16 the testimony tomorrow, which I suspect is a time when you
17 would like to have that available to you. But I'll do the best
18 I can for you.

19 I recognize that there are people who are attending the
20 hearing by phone, and we're looking into whether or not those
21 persons are permitted to do via the telephone what they would
22 not be permitted to do if they were in the courtroom.

23 All right. Mr. Shimshak?

24 MR. SHIMSHAK: Your Honor, I wanted a clarification
25 from Mr. Greenberg's counsel that the reference to the two

1 names in the first sentence of the e-mail -- and perhaps it's
2 better if I just show it to him.

3 THE COURT: Go ahead.

4 MR. KURTZ: Yeah. I can confirm that everybody is
5 free to disclose those two names --

6 THE COURT: All right.

7 MR. KURTZ: -- and to discuss this exhibit during the
8 --

9 THE COURT: Okay. So this is okay by you, then?

10 MR. SHIMSHAK: Then we're comfortable, Your Honor.

11 THE COURT: Okay. Thank you. Go ahead, Mr. Leblanc.

12 MR. LEBLANC: Thank you, Your Honor.

13 Your Honor, before I actually get into the exhibit, this
14 was actually the subject of testimony at Mr. DuPuy's
15 deposition. I'm going to offer it into evidence, understanding
16 that the witness has not seen it, but if we need to call -- Mr.
17 DuPuy continues to be in the courtroom, so if necessary, I'll
18 call him.

19 THE COURT: You might want to run to the bathroom, Mr.
20 DuPuy.

21 MR. LEBLANC: Or designate the portion of his
22 deposition in which it was discussed.

23 THE COURT: I understand. I'm assuming you will not
24 object to it, Mr. Kurtz?

25 MR. KURTZ: We don't object to it, Judge.

1 THE COURT: All right. So that takes care of it.

2 MR. LEBLANC: Thank you, Your Honor.

3 THE COURT: Then, may I say that Lenders' Exhibit J is
4 admitted?

5 MR. KURTZ: Certainly.

6 THE COURT: Go ahead, then.

7 (Lenders' Exhibit J is received into evidence.)

8 BY MR. LEBLANC:

9 Q Now, Lenders' Exhibit J, Mr. Greenberg, refers to a request
10 from your counsel, Ms. Braza, to Mr. DuPuy. Is that right?

11 A Correct.

12 Q And that was trying to set up a call between an advisor to
13 one of your investors and the Commissioner of Baseball,
14 correct?

15 A Correct.

16 Q And Ms. Braza -- Mrs. Braza reports that, "He will tell the
17 Commissioner that Bob is fully committed to this sale." Do you
18 see that?

19 A Correct.

20 Q And the "Bob" there is one of your investors, right?

21 A Yes.

22 Q And "They will not let this transaction fail." Do you see
23 that?

24 A Yes.

25 Q That's what Ms. Braza wrote, correct?

1 A Correct.

2 Q "And financing or" -- and do you believe that's a typo?

3 "Or nay shortfalls therein"? Do you believe that means "any"?

4 A I believe it probably means "any."

5 Q Right. "Financing or any shortfalls therein will not stop
6 our group from closing." Do you see that?

7 A Yes.

8 Q Now, is that a message -- the message Ms. Braza gave to Mr.
9 DuPuy, that's a message that you had heard from Mr. Simpson
10 yourself, correct?

11 A From -- actually, at that time, from Mr. Clum.

12 Q Right. And Mr. Clum is Mr. Simpson's right-hand advisor,
13 right?

14 A Very close advisor, yes.

15 Q And so you understood at that time Mr. Simpson, a man of
16 great personal means, would not let financing get in the way of
17 this deal not closing, right?

18 A That's correct.

19 Q Now, Ms. Braza, who is your counsel, you selected the
20 lawyers at Foley & Lardner because when they represent a buyer
21 they always seem to be on the winning side. Is that correct?

22 THE COURT: Just a minute.

23 MR. KURTZ: Your Honor, what's the relevance of this
24 witness's selection of counsel? We are so far afield it is
25 amazing.

1 MR. LEBLANC: I think, Your Honor, this is one single
2 question that I've asked of the witness. I don't -- if the
3 last line of questioning is far afield, I'd be surprised, but I
4 think it's a fair question. This is his advisor on the deal,
5 and I think there's -- we have serious issues with how Mr.
6 Greenberg -- with --

7 THE COURT: Well, are they issues that run to the
8 motion for reconsideration, Mr. Leblanc, as opposed to issues
9 that run more generally to whether or not the deal is otherwise
10 satisfactory as far as a plan or other approval of it may be
11 concerned.

12 MR. LEBLANC: Fair enough, Your Honor. I'll withdraw
13 the question.

14 THE COURT: Okay.

15 BY MR. LEBLANC:

16 Q You have not told Major League Baseball that any of your
17 equity investors want out of the deal, right?

18 A I --

19 MR. KURTZ: Objection to the characterization of the
20 testimony.

21 THE COURT: Sustained.

22 BY MR. LEBLANC:

23 Q Well, have you told Major League Baseball any of your
24 equity -- if any of your equity investors want out of the deal?

25 MR. KURTZ: It's the same question. It's the same

1 objection.

2 THE COURT: No, it's a different form. I'll overrule
3 the objection. You may answer if you have told Major League
4 Baseball that any of your investors want out.

5 Do you want to set a time frame on that?

6 MR. LEBLANC: Sure. In the last -- well, any time
7 prior to yesterday at about noon.

8 THE COURT: Well, do you want to set a time for a
9 beginning time frame? Are we talking about since the
10 commencement of the Chapter 11 case, or are we talking --

11 MR. LEBLANC: At any time through Mr. DuPuy's
12 deposition yesterday.

13 THE COURT: All right.

14 THE WITNESS: I -- not that I can recall. I may have
15 shared the ups and downs and the frustrations that investors
16 feel and my efforts to keep them tranquil about what's going
17 on, but, no, I don't recall ever saying so-and-so wants out.

18 BY MR. LEBLANC:

19 Q But you've conveyed to Major League Baseball that your
20 equity investors are committed to the deal, right?

21 A As of when? I mean, they are committed to the deal through
22 August 12th.

23 Q Okay.

24 MR. LEBLANC: No further questions, Your Honor, at
25 this time.

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

2 Okay. Mr. Kurtz?

3 MR. DEWOLF: Your Honor, may I ask the witness some
4 brief questions?

5 THE COURT: Yes, you may.

6 CROSS-EXAMINATION

7 BY MR. DEWOLF:

8 Q Good afternoon, Mr. Greenberg.

9 A Hello.

10 Q My name is Scott DeWolf, and I'm one of the lawyers
11 representing JPMorgan. I'll try to be brief. I know this
12 isn't any fun.

13 Do you have your -- the RBE exhibit binder in front of you?

14 A I do, yes.

15 Q Okay. When Mr. Leblanc was questioning you, there's an RBE
16 Exhibit 1, I think, in your binder. That's the subscription
17 agreement?

18 A Yes.

19 Q And that subscription agreement was executed on February
20 12, 2010, correct?

21 A Correct.

22 Q And under that subscription agreement, if I understand your
23 testimony, your equity investors, there were three funding
24 dates after they put up their 2 percent, correct?

25 A No. There were -- the 2 percent was the first funding

1 date. There were two funding dates subsequent to that. There
2 was 2 percent, 1-1/4 percent, and 96.75 percent, if I'm doing
3 the math correctly.

4 Q Okay. So your testimony is that the funding date is the
5 time they put up the 2 percent?

6 A Correct.

7 Q And so --

8 THE COURT: Now, wait a minute. Wait a minute.

9 MR. DEWOLF: That's not --

10 THE COURT: That's the first funding date, isn't it?

11 THE WITNESS: The first funding date. Yes, sir.

12 THE COURT: All right. Go ahead.

13 BY MR. DEWOLF:

14 Q And the August 12th date, that's how you come to August 12,
15 six months from February 12th?

16 A Correct.

17 Q And --

18 A Or 180 days.

19 Q And is it your testimony that August 12th has always been
20 the date -- it's always been clear that that's the date when
21 the equity commitments terminate?

22 A Well, when the -- when you says "always," I mean, just so
23 that we're clear, this issue really surfaced in May, when at
24 that time I actively sought to extend the date. And again,
25 emphatically, I was told no.

1 Q Well, Mr. Greenberg, in Exhibit 1, there's also this APA
2 defined term that we don't have the language right now of what
3 that means. Correct? And in May of 2010, your group was
4 working in concert towards a bankruptcy filing, correct?

5 A Yes.

6 Q Okay. And do you recall the January 23rd APA, generally?

7 A Generally, yes.

8 Q Is there anywhere in that agreement where August 12th is a
9 date of termination for your equity?

10 A I don't recall. Not that I'm aware --

11 Q Okay.

12 A Not that I am aware of.

13 Q Do you have Exhibit 20A in your binder?

14 A Yes.

15 Q Have you ever seen Exhibit 20A before?

16 A Yes.

17 Q And can you just tell the Court what is Exhibit 20A?

18 A This is a voting letter agreement between myself as an
19 individual, myself on behalf of RBE, and Hard Ball Capital and
20 All American Pastime, who are my two largest investors.

21 Q Okay. You can feel free to not let me do this, but I'm
22 going to try to shorten this up. Would it be fair to say that
23 this agreement was executed and amends the subscription
24 agreement in certain portions as to the Greenberg-Ryan
25 transaction to buy the Rangers?

1 MR. KURTZ: Objection. Calls for a legal conclusion.

2 MR. DEWOLF: I'm asking if that's what happened --

3 THE COURT: You can -- you can answer to the extent
4 that you have an understanding.

5 THE WITNESS: It was not intended to be an amendment
6 to the subscription agreement. What it was intended to be was
7 an understanding between myself and our two largest investors
8 as to how certain decisions would be made pending the closing
9 of the transaction, so that the three of us would function
10 essentially as a mini-board pending the closing of the
11 transaction and the constitution of the formal board.

12 BY MR. DEWOLF:

13 Q In executing this agreement, Exhibit 20A, that's the --
14 that's the first where August 12th appears as a termination
15 date for any funding, correct?

16 MR. KURTZ: Objection.

17 THE COURT: What's the basis?

18 MR. KURTZ: We've just been through the subscription
19 agreement, which has an expiration date six months from
20 February 12th, which is August 12th.

21 THE COURT: Well, all right. But he's saying it's the
22 first time August 12th is specifically spelled out. Is that
23 your question, Mr. DeWolf?

24 MR. DEWOLF: Yes, Your Honor, it is.

25 THE COURT: All right.

1 THE WITNESS: That's correct.

2 BY MR. DEWOLF:

3 Q Okay. And as of the date of Exhibit 20A, May 14, 2010, you
4 and your group were working in concert with TRBP and Major
5 League Baseball towards a bankruptcy filing. Correct?

6 A Yes.

7 Q And at the time, in May 14, 2010 -- I'm sorry. Strike
8 that. On or about May 23, 2010, your group executed a new APA,
9 correct?

10 A I don't recall if it was May 23rd, but it was around that
11 time, yes.

12 Q Okay. And that's the APA that was presented to the Court
13 in the plan, correct?

14 A That's correct.

15 Q And in that APA, that's where an August 12th termination
16 date appears, correct?

17 A I believe so.

18 MR. DEWOLF: Pass the witness, Your Honor.

19 THE COURT: All right. Mr. Kurtz?

20 MR. KURTZ: You'll be pleased to know that, based on
21 that, I have no further questions.

22 THE COURT: All right. Anyone else?

23 (No response.)

24 EXAMINATION BY THE COURT

25 THE COURT: All right. I've got a few questions for

1 you, Mr. Greenberg. How many investors do you have?

2 THE WITNESS: There are a total of 18 investors, two
3 of whom are groups, and those two groups have a total of -- I
4 believe it's --

5 THE COURT: You don't have to tell me. I just --

6 THE WITNESS: Okay.

7 THE COURT: -- wanted to know the number of investors.

8 THE WITNESS: There are 18 direct investors.

9 THE COURT: I do not want to poke sticks into Mr.
10 Kurtz if I can avoid it. Okay. All right. Let me ask you.
11 How much of the consideration in your bid, your APA, is
12 represented by assumed debt? You can give me an approximation.
13 I'm not looking for down to the last dollar.

14 THE WITNESS: I knew this a lot better a few months
15 ago. I apologize. My recollection is there's approximately
16 \$200 million of assumed obligations.

17 THE WITNESS: All right.

18 THE WITNESS: But I apologize. I just don't recall
19 specifically.

20 THE COURT: All right. And how much, under your
21 proposed transaction, will go to equity?

22 THE WITNESS: I'm sorry. Will go to--?

23 THE COURT: Equity. That is, the two general partners
24 --

25 THE WITNESS: Oh.

1 THE COURT: -- of the Debtor. I recognize eventually
2 it goes to the Lenders, but --

3 THE WITNESS: Right. I don't know. Your Honor, one
4 of the frustrations I always had is I always viewed the
5 purchase price as what we're paying, and the Lenders, as far as
6 I knew, always viewed the purchase price as what they were
7 receiving. And I always thought that a buyer pays the purchase
8 price, and what happens to the proceeds is based on the --

9 THE COURT: Okay.

10 THE WITNESS: -- the affairs of the seller.

11 THE COURT: Well, whatever you're not assuming and
12 you're not paying out to other creditors at the TRBP level and
13 that isn't the \$75 million will be going to Equity, right?

14 THE WITNESS: Correct.

15 THE COURT: Plus a few pennies here and there of
16 interest, right?

17 THE WITNESS: Correct.

18 THE COURT: Okay. And do you have any sense of what
19 that number is?

20 THE WITNESS: My rec...

21 THE COURT: Would it be fair to say that, under the
22 current transaction, the Lenders are going to receive between
23 \$200 and \$225 million, roughly, either through equity or
24 through the \$75 million?

25 THE WITNESS: I would have thought it was a little bit

1 more than that.

2 THE COURT: Okay. All right. That's fine. You may
3 step down. Thank you, Mr. Greenberg.

4 THE WITNESS: Thank you.

5 (The witness steps down.)

6 THE COURT: All right. Let's see. Do the lenders
7 have anything further?

8 MR. LEBLANC: No, Your Honor, we do not, although we
9 would like an opportunity to present a brief argument.

10 THE COURT: We're going to hear argument tomorrow
11 after we hear from Mr. Washington. Does TRBP -- or, does
12 either the Debtor or Express have anything further?

13 MR. KURTZ: RBE has nothing further.

14 THE COURT: Okay. The Debtor?

15 MR. SOSLAND: Your Honor, we actually would like to
16 ask the Court for guidance on a couple of issues. I'll tell
17 you that we have witnesses available if the Court would like to
18 hear from them, although one of them not in the courtroom this
19 second.

20 But after the Court's ruling on the discovery issue, and in
21 discussions with Mr. Leblanc regarding Mr. West, he will depose
22 Mr. West, as --

23 THE COURT: I don't want to hear from them if they're
24 content at this point.

25 MR. SOSLAND: And he's content to call him in

1 connection with the confirmation hearing.

2 THE COURT: All right.

3 MR. SOSLAND: So Mr. West will be a witness --

4 THE COURT: All right.

5 MR. SOSLAND: -- later on, but not in connection with
6 the motion for reconsideration. And we have Mr. Cofsky from
7 the Perella Weinberg firm who's involved in the marketing. He
8 actually left to attend the same meeting that Mr. Nolan -- Mr.
9 Ryan left to attend. He could be here tomorrow if the Court
10 wants to hear from --

11 THE COURT: It seems like he ought to be Ryan Nolan
12 instead of Nolan Ryan. I agree.

13 MR. SOSLAND: Or we're just so used to calling him
14 Nolan outside of the courtroom, --

15 THE COURT: I see. I see.

16 MR. SOSLAND: -- Your Honor.

17 THE COURT: I wouldn't dare.

18 MR. SOSLAND: So, unless the Court would like to hear
19 from either witness -- either of those witnesses in connection
20 with the motion for reconsideration, we would not call any
21 witnesses, Your Honor.

22 THE COURT: Mr. Leblanc?

23 MR. LEBLANC: Your Honor, the Debtors submitted a
24 declaration of Mr. Cofsky, and given that he's not here now,
25 I'd at least like the opportunity to think about it overnight

1 --

2 THE COURT: All right. That's fine.

3 MR. LEBLANC: -- and let Mr. Sosland know.

4 THE COURT: Why don't you have him here tomorrow
5 morning? And what we'll do is we'll hear from Mr. Washington,
6 and I'm guessing that will take no more than 30 minutes. Is
7 that a fair estimate? I mean, assuming that he doesn't say
8 that he knows terrible things about Mr. Leblanc.

9 MR. LEBLANC: That's fine.

10 THE COURT: Or his lenders.

11 MR. LEBLANC: That's fine, Your Honor.

12 THE COURT: And that being so, we then will hear, if
13 you wish to put Mr. Cofsky on the stand, we'll put him on the
14 stand. And then I'll take oral argument. I'm not going to
15 take extensive oral argument. Essentially, this side of the
16 room is going to get about 30 minutes and that side of the room
17 is going to get about 30 minutes. So you can divide it up
18 whatever way you want, but it doesn't seem to me that it
19 requires a lot more than that, unless any of you disagree. Is
20 that okay? And if I pester you too much with questions, which
21 I am wont to do, as you may have noticed, then I may extend
22 your time a little bit.

23 MR. LEBLANC: Happy to stand here --

24 THE COURT: All right.

25 MR. LEBLANC: -- as long as you need me, Your Honor.

1 THE COURT: Okay. Anybody have anything else?

2 (No response.)

3 THE COURT: Well, thank you very much, ladies and
4 gentlemen. I appreciate your cooperation today, and we'll look
5 forward to tomorrow. And I'll try to do something about cell
6 phones overnight.

7 MR. KURTZ: Thank you, Your Honor.

8 MR. LEBLANC: Thank you, Your Honor.

9 THE COURT: Pardon?

10 MR. KURTZ: Those were just thank you's.

11 THE CLERK: All rise.

12 (Proceedings concluded at 4:08 p.m.)

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CERTIFICATE

20 I certify that the foregoing is a correct transcript from
21 the electronic sound recording of the proceedings in the above-
22 entitled matter.

23

24 _____
Kathy Rehling
Certified Electronic Court Transcriber
25 CET**D-444

Date

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