

IN THE CIRCUIT COURT FOR THE
SEVENTEENTH JUDICIAL CIRCUIT, IN
AND FOR BROWARD COUNTY, FLORIDA

P&S ASSOCIATES, GENERAL
PARTNERSHIP, a Florida limited
partnership; S&P ASSOCIATES,
GENERAL PARTNERSHIP, a Florida
limited partnership; Philip von Kahle as
Conservator of P&S ASSOCIATES,
GENERAL PARTNERSHIP, a Florida
limited partnership, and S&P
ASSOCIATES, GENERAL
PARTNERSHIP, a Florida limited
partnership,

Case No. 12-34121 (07)
Complex Litigation Unit

Plaintiffs,

v.

JANET A. HOOKER CHARITABLE
TRUST, a charitable trust, et al.,

Defendants.

_____/

**DEFENDANT, CONGREGATION OF THE HOLY GHOST - WESTERN PROVINCE'S
NOTICE OF FILING OF DEPOSITION TRANSCRIPT OF FATHER JOSEPH
GAGLIONE**

Defendant, Congregation of the Holy Ghost - Western Province (“Congregation”), by and through undersigned counsel, hereby files the transcript of the deposition of Father Joseph Gaglione taken on February 25, 2014.

I HEREBY CERTIFY that a true copy of the foregoing was served via the e-filing portal on all registered parties this 7 day of March, 2014.

/s/ Marc S. Dobin
Marc S. Dobin
Florida Bar No. 997803
Jonathan T. Lieber
Florida Bar No. 92837

Holy Ghost

JOSEPH GAGLIONE - Vol. I

2/25/2014 9:30 AM

Condensed Transcript

Prepared by:

Marc S. Dobin
Dobin Law Group, PA

Wednesday, March 05, 2014

Page 1

1 IN THE CIRCUIT COURT OF THE
 2 SEVENTEENTH JUDICIAL CIRCUIT IN
 3 AND FOR BROWARD COUNTY, FLORIDA
 4 COMPLEX LITIGATION UNIT

5 PHILIP J. VON KAHLE, as Conservator of
 6 P&S ASSOCIATES, GENERAL PARTNERSHIP,
 7 and P&S ASSOCIATES, GENERAL PARTNERSHIP,
 8 Plaintiffs,
 9 vs. No. 12-34121(07)
 10 JANET A. HOOKER CHARITABLE TRUST, et al.
 11 Defendants.
 12 _____/

13 350 East Last Olas Boulevard
 14 Ft. Lauderdale, Florida
 15 Tuesday, February 25, 2014
 16 9:30 a.m.

17
 18 DEPOSITION
 19 Of
 20 FATHER JOSEPH GAGLIONE
 21 Taken on behalf of the Plaintiffs
 22 pursuant to a notice of taking deposition
 23
 24 ---
 25

Page 2

1 APPEARANCES:
 2 BERGER SINGERMAN, ATTORNEYS AT LAW, by
 3 Steven Weber, Esq.
 4 Zachary Hyman, Esq.
 5 Attorney for Plaintiffs.

6 DOBIN LAW GROUP, P.A., by
 7 Marc Dobin, Esq.
 8 Jonathan Lieber, Esq.
 9 Attorney for Defendants.
 10 MCCARTER & ENGLISH, LLP, by
 11 Joanne Wilcomes, Esq.
 12 Holy Ghost International Fund Number 1,
 13 Holy Ghost International Fund Number 2,
 14 Holy Ghost HG Ireland/Kenema,
 15 Holy Ghost HG Mombasa,
 16 and Holy Ghost Compassion Fund.
 17 (Appearing telephonically.)
 18
 19
 20
 21
 22
 23
 24
 25

Page 3

1 I N D E X
 2
 3 WITNESS DIRECT CROSS REDIRECT RECROSS
 4 FATHER JOSEPH GAGLIONE
 5 (By Mr. Weber) 4
 6
 7 EXHIBITS
 8
 9 PLAINTIFFS' FOR IDENTIFICATION
 10 1 6
 11 2 11
 12 3 54
 13 4 59
 14 5 64
 15 6 67
 16 7 68
 17 8 71
 18 9 75
 19 10 80
 20 11 98
 21
 22
 23
 24
 25

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1 Thereupon:
 2 FATHER JOSEPH GAGLIONE
 3 was called as a witness and, having been duly sworn,
 4 was examined and testified as follows:
 5 THE WITNESS: Yes.
 6 DIRECT EXAMINATION
 7 BY MR. WEBER:
 8 Q. Please state your name for the record.
 9 A. Joseph Gaglione, G-a-g-l-i-o-n-e.
 10 Q. What's your current home address?
 11 A. 309 East Whittier Avenue, Hemet, California
 12 92543.
 13 Q. Have you ever been deposed before?
 14 A. No.
 15 Q. Okay. Well, I'm just going to lay down a
 16 few ground rules. Let me know if you understand each
 17 one of them, okay?
 18 A. Sure.
 19 Q. To my left, your right, is the court
 20 reporter. She's going to be taking down whatever --
 21 You know, let me get on the line -- let's go
 22 off the record for a second.
 23 [Discussion off the record.]
 24 BY MR. WEBER:
 25 Q. Before we went off the record, I was just

<p style="text-align: right;">Page 5</p> <p>1 saying, because this is your first deposition let me 2 just lay a few ground rules. To my left is the court 3 reporter and she can only take down what you say 4 verbally today, meaning when I ask you a question 5 don't nod your head in response like you are doing 6 now, say yes, no, or some other verbal response. 7 A. Yes. 8 Q. Do you understand? 9 A. Yes. 10 Q. Also, she can only take down one person at a 11 time, so please let me finish my question before you 12 respond. Do you understand? 13 A. Yes. 14 Q. Also, I'll assume that you understood my 15 question if you answer. Do you understand that? 16 A. Yes. 17 Q. And if you need to take a break at any time, 18 please let me know. But if I've asked you a question, 19 I request that you respond before you take a break. 20 Is that okay? 21 A. Yes. 22 Q. Perfect. 23 Is there any reason why you wouldn't be able 24 to give truthful testimony today? 25 A. No.</p>	<p style="text-align: right;">Page 7</p> <p>1 MR. WEBER: Joanne, is that you on the 2 line? 3 MS. WILCOMES: Yes, it is. 4 MR. WEBER: Do you want to state your 5 appearance for the record? 6 MS. WILCOMES: Sure. This is Joanne 7 Wilcomes, from McCarter and English. I'm appearing on 8 behalf of Holy Ghost International Fund Number 1, Holy 9 Ghost International Fund Number 2, Holy Ghost HG 10 Ireland/Kenema, Holy Ghost HG Mombasa, and Holy Ghost 11 Compassion Fund. 12 MR. WEBER: And, Marc, Joanne has agreed to 13 be bound by the confidentiality for the purpose of 14 listening in on today's deposition if there's 15 anything confidential in terms of account numbers or 16 social security numbers or whatnot. 17 MR. DOBIN: Okay. 18 BY MR. WEBER: 19 Q. Okay. I'm sorry, you were just saying you 20 were on the board of directors of the U.S.A. 21 Province -- 22 A. Yes, it's called the Provincial Council of 23 the U.S.A. Province of the Congregation of the Holy 24 Spirit. 25 Q. And why were you selected to testify today</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. Great. 2 MR. WEBER: I'm going to mark this document 3 as Exhibit 1. 4 [The Notice for Taking Deposition was marked for 5 identification as Plaintiffs' Exhibit 1.] 6 BY MR. WEBER: 7 Q. I'm handing you a document that's been 8 marked as Exhibit 1. Please take a moment to look at 9 this document and let me know when you are ready to 10 proceed. 11 A. Ready. 12 Q. Have you seen the document that's been 13 marked as Exhibit 1 prior to today's deposition? 14 A. Yes. 15 Q. When have you seen it? 16 A. When it was sent to me. I can't remember 17 the exact date, it's been a while. 18 Q. Okay. Were you selected to testify today on 19 behalf of the Defendant, Congregation of the Holy 20 Ghost Western Providence? 21 A. Yes. 22 Q. What's your relationship to the Congregation 23 of the Holy Ghost Western Providence? 24 A. I am on the board of directors of the U.S.A. 25 Province of the Congregation of the Holy Spirit.</p>	<p style="text-align: right;">Page 8</p> <p>1 on behalf of the Congregation of the Holy Ghost 2 Western Province? 3 A. Because I was the provincial treasurer of 4 the Congregation of the Holy Spirit Western Province 5 at one time. 6 Q. When was that? 7 A. From 1990 to 1998. 8 Q. What were your duties in that role? 9 A. To oversee the financial investments and the 10 running of the financial department of the 11 Congregation of the Holy Spirit Western Province, 12 U.S.A. 13 Q. How did you prepare for today's deposition? 14 A. I just read your questions that were put 15 forward in this document (indicating). 16 Q. You are talking about the topics that are 17 attached as Exhibit A to Document Number 1? 18 A. Yes. 19 Q. Did you do anything else to prepare for 20 today's deposition? 21 A. Yes, I had a meeting with Marc yesterday and 22 being on the Provincial Council of the Congregation of 23 the Holy Spirit of the U.S.A. Province, I have 24 previous knowledge of the -- what was happening here 25 today.</p>

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1 Q. Just remember, only one person at a time can
2 be recorded, just let me finish my question. Okay?
3 A. Oh, I thought you did. Okay.
4 Q. It's okay.
5 A. Sorry.
6 Q. So aside from reviewing the deposition
7 topics and speaking with counsel yesterday, did you do
8 anything else to prepare for today's deposition?
9 A. No.
10 Q. Did you review any documents to prepare for
11 today's deposition?
12 A. Just the documents that were sent.
13 Q. What documents are those?
14 A. These documents here and --
15 MR. WEBER: Let the record reflect he
16 pointed to the document marked as Exhibit 1.
17 THE WITNESS: Right, Exhibit 1, and --
18 BY MR. WEBER:
19 Q. Can I see those documents?
20 A. Sure.
21 Q. The witness has pulled out some documents
22 from I guess it's a manila envelope and they appear to
23 be a stack of documents that include what looks like
24 the signature page of the Congregation of the Holy
25 Ghost Western Province to the partnership agreement,

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1 \$100,000 check, correspondence with the partnership --
2 MR. DOBIN: Steven, for purposes of the
3 record, those first documents that you described are
4 marked at the bottom of the page because when we
5 received the document production from the plaintiffs
6 they were not Bates stamped or anything. So if you
7 were to look at those documents, you'll see at the
8 bottom of the page there's Bates stamps that my
9 office applied to those documents so that we can keep
10 track of who did the production and from where.
11 MR. WEBER: So it looks like in his folder
12 he has the document you Bates stamped 4, 5, 6, 7, 8,
13 9, 10, and 11.
14 MR. DOBIN: Okay.
15 MR. WEBER: Then he has the notice of
16 taking deposition, a copy of the letter from Maggie
17 Smith, which I don't think we received a copy from
18 you guys, this one has the schedule on it. And you
19 have an affidavit of Joseph Gaglione.
20 Did I pronounce that correctly?
21 THE WITNESS: (Witness nods head up and
22 down.)
23 MR. WEBER: Looks like you have an Exhibit
24 A to something.
25 MR. DOBIN: That Exhibit A was Exhibit A to

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1 the affidavit that was submitted in support of the
2 first motion for summary judgment.
3 MR. WEBER: Then you have what looks like
4 your supplemental responses to our interrogatories.
5 Then we have a document that I'm not familiar with,
6 it looks like an article of merger merging
7 Congregation of the Holy Ghost Western Province with
8 the Congregation of the Holy Spirit under the
9 protection of the Immaculate Heart of Mary, USA-East
10 into Congregation of the Holy Spirit Province of the
11 United States. We haven't seen this document before.
12 Let me just take a minute to look at it.
13 Okay. Do you mind if I mark all these
14 documents as an exhibit?
15 MR. DOBIN: I don't mind if you mark them.
16 MR. WEBER: We are going to mark this bunch
17 of documents as Composite Exhibit 2.
18 [The Documents were marked for identification as
19 Plaintiffs' Composite Exhibit 2.]
20 BY MR. WEBER:
21 Q. Mr. Gaglione, aside from --
22 A. It's Reverend, Father.
23 Q. Reverend, I'm sorry.
24 Are you a practicing reverend?
25 A. Oh, yes.

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1 Q. Okay.
2 A. 50 years.
3 Q. Reverend Gaglione, aside from what's been
4 marked as Composite Exhibit 2, Exhibit 1, have you
5 reviewed any other documents to prepare for today's
6 deposition?
7 A. No.
8 Q. Okay. Did you speak to anyone besides
9 counsel to prepare for today's deposition? By
10 "counsel" I mean your counsel.
11 A. No.
12 Q. Okay. Did you speak to any former employees
13 of the Congregation of the Holy Ghost Western Province
14 to prepare for today's deposition?
15 A. No.
16 Q. Let's look at the topics on Exhibit 1 on
17 Page 6.
18 MR. DOBIN: Exhibit A.
19 MR. WEBER: Right, Exhibit A.
20 BY MR. WEBER:
21 Q. Is there anyone who has information or more
22 information than you regarding the topics on Page 6
23 and Page 7 of Exhibit 1?
24 A. No.
25 Q. Okay. How do you know that?

1 A. How do I know that? Because I was the one
2 that got involved with P&S Associates at the beginning
3 and it was never really discussed after that until we
4 received the judgment.

5 Q. What do you mean "the judgment"?

6 A. This (indicating).

7 Q. What's the judgment you are referring to?

8 You are talking about the deposition notice?

9 A. Deposition, yeah.

10 Q. Okay. So is it your testimony that you are
11 the only one who would have been involved with P&S?

12 A. Outside of the provincial bursar that sent
13 the letter to get out of the partnership.

14 Q. Who's the provincial bursar?

15 A. At that time it was Reverend Philip
16 Evanstock.

17 Q. Okay. Did you speak to Reverend Philip
18 Evanstock to prepare for today's deposition?

19 A. No.

20 Q. You can put that one to the side, please.

21 What is the Holy Ghost Western Province?

22 A. It is a missionary order attached to a
23 larger missionary -- worldwide missionary order called
24 the Congregation of the Holy Spirit. We have -- we
25 were founded in the year 1702 to bring the gospel to

1 those peoples who have never had -- who had never
2 heard about Jesus Christ, to work with those peoples
3 that the church had difficult in finding other
4 missionaries to work with, and especially to work with
5 the most abandoned and rejected peoples of the world.
6 We have approximately 3,600 priests worldwide.

7 Q. 3,600 priests involved in the Holy Ghost
8 Western Province?

9 A. No, in the whole Congregation of the Holy
10 Spirit.

11 Q. Okay. What does the reference to the Holy
12 Ghost mean?

13 A. Third person of the Blessed Trinity.

14 Q. Okay.

15 A. And it's Holy Spirit.

16 Q. Now, how many Holy Ghost -- there are a
17 number of organizations with the title Holy Ghost in
18 their title, correct? Or let me rephrase that.

19 Underneath the Congregation of the Holy
20 Spirit, how many different Holy Ghost entities are
21 there?

22 A. I have no idea.

23 Q. Who would know that?

24 A. Probably the Superior General in Rome.

25 Q. Okay. How many Holy Ghost entities are you

1 aware of?

2 A. I can name them off.

3 Q. Go ahead.

4 A. We have the American Province, we have the
5 Trinidadian Province, we have the Canadian Province
6 East and West, we have the Puerto Rican Province, we
7 have the Mexican Province, we have the Haiti Province,
8 we have the Polish Province, we have the English
9 Province, we have the Portuguese Province, we have the
10 Brazilian Province, we have the Irish Province, the
11 French Province.

12 Did I say Polish Province?

13 MR. DOBIN: Yes.

14 BY MR. WEBER:

15 Q. And what's the relationship of the Holy
16 Ghost Western Province to those entities you just
17 named?

18 A. We are connected as far as we belong to the
19 Worldwide Congregation of the Holy Spirit.

20 Q. And do you communicate with the other Holy
21 Ghost entities?

22 A. Yes.

23 Q. What would be the purpose of those
24 communications?

25 A. Missions, evangelization.

1 Q. Would they communicate for any other reasons
2 between each other?

3 A. Personnel. You'd have to ask them because
4 I'm not on that level where the -- you know, on the
5 leadership level.

6 Q. Okay. Did Holy Ghost Western Province share
7 personnel with any other Holy Ghost entities?

8 A. There is no longer a Holy Ghost Western
9 Province, it's only the Congregation of the Holy
10 Spirit U.S.A. Province.

11 Q. Okay.

12 A. Let me explain.

13 Q. Yes.

14 A. In 2009, there was a merger between the U.S.
15 Eastern Province of the Congregation of the Holy
16 Spirit and the U.S. Western Province into one
17 province, into one province, order.

18 Q. Uh-huh. And I realize there's been a
19 merger --

20 A. Uh-huh.

21 Q. -- but since we are dealing with today the
22 Holy Ghost Western Providence, let's just talk about
23 the time frame until the merger occurred. Is that
24 fair?

25 A. Sure.

<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. Prior to the merger, did the Holy 2 Ghost Western Providence share any personnel with any 3 other Holy Ghost entities? 4 A. Yes. 5 Q. What personnel would they have shared? 6 A. Africans from Tanzania. 7 Q. Say that again, Africans? 8 A. African missionaries from Tanzania, African 9 Holy Ghost fathers or spiritans from Tanzania, Irish 10 spiritans from Ireland who had come over basically 11 because of the Biafra war and they were kicked out of 12 Biafra and they came to the United States to work. 13 Q. Do the Holy Ghost entities -- well, does 14 Holy Ghost Western Providence share any management 15 personnel with other Holy Ghost entities? 16 A. No. If I understand your question. 17 Q. What do you understand my question to mean? 18 A. If we have members of the former Western 19 Province working in the leadership of other provinces. 20 Q. Correct. 21 A. No. 22 Q. Do any of the leadership of other Holy Ghost 23 entities work in the leadership of Holy Ghost Western 24 Province? 25 A. No. Clarification?</p>	<p style="text-align: right;">Page 19</p> <p>1 directors would report to? 2 A. No. 3 Q. Okay. Are you aware of entities with 4 spiritans in the name? 5 A. Yes. 6 Q. What are the entities with spiritans in the 7 name? 8 A. Congregation of the Holy Spirit Worldwide, 9 and all of the provinces that were formerly known as 10 Holy Ghost Fathers. 11 Q. What do you mean? What are the provinces 12 that were formerly known as the Holy Ghost Fathers? 13 A. Ireland, France, Portugal, United States, 14 Canada East and West, Trinidad, Haiti, all of the 15 entities that I named previously. 16 Q. What's the relationship between the Holy 17 Ghost Western Providence and Holy Ghost International 18 Fund Number One? 19 MR. DOBIN: Steve, just as a point, you 20 keep referring to it as western providence, the 21 proper term is -- 22 MR WEBER: Province. 23 MR. DOBIN: -- western province. 24 MR. WEBER: Right. 25 MR. DOBIN: If we could have a stipulation</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. Sure. 2 A. If you are talking about before 2009. 3 Q. Okay. Before 2009? 4 A. No. 5 Q. What about after 2009? 6 A. It didn't exist. 7 Q. Well -- 8 A. No. 9 Q. Does the Holy Ghost Western Province have a 10 governing body? 11 A. Yes. 12 Q. Okay. That's the Holy -- Congregation of 13 the Holy Spirit? 14 A. Another clarification. Are you talking 15 about the governing body of the Holy Ghost Western 16 Province, the former Western Province? 17 Q. The former, correct. 18 A. No, they had their own, what they call a 19 provincial council or board of directors that was 20 elected by the membership at large in the Western 21 Province. 22 Q. And there was no authority that governed or 23 that the board of directors reported to? 24 A. Yes, the Superior General in Rome. 25 Q. Was there anybody else that the board of</p>	<p style="text-align: right;">Page 20</p> <p>1 on the record for the court reporter that any time 2 there's a reference to "providence" that she can 3 automatically correct that to "province." 4 MR. WEBER: Correct. 5 MR. DOBIN: Thank you. I'm sorry, for 6 interrupting your questioning but -- 7 MR. WEBER: No, that's good. 8 Was there a question pending? 9 MR. DOBIN: There was. 10 BY MR. WEBER: 11 Q. What is the relationship between the Holy 12 Ghost Western Province and Holy Ghost International 13 Fund Number Two? 14 A. None. 15 Q. Are you aware of the other defendants in 16 this action with Holy Ghost in their name? 17 A. No. 18 Q. Are you aware that there are other 19 defendants in this action with Holy Ghost? 20 A. Yes. 21 Q. What is the relationship between Holy Ghost 22 Western Province and those defendants? 23 A. The only relationship we have is that we 24 belong to the same Worldwide Congregation of the Holy 25 Spirit.</p>

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1 Q. And there's no other relationship between
2 them?
3 A. No.
4 Q. When was the last time you spoke with
5 someone affiliated with one of the other Holy Ghost
6 entities that are defendants in this action?
7 A. Probably around 1999.
8 Q. Who did you speak to at that time?
9 A. Can I ask you a question?
10 MR. DOBIN: No.
11 MR. WEBER: Go ahead and answer.
12 THE WITNESS: Regarding what? Speaking
13 to --
14 BY MR. WEBER:
15 Q. Well, you said that the last time you spoke
16 to somebody from one of the other entities with the
17 name Holy Ghost in their name that's a defendant in
18 this action was around 1999, correct?
19 A. Yes.
20 Q. Who did you speak to at that time?
21 A. I'm also presuming that he is a defendant,
22 which I don't know.
23 Q. Okay. Well, who is he affiliated with?
24 A. He was affiliated with fundraising for, I
25 think, some of the entities that you are talking

Page 22

1 about.
2 Q. Which one?
3 A. I have no idea. Maybe all of them, maybe
4 one of them. There was never any conversation as to
5 which one that he was representing.
6 Q. What was the individual's name?
7 A. Father Noel O'Meara.
8 Q. Okay. And was Father Noel O'Meara -- you
9 seem confused about which entity he was representing.
10 Could he have been representing more than one entity?
11 A. Yes.
12 Q. Okay. Would he have been in charge for
13 fundraising for more than one Holy Ghost entity?
14 A. He could have been, yes.
15 Q. In what capacity could he have been in such
16 charge?
17 A. I have no idea.
18 MR. DOBIN: Would you, for the record,
19 would you spell for the court reporter Father
20 O'Meara's last name? If you know, this is not a
21 test, if you know.
22 THE WITNESS: O --
23 MR. DOBIN: Apostrophe.
24 THE WITNESS: -- apostrophe, M-e-a-r-a.
25

Page 23

1 BY MR. WEBER:
2 Q. What did you speak to Father O'Meara
3 about --
4 A. The last time?
5 Q. Yeah.
6 A. It had nothing to do with investments. He
7 was, at that time, in charge of the mission office of
8 the U.S.A. Province and we had a meeting in Pittsburgh
9 where he resigned from the office.
10 Q. Okay.
11 A. And I just happened to be on the board of
12 directors of that mission office.
13 Q. What is P&S? Are you aware of P&S, the
14 partnership in this action?
15 A. What is P&S?
16 Q. Yes.
17 A. It was an investment firm.
18 Q. I'm going to refer to P&S General
19 Partnership throughout this as P&S, is that okay?
20 A. Yes.
21 Q. When did Holy Ghost Western Province first
22 hear of P&S?
23 A. 1994.
24 Q. How did Holy Ghost Western Province hear
25 about P&S in 1994?

Page 24

1 A. At that time I was the chief financial
2 officer or what we call the Province Treasurer of the
3 Western Province of the Congregation of the Holy
4 Spirit. I had known of Father O'Meara from Brazil and
5 I knew he was in charge of some sort of fundraising
6 for different entities, mission entities in the United
7 States.
8 And we happened to be talking and I asked
9 him if he knew of any funds that were providing good
10 dividends that we will be able to get into as a
11 province, as the Western Province, and he referred me
12 to P&S. I asked him to make an introduction, and I
13 received a call from I think it was Mr. Powell.
14 Q. Where is Father O'Meara now?
15 A. I have no idea.
16 Q. When was the last time you spoke to
17 Father O'Meara?
18 A. 1999.
19 Q. You don't know where he's currently
20 employed?
21 A. No.
22 Q. Do you know if he's currently alive?
23 A. Yes, he's alive.
24 Q. How do you know that?
25 A. Because I haven't heard of his passing.

Page 25

1 Q. And you would hear about his passing?
2 A. Oh, yes.
3 Q. Why?
4 A. Because we are a member of the same order,
5 the same congregation. Notices go out when people
6 pass and we remember them in our prayers, which we
7 call them necrology.
8 Q. What did Father O'Meara tell you about P&S
9 when you asked to be referred to it?
10 A. I asked him basically what they were paying
11 in dividends, what the interest rate was. And he told
12 me they were the same as or even better than the CDs
13 that we were getting at the same time, and we were
14 looking for a place to diversify a little bit. I
15 asked him did he know of any other organizations that
16 were invested with P&S, and he had mentioned some
17 religious orders, maybe the Diocese of Miami, I'm not
18 quite sure at the time, at this time, but when I did
19 it it sounded like a very solid place to put some
20 monies.
21 Q. You said that he indicated it was a better
22 return than you were getting on CDs at the time. Is
23 that right?
24 A. As good as.
25 Q. As good as?

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1 A. Yes.
2 Q. What kind of returns were you getting on CDs
3 at that time?
4 A. Probably around 10 percent.
5 Q. And he represented that P&S was better than
6 10 percent return?
7 A. As good as.
8 Q. As good as?
9 A. Yes.
10 Q. Okay. What entity was he investing on
11 behalf of P&S?
12 A. I have no idea.
13 Q. Did he tell you anything about the
14 management of P&S?
15 A. No.
16 Q. At that time did he tell you what P&S was
17 invested in?
18 A. No.
19 Q. Did you ask what P&S was invested in?
20 A. No.
21 Q. Did you do any sort of due diligence into
22 P&S before Holy Ghost Western Province invested into
23 P&S?
24 A. Only through Father O'Meara.
25 Q. Okay. What other questions, if any, did you

Page 27

1 ask Father O'Meara regarding P&S?
2 A. That was it.
3 Q. When did you learn for the first time what
4 P&S was invested in?
5 A. Never did.
6 Q. You still don't know today what P&S was
7 invested in?
8 A. No.
9 Q. So Holy Ghost Western Province does not know
10 today what P&S was invested in?
11 A. Yes.
12 Q. Okay. Why didn't you do any research into
13 what P&S was investing into?
14 A. Because I had confidence in Father O'Meara.
15 Q. Why did you have confidence in
16 Father O'Meara?
17 A. He was a member of our congregation. I had
18 a good relationship with him. I knew him as an honest
19 man and he gave me what I thought was a good lead to
20 where we could diversify some of our monies.
21 Q. Did you speak to anyone else in your
22 congregation about investing in P&S?
23 A. Yes.
24 Q. Okay. Who in your congregation did you
25 speak to about investing in P&S?

Page 28

1 A. Father Michael White, who was a provincial
2 at the time, and it was just to indicate to him that I
3 was investing in P&S.
4 Q. You said Michael White was a provincial at
5 the time --
6 A. Reverend Michael White.
7 Q. Reverend Michael White was a provincial at
8 the time. What was he a provincial of?
9 A. The Western Province of the Congregation of
10 the Holy Spirit.
11 Q. Say that name again.
12 A. Michael -- congregation -- Western Province
13 of the Congregation of the Holy Spirit, U.S.A.
14 Q. That's different than the Holy Ghost --
15 Congregation of the Holy Ghost Western Province?
16 A. The same.
17 Q. Oh, they are the same?
18 A. Yes.
19 Q. Where is Michael White today?
20 A. Michael White is in San Diego teaching at
21 the University of San Diego.
22 Q. What did Michael White say to you about
23 investing in P&S?
24 A. "Go ahead."
25 Q. Did he ask you any questions about P&S?

<p style="text-align: right;">Page 29</p> <p>1 A. No.</p> <p>2 Q. Why not?</p> <p>3 A. Because he had full confidence in me as the</p> <p>4 provincial treasurer of the Congregation of the Holy</p> <p>5 Spirit Western Province.</p> <p>6 Q. Did you speak to anyone else aside from</p> <p>7 Michael White in your congregation about investing in</p> <p>8 P&S?</p> <p>9 A. No.</p> <p>10 Q. Did you speak to any other Holy Ghost</p> <p>11 entities or persons affiliated with Holy Ghost</p> <p>12 entities about investing in P&S?</p> <p>13 A. No.</p> <p>14 Q. Do you know if Father O'Meara recommended</p> <p>15 that any other persons invest in P&S?</p> <p>16 A. No.</p> <p>17 Q. Once Holy Ghost Western Province invested in</p> <p>18 P&S, did you tell anyone that you were invested in</p> <p>19 P&S?</p> <p>20 A. Probably.</p> <p>21 Q. Okay. Did you -- let me rephrase.</p> <p>22 After Holy Ghost Western Province invested</p> <p>23 in P&S, did you tell Father O'Meara that you had</p> <p>24 invested in P&S?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 31</p> <p>1 A. No.</p> <p>2 Q. Have you ever heard of Kelco Foundation,</p> <p>3 Incorporated?</p> <p>4 A. No.</p> <p>5 Q. And when I say referring to you, I mean the</p> <p>6 Holy Ghost Western Province.</p> <p>7 A. Yes, yes, I understand.</p> <p>8 Q. When I say "you" throughout this I mean --</p> <p>9 A. I understand that.</p> <p>10 Q. Okay. Do you know Father Vincent T. Kelly?</p> <p>11 A. No.</p> <p>12 Q. Let's go back to Exhibit 1. Turn to Page 6</p> <p>13 of Exhibit 1. On Topic Number 6 there's a name,</p> <p>14 Michael Bienes. Have you ever heard the name Michael</p> <p>15 Bienes before?</p> <p>16 A. No.</p> <p>17 Q. Have you ever heard the name Frank Avellino</p> <p>18 before?</p> <p>19 A. No.</p> <p>20 Q. Have you ever heard of the entity Avellino</p> <p>21 and Bienes?</p> <p>22 A. No.</p> <p>23 Q. Did Holy Ghost Western Province have any</p> <p>24 interaction with Michael Bienes?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Okay. Who did you tell that Holy Ghost</p> <p>2 Western Province was invested in P&S? If you don't</p> <p>3 know, just say you don't know.</p> <p>4 A. I don't know.</p> <p>5 Q. We don't want you to guess.</p> <p>6 A. I was going to say the world, but I don't</p> <p>7 know.</p> <p>8 Q. And like Marc had stated, this isn't a test.</p> <p>9 If you don't know, I prefer that you just say I don't</p> <p>10 know than assume or guess.</p> <p>11 A. I'm trying to.</p> <p>12 Q. I get it.</p> <p>13 A. Yes.</p> <p>14 Q. Let the brain think about it for a minute.</p> <p>15 A. 76-year-old brain, works slowly.</p> <p>16 Q. Do you know any other Holy Ghost entities</p> <p>17 that were invested with P&S?</p> <p>18 A. No.</p> <p>19 Q. Do you know any other Holy Ghost entities</p> <p>20 that were invested with S&P?</p> <p>21 A. I don't know S&P.</p> <p>22 Q. There are two partnerships, P&S and then one</p> <p>23 is S&P.</p> <p>24 A. No.</p> <p>25 Q. Okay. Do you know what Kelco is?</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Did Holy Ghost Western Province have any</p> <p>2 interaction with Frank Avellino?</p> <p>3 A. No.</p> <p>4 Q. Did Holy Ghost Western Province have any</p> <p>5 interaction with Steven F. Jacob?</p> <p>6 A. No.</p> <p>7 Q. Were there any fees involved in Holy Ghost</p> <p>8 Western Province investing in P&S?</p> <p>9 A. No.</p> <p>10 Q. Were there any management fees paid by Holy</p> <p>11 Ghost Western Province to P&S?</p> <p>12 A. No.</p> <p>13 Q. You are not aware of any management fees</p> <p>14 paid?</p> <p>15 A. No.</p> <p>16 Q. During the Holy Ghost Western Province</p> <p>17 investment with P&S, did you receive quarterly</p> <p>18 financial statements from P&S?</p> <p>19 A. I don't know.</p> <p>20 Q. Who would know that?</p> <p>21 A. Nobody but me. I can't --</p> <p>22 Q. Okay. Well, let me just clarify a little</p> <p>23 bit. You were in charge, you were overseeing the</p> <p>24 investments of the congregation, correct?</p> <p>25 A. Right.</p>

<p style="text-align: right;">Page 33</p> <p>1 Q. Did you have an office?</p> <p>2 A. Yes.</p> <p>3 Q. Did you have subordinates?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. They were within your office</p> <p>6 overseeing investments of the congregation?</p> <p>7 A. Explain that again.</p> <p>8 Q. So you were the chief financial --</p> <p>9 A. Yes, province treasurer.</p> <p>10 Q. Province treasurer. Did you have</p> <p>11 subordinates? Did you oversee people regarding the</p> <p>12 investments of the Holy Ghost Western Province?</p> <p>13 A. No.</p> <p>14 Q. You were the sole person?</p> <p>15 A. Yes.</p> <p>16 Q. Did you have a secretary?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did your secretary assist you with</p> <p>19 overseeing the investments?</p> <p>20 A. No.</p> <p>21 Q. Any correspondence from P&S, who would that</p> <p>22 correspondence have gone to?</p> <p>23 A. Just generally P&S Associates.</p> <p>24 Q. No, I mean, if P&S were to send</p> <p>25 correspondence --</p>	<p style="text-align: right;">Page 35</p> <p>1 P&S were the quarterly dividends.</p> <p>2 Q. In what form would those come in?</p> <p>3 A. Check.</p> <p>4 Q. There was no statement that would show how</p> <p>5 much you invested and what your return was?</p> <p>6 A. Not that I remember.</p> <p>7 Q. Did you ever hear that people were receiving</p> <p>8 commissions for bringing investors into P&S?</p> <p>9 A. No.</p> <p>10 Q. Did you ever become aware that people were</p> <p>11 receiving commissions for bringing investors into</p> <p>12 P&S?</p> <p>13 A. No.</p> <p>14 Q. What was your relationship to P&S?</p> <p>15 A. Just as an investor.</p> <p>16 Q. That's your only relationship to P&S?</p> <p>17 A. Yes.</p> <p>18 Q. Were you a general partner at P&S?</p> <p>19 A. I guess so, yes.</p> <p>20 Q. Okay. How do you know you were a partner at</p> <p>21 P&S?</p> <p>22 A. Because we invested \$200,000 with P&S.</p> <p>23 Q. And did you sign a partnership agreement for</p> <p>24 P&S?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 34</p> <p>1 A. It would be to me.</p> <p>2 Q. Directly to you. There would be no one else</p> <p>3 who would have received that correspondence?</p> <p>4 A. No one else.</p> <p>5 Q. There was no one else -- were you the only</p> <p>6 one who was responsible for overseeing the investments</p> <p>7 of the Congregation of the Holy Ghost Western</p> <p>8 Province?</p> <p>9 A. No, Merrill Lynch was the I don't know what</p> <p>10 you would call it. I can't remember the name you</p> <p>11 would call it, but they were the people who did the</p> <p>12 normal investments for us outside of P&S.</p> <p>13 Q. Would there be like a junior provincial</p> <p>14 treasurer or someone that you would oversee regarding</p> <p>15 the investments?</p> <p>16 A. No.</p> <p>17 Q. You were the only one?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Let me go back to my previous</p> <p>20 question. Did the Congregation of the Holy Ghost</p> <p>21 Western Province receive quarterly statements from</p> <p>22 P&S?</p> <p>23 A. Can I ask for a clarification?</p> <p>24 Q. Sure.</p> <p>25 A. The only thing I can remember receiving from</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. So aside from being an investor, you were</p> <p>2 also a partner in P&S, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. When were you asked to sign a</p> <p>5 partnership agreement for P&S?</p> <p>6 A. I can't remember.</p> <p>7 Q. How did the partnership agreement come to</p> <p>8 the Congregation of the Holy Ghost Western Province?</p> <p>9 A. From what I remember, it was just a letter</p> <p>10 from P&S asking how much we would invest, and we</p> <p>11 signed the letter and sent the first check of</p> <p>12 \$100,000.</p> <p>13 Q. Who sent the letter to you?</p> <p>14 A. I think it was Mr. Powell, if I can remember</p> <p>15 correctly, from the documents.</p> <p>16 Q. And with that letter did he include the</p> <p>17 partnership agreement?</p> <p>18 A. I can't remember.</p> <p>19 Q. But you remember at some point you received</p> <p>20 the partnership agreement and you reviewed it and then</p> <p>21 you signed it, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Did you understand the partnership</p> <p>24 agreement gave you certain duties and obligations as a</p> <p>25 partner in P&S?</p>

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1 A. No.
2 Q. What did you think the purpose of the
3 partnership agreement was?
4 A. It was just to make an investment and
5 receive dividends on our investments.
6 Q. Did you ask anyone about the partnership
7 agreement?
8 A. No.
9 Q. Why not?
10 A. We had full confidence in Father O'Meara,
11 that what he related to me was true and that we
12 would -- that the monies were secure and that we would
13 receive a good return on our investment.
14 Q. Are you disputing that you were bound by the
15 terms of the partnership agreement?
16 A. Am I disputing? No, I'm not disputing.
17 Q. Okay. Who signed the partnership agreement
18 on behalf of the Holy Ghost Western Province?
19 A. I did.
20 Q. What was your title at the time you signed
21 on behalf of the Holy Ghost Western Province?
22 A. Provincial Treasurer of the Congregation of
23 the Holy Ghost Western Province U.S.A.
24 Q. Who were the managing general partners of
25 P&S?

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1 A. I have no idea.
2 Q. Okay. Is it your understanding that
3 individuals operated P&S?
4 A. Is it my understanding? Yes.
5 Q. Okay. Who were the people who were
6 operating P&S?
7 A. I have no idea except for Mr. Powell, who I
8 received a letter from and had communication with.
9 Q. What was Mr. Powell -- are you referring to
10 Greg Powell?
11 A. I think so, yes.
12 Q. What was Greg Powell's relationship to
13 P&S?
14 A. I have no idea.
15 Q. Did you ever do any investigation into what
16 Mr. Powell's relationship was to P&S?
17 A. No.
18 Q. You weren't curious what his relationship
19 was?
20 A. Nope.
21 Q. Why not? I'm not trying to be flip with
22 you.
23 A. No, I'm trying to answer your question, you
24 know, and -- because I had full confidence in
25 Father O'Meara and his relationship with P&S, and we

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1 were receiving a quarterly check, as promised, through
2 the agreement and everything was going fine. I had
3 other duties I had to do.
4 Q. What do you mean you were receiving a
5 quarterly check as promised?
6 A. That there was -- when I made the first
7 investment they asked whether I would want to reinvest
8 the dividend or receive a quarterly check. And I said
9 we would like to receive a quarterly check because we
10 used it for support of our mission and our members.
11 Q. So from the outset you were receiving a
12 quarterly check from P&S?
13 A. Yes.
14 Q. Did the amount of the quarterly check vary?
15 A. Very little.
16 Q. Could you tell what your return on your
17 investments in P&S was based on your quarterly check?
18 A. Probably around 10 percent.
19 Q. How did that return from P&S compare to
20 other investments in the Holy Ghost Western Province?
21 A. It probably didn't measure up to some of the
22 other investments that we had because, if you
23 remember, at that time CDs were paying a pretty high
24 rate of return over a number of years.
25 Q. Did you tell Father O'Meara that you were

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1 receiving the quarterly checks?
2 A. No.
3 Q. Did you ever tell Father O'Meara the amounts
4 of the quarterly checks that you were receiving?
5 A. No.
6 Q. Did you tell anyone outside of I guess the
7 Congregation of the Holy Ghost Western Province about
8 the quarterly checks that you were receiving?
9 A. No.
10 Q. Did you tell anyone outside of the
11 Congregation of the Holy Ghost Western Province the
12 amounts of the quarterly checks that you were
13 receiving from P&S?
14 A. No.
15 Q. Do you know who Michael Sullivan is?
16 A. No.
17 Q. I just want to be clear on what your
18 testimony is. It sounds like you are essentially
19 saying that you trusted completely in Father O'Meara,
20 you didn't really care who was running the
21 partnerships.
22 A. Yes.
23 Q. Okay. You never did any investigation into
24 who the managing general partners of P&S were,
25 correct?

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1 A. Correct.
2 Q. Okay. Did you ever ask anyone at P&S about
3 the status of your investments with P&S?
4 A. No.
5 Q. How did you communicate with P&S about the
6 status of your investments?
7 A. Never did. As long as we were receiving a
8 quarterly check everything was fine.
9 Q. So you never communicated with P&S?
10 A. No.
11 Q. What was your initial contribution to P&S?
12 A. \$100,000.
13 Q. Did you ever augment that amount?
14 A. Another \$100,000.
15 Q. Why did you increase the amount that you
16 invested in P&S?
17 A. I can't remember.
18 Q. Were you satisfied with the investment in
19 P&S?
20 A. Yes.
21 Q. Is that why you increased the amount of
22 contribution?
23 A. Probably yes.
24 Q. How did you determine the amount of \$100,000
25 for your initial contribution to P&S?

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1 A. I can't remember.
2 Q. Did you speak to anyone about the amount for
3 your initial contribution to P&S?
4 A. No.
5 Q. Did you speak to anyone about contributing
6 the additional \$100,000 as a contribution to P&S?
7 A. Not that I remember, no.
8 Q. Where did you send the second \$100,000 for
9 your contribution to P&S?
10 A. To the same place we sent the first one.
11 Q. How did you know that you could invest an
12 additional \$100,000 in P&S?
13 A. I can't remember.
14 Q. Is there someone who would know the answer
15 to that question?
16 A. No.
17 Q. What was the amount of annualized return
18 that you obtained from P&S?
19 A. 10 percent.
20 Q. Did the annualized return remain consistent
21 year-to-year on P&S?
22 A. Yes.
23 Q. Was it your understanding -- well, you
24 signed a partnership agreement with P&S, correct?
25 A. Yes.

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1 Q. Was it your understanding there were other
2 partners in P&S aside from the Congregation of the
3 Holy Ghost Western Province?
4 A. Yes.
5 Q. How many partners did you believe were in
6 P&S?
7 A. I have no idea.
8 Q. You didn't ask anybody?
9 A. Nope.
10 Q. Did you believe that all partners in P&S
11 were receiving the same return from P&S?
12 A. Never even thought about it.
13 Q. Well, based on the partnership agreement, it
14 would seem to indicate that people were supposed to
15 receive the same return. It never crossed your mind
16 about whether that was actually true?
17 MR. DOBIN: Objection to form.
18 You can answer it.
19 THE WITNESS: No.
20 BY MR. WEBER:
21 Q. Did you ever see another partner in P&S's
22 statement from P&S?
23 A. No.
24 Q. When did Holy Ghost Western Province receive
25 its last distribution from P&S?

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1 A. I think it was 2003.
2 Q. What caused the Holy Ghost Western Province
3 to receive this last distribution?
4 A. I don't know.
5 Q. What were the circumstances under which Holy
6 Ghost Western Province received this last
7 distribution?
8 A. I think they -- from what I understand, is
9 that they were getting out of the fund.
10 Q. Why would Holy Ghost Western Province be
11 getting out of P&S?
12 A. There was a plan that when I was in
13 the provincial -- as the provincial treasurer that we
14 would diversify our investments and put them into
15 three different funds. One would be used for the
16 general administration of the order of the Western
17 Province, the other one was for priest retirement and
18 health, and the other one was for education of
19 seminarians. When I took over the treasurer's office
20 we had one fund, so we decided to diversify into three
21 different funds to take care of the three different
22 sections of the administration of the Western
23 Province.
24 Q. So why did Holy Ghost Western Province get
25 out of P&S?

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1 A. I think they were trying to put together all
2 of the monies that they had to be able to diversify
3 into these three funds.
4 Q. So is it your testimony that Holy Ghost
5 Western Province was liquidating all of its
6 investments to then reinvest them?
7 A. A lot of them, yes.
8 Q. Why did you choose to liquidate your P&S
9 investment?
10 A. I didn't, I wasn't provincial treasurer at
11 that time.
12 Q. Who was the provincial treasurer at that
13 time?
14 A. Father Philip Evanstock.
15 Q. You didn't speak to Father Evanstock in
16 advance to prepare for this deposition, correct?
17 A. No.
18 Q. And Father Evanstock would be the one who
19 would know why Holy Ghost Western Province liquidated
20 its P&S investment, correct?
21 A. Presumably yes.
22 Q. Where is Father Evanstock today? San Diego,
23 correct?
24 A. Phoenix, Arizona.
25 Q. Oh, Phoenix, Arizona.

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1 What's Father Evanstock's address?
2 A. I have no idea.
3 Q. Why do you believe he's in Phoenix, Arizona?
4 A. Because he's a member of the congregation.
5 I am on our provincial council board. I know he's
6 teaching high school in Phoenix, Arizona.
7 Q. Does the Congregation of the Holy Ghost
8 Western Province have an office in Phoenix, Arizona?
9 I don't understand, like, how it's set up, so explain
10 why he's --
11 A. I'm trying to. I don't want to answer
12 anything that you don't want me to answer, you know,
13 without a yes or no.
14 Again, historically we were two provinces
15 and we merged into one province. All of the members
16 who were in the western and the eastern provinces of
17 the Congregation of the Holy Spirit became one
18 province. He was teaching high school in Phoenix,
19 Arizona at the time of the merger and he's still
20 there.
21 Q. And is there any other part of Holy Ghost
22 Western Province in Phoenix, Arizona aside from Father
23 Evanstock?
24 A. No.
25 Q. So he works remotely for Holy Ghost Western

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1 Province?
2 A. No, he doesn't -- he works -- remotely, no.
3 He is still connected with the U.S.A. Province, U.S.A.
4 American Province, the U.S.A. Province of the
5 Congregation of the Holy Spirit, and he has a -- he
6 has been missioned to teach school in Phoenix,
7 Arizona, which he has been doing for 25 years.
8 Q. And at the same time he holds the title of
9 CFO?
10 A. He's no longer CFO because there's no longer
11 a Western Province of the United States.
12 Q. Okay. Well, until the merger he was a CFO?
13 A. No.
14 Q. Okay. Someone else replaced him as CFO?
15 A. Yes.
16 Q. Okay. So when did you become provincial
17 treasurer?
18 A. 1990.
19 Q. Just to clarify, you were CFO and then you
20 were treasurer, correct?
21 A. It's the same position, CFO and provincial
22 treasurer.
23 Q. What was Father Evanstock when the
24 Congregation liquidated its P&S investment?
25 A. He was the provincial treasurer.

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1 Q. He was the provincial treasurer?
2 A. Yes.
3 Q. And then what were you at the time that the
4 congregation liquidated its investment in P&S?
5 A. In 2003 I was retired.
6 Q. You were retired?
7 A. Yes.
8 Q. I thought you had testified that when the
9 congregation liquidated its P&S investment you were
10 one of the people who decided to take all the money
11 and --
12 A. No.
13 Q. No, that wasn't you?
14 A. No, I explained that when I was the
15 provincial treasurer we had a plan put into place at
16 some point to diversity into three funds instead of
17 having one fund for the general management of the
18 Congregation of the Holy Spirit Western Province and
19 we would diversify into three funds, one fund would
20 take care of the administrative arm of the province,
21 the other fund would take care of the retirement and
22 health fund of our priests who were retired and the
23 health insurance of the province, and the third fund
24 would be for the education of young men who wanted to
25 study for priesthood.

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1 Q. Then you retired at some point and later on
2 the plan was effectuated --
3 A. Yes.
4 Q. -- in your absence?
5 A. Right.
6 Q. Understood.
7 A. Yes. I left.
8 Q. When did you retire?
9 A. When did I leave the --
10 Q. Yes.
11 A. -- job as provincial treasurer?
12 Q. Correct.
13 A. 1998.
14 Q. After 1998, you no longer had any role in
15 the investments of the Congregation of the Holy Ghost
16 Western Province?
17 A. I did.
18 Q. What was your role in the investments of the
19 Congregation of the Holy Ghost Western Province after
20 1998?
21 A. To oversee, for one year, the investments
22 that were being handled by Merrill Lynch in San
23 Antonio, Texas because I was still living in San
24 Antonio, Texas at the time.
25 Q. So then for one year after 1998 you oversaw

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1 Merrill Lynch in San Antonio, Texas, and then what
2 happened? What was your role?
3 A. Then I left. I handed everything over to
4 Father Evanstock and I moved to Hemet, California as
5 a, another term, mission procurator, which my position
6 at that time would be to travel to various parishes
7 throughout the United States and to preach about the
8 missions and to raise funds for the missions through
9 this preaching.
10 Q. So after 2000, is it fair to say that you
11 had no involvement in the investments of the
12 Congregation of the Holy Ghost Western Province?
13 A. Yes.
14 Q. Is it fair to say after the year 2000 you
15 had no, you personally, had no involvement in the
16 Congregation of the Holy Ghost Western Province
17 investments with P&S?
18 A. Yes.
19 Q. I think I got this previously, but what is
20 your current role with the Congregation of the Holy
21 Ghost Western Province?
22 A. At the present time I am on the provincial
23 council, which is the administrative board of the
24 Congregation of the Holy Spirit. And I am also on the
25 board, corporate board of directors for Duquesne

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1 University in Pittsburgh, which is a university that
2 is owned by the Congregation of the Holy Spirit
3 American Province.
4 Q. What did you do between -- it sounds like in
5 2000 you retired. How did you get back involved in
6 the Congregation of the Holy Ghost Western Province?
7 A. Other explanation is that you never really
8 retire as a priest, you are always involved in some
9 way or another.
10 Q. So it's sometimes --
11 A. And I actually didn't -- I didn't -- I have
12 to correct myself, I didn't retire at 2000. When did
13 I retire? I probably retired in 2009.
14 Q. Okay.
15 A. Up until that time I was the mission
16 procurator, which is a preacher.
17 Q. From 2000 to 2009 you were mission
18 procurator?
19 A. Yes.
20 MR. DOBIN: How do you spell that term?
21 MR. WEBER: Procurator.
22 THE WITNESS: P-r-o-c-u-r-a-t-o-r.
23 MR. DOBIN: That's what I thought but I
24 just wanted to make sure.
25 THE WITNESS: I also understood -- if we

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1 can off the record?
2 MR. WEBER: Sure.
3 [Short recess taken.]
4 BY MR. WEBER:
5 Q. Is it fair to say that you personally don't
6 have any information regarding Holy Ghost Western
7 Province's withdrawal from P&S?
8 A. Yes.
9 Q. Okay. Did you ever learn that some
10 partner's distributions -- some partners in P&S's
11 distributions benefited them more than others?
12 A. No.
13 Q. Are you aware of that today?
14 A. No.
15 Q. Are you familiar with the allegations in
16 this lawsuit?
17 A. Oh, yes.
18 Q. Okay. We are alleging, basically, that
19 there are two sets of partners, there are net winners
20 and net losers. That some partners received more
21 money than they invested and other partners received
22 less than they invested. Do you understand that?
23 A. I understand what you are saying. I'm not
24 familiar with the fact that they were.
25 Q. Okay. So you --

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1 MR. DOBIN: I'm allowing you to use the
2 shorthand, Steven.
3 MR. WEBER: Right, summarizing.
4 BY MR. WEBER:
5 Q. You are saying that you don't know whether
6 or not it's true that some partners received less than
7 they invested?
8 A. Yes.
9 Q. Okay. You haven't seen any evidence that
10 some partners have received less than they invested?
11 A. No, I have not.
12 Q. Okay. Would it surprise you that some
13 partners received less than they invested?
14 A. Yes.
15 Q. Why would that surprise you?
16 A. Because I firmly believe in the integrity of
17 people and the integrity of companies, that's why.
18 Q. Right. I think what you are getting at is
19 that it was your understanding that P&S would pay all
20 its partners so that they received the same return,
21 correct?
22 A. Yes.
23 Q. Okay. Did you ever ask to see -- let me
24 rephrase.
25 Did you ever ask anybody at P&S to see any

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1 records showing what other partners were receiving
2 from P&S?
3 A. No.
4 MR. DOBIN: Make sure he finishes his
5 question before you answer, Father.
6 BY MR. WEBER:
7 Q. Why not?
8 A. I wasn't that interested.
9 Q. Did you ever ask to review the
10 partnership -- P&S's books and records?
11 A. No.
12 Q. Why not?
13 A. Not that interested.
14 Q. Do you know if it was possible to review
15 P&S's books and records while you were invested in
16 P&S?
17 A. No.
18 Q. Do you know who Margaret Smith is?
19 A. No.
20 MR. WEBER: We are going to mark this
21 document as Exhibit 3.
22 [The November 13, 2012 Letter was marked for
23 identification as Plaintiffs' Exhibit 3.]
24 BY MR. WEBER:
25 Q. Please take a moment to look at the document

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1 marked as Exhibit 3, and let me know when you are
2 ready.
3 MR. DOBIN: As a point of order, this
4 document on the lower right-hand corner says 2 of 62.
5 Is there another 60 pages to this document that --
6 MR. WEBER: I don't know.
7 MR. DOBIN: Okay.
8 BY MR. WEBER:
9 Q. Let me know when you are ready, Father or
10 Reverend.
11 A. Reverend, nobody calls me Reverend. You can
12 call me Joe. Father was for the record. I'm ready.
13 Q. Have you ever seen, prior to today, the
14 document that's been marked Exhibit 3?
15 A. Yes.
16 Q. When did you last see this document?
17 A. Weeks ago when it was sent to me by Marc and
18 his --
19 Q. Okay. So you received this letter from
20 counsel?
21 A. Yes.
22 Q. Okay. Did you see this document in
23 November 2012?
24 A. I don't remember when I saw it.
25 Q. Let me clarify. Who at the Congregation of

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1 the Holy Ghost Western Province would have received
2 this letter when it was sent to them?
3 A. Father Jeff Duaine, who is the Provincial
4 Superior of the Congregation of the Holy Spirit of the
5 U.S.A. Province.
6 Q. Were you involved, you personally, involved
7 in the Congregation of the Holy Ghost Western
8 Province's response regarding this document?
9 A. Yes.
10 Q. What context were you involved in response
11 to this document?
12 A. We had, as I recall, in one of our meetings
13 of the provincial council, which is the administrative
14 board, it was brought up and explained what was
15 happening. That was the first time.
16 Q. Okay. And was a decision made how to
17 respond to the document marked as Exhibit 3?
18 A. Yes.
19 Q. What was the decision?
20 A. Not to give the money back.
21 Q. Why did you decide not to give the money
22 back?
23 A. Because we didn't feel that it was
24 just because we had made an investment and we received
25 our dividends, and it was such a long time ago that we

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1 didn't understand why we should just simply comply and
2 give the money, return the money.
3 Q. So basically because you believed it was
4 such a long time ago you didn't think you had to
5 return the money?
6 A. Yes.
7 Q. Okay. Did you believe that was a fair thing
8 to do?
9 A. Yes.
10 Q. Why was it a fair thing to do?
11 A. It was a fair investment and a fair return.
12 Q. Okay. At the time that you received this
13 letter that's marked as Exhibit 3, was it your
14 understanding that some partners had not received an
15 amount of money from P&S -- sorry, let me rephrase.
16 At the time you received the document marked
17 as Exhibit 3, was it your understanding that some
18 partners received less money from P&S than they
19 invested?
20 A. No.
21 Q. Were you aware of any facts regarding
22 investments by partners in P&S that had lost money?
23 A. No.
24 Q. Would that have changed your response to
25 this letter?

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1 A. Possibly.
2 Q. Okay. Why do you say "possibly"?
3 A. Because we are a religious order that firmly
4 believes in justice.
5 Q. All right. And would the just thing to do
6 if some partners had not received -- some partners had
7 received more than they invested and other partners
8 lost money, to share the monies so that all partners
9 benefit equally?
10 A. Personally, yes.
11 Q. You say "personally," is there some
12 disagreement in the congregation regarding that?
13 A. No, but it's not a perfect world.
14 Q. Let's put that one to the side.
15 Do you know who Philip Von Kahle is?
16 A. Excuse me?
17 Q. Do you know who Philip Von Kahle is?
18 A. No.
19 Q. Philip Von Kahle has been appointed as the
20 conservator of P&S Associates and, in a nutshell, his
21 job now is to act on behalf of P&S because P&S is in
22 the process of what's called winding down, it's
23 shutting down and it's distributing its money to all
24 of the remaining partners, okay.
25 I'm handing you a document that's going to

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1 be marked as Exhibit 4. Let me know when you've had a
2 moment to look at the document marked as Exhibit 4 and
3 you are ready to proceed.
4 [The October 13, 2013 Letter was marked for
5 identification as Plaintiffs' Exhibit 4.]
6 THE WITNESS: Ready.
7 BY MR. WEBER:
8 Q. Have you ever seen the document that's
9 marked as Exhibit 4 prior to today?
10 A. I believe so, yes.
11 Q. When was the last time you saw this
12 document?
13 A. As recently as last week.
14 Q. When was the first time that you saw this
15 document?
16 A. Last week or 10 days ago.
17 Q. Were you involved in any response to this
18 document marked as Exhibit 4?
19 A. No.
20 Q. Who at the Congregation of the Holy Ghost
21 Western Province would have been involved in any
22 response to this document?
23 A. The provincial and the provincial treasurer.
24 Q. And who are they?
25 A. Reverend Jeffrey Duaine and Father John

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1 Sawicki.
2 MR. DOBIN: Can you spell that for the
3 court reporter?
4 THE WITNESS: Sawicki, S-a-w-i-c-k-i;
5 Duaine is D-u-a-i-n-e.
6 BY MR. WEBER:
7 Q. And were the two individuals that you named
8 the only people responsible for the Congregation of
9 the Holy Ghost Western Province's response to this
10 letter?
11 A. No.
12 Q. Who else would have been involved in
13 responding?
14 A. Father Daniel Walsh.
15 Q. Can you also give me their title, like what
16 were their roles at the province?
17 A. Provincial counselor, Father Benoit,
18 B-e-n-o-i-t, Mukamba, M-u-k-a-m-b-a, and there's one
19 more that I can't remember. And he's an African,
20 that's why I can't remember his last name.
21 Q. So six people, it sounds like, would have
22 been in charge of responding to this letter; is that
23 correct?
24 A. They would be in charge of counselling for a
25 response.

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1 Q. And who would they have counselled for a
2 response?
3 A. Reverend John Sawicki, who was the
4 provincial treasurer of the American Province of the
5 Congregation of the Holy Spirit.
6 Q. And do you know what the response to the
7 Congregation of the Holy Ghost Western Province was to
8 this letter?
9 A. To hire Marc Dobin.
10 Q. So they hired Marc Dobin in response to this
11 letter?
12 A. No, to the whole . . .
13 Q. The whole lawsuit?
14 A. The whole lawsuit.
15 Q. But I'm only referring to the document
16 marked as Exhibit 4.
17 A. I have no idea.
18 Q. Okay. The people who would know the
19 response to Exhibit 4 are the people you mentioned,
20 correct?
21 A. Yes, specifically Father John Sawicki.
22 Q. I may have already asked, but what was the
23 response from the Congregation of the Holy Ghost
24 Western Province to the document marked as Exhibit 4?
25 MR. DOBIN: You did already ask that.

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1 BY MR. WEBER:
2 Q. I did ask that?
3 You don't know, correct?
4 A. No, I don't know.
5 Q. You can put that one to the side.
6 One of the claims that the Congregation of
7 the Holy Ghost Western Province is making in this
8 lawsuit is that the plaintiffs, P&S and Philip Von
9 Kahle, the conservator, could have commenced this
10 lawsuit sooner than they did. Are you aware of that
11 claim?
12 A. Yes.
13 Q. Okay. What's the basis for that claim?
14 A. I'm just aware of it and that's as far as it
15 goes.
16 Q. So you don't know any facts that might --
17 A. No.
18 Q. Okay. Who would know the answer to that
19 question?
20 A. I have no idea.
21 Q. Are you involved in the -- let me rephrase.
22 Are you the client liaison, the Congregation
23 of the Holy Ghost Western Province liaison to counsel
24 in this action?
25 A. No.

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1 Q. Who is?
2 A. I would imagine that Father Jeffrey Duaine,
3 who is the Provincial Superior of the Congregation of
4 the Holy Spirit U.S.A. Province.
5 Q. Would he be the one who knows about the
6 claims, aside from counsel, who knows about the claims
7 and defenses asserted by Holy Ghost Western Province
8 in this action?
9 A. You would have to ask him, I don't know.
10 Q. Okay.
11 MR. DOBIN: Just so we are clear.
12 MR. WEBER: Sure.
13 MR. DOBIN: We haven't filed an answer and
14 since the -- we are now on the third amended
15 complaint. All we have is a motion for summary
16 judgment that is no longer extant because of the
17 filing of the third amended complaint. There's
18 actually no allegations on behalf of the congregation
19 right now.
20 MR. WEBER: We can talk about it
21 afterwards. But, I mean, you have filed a motion for
22 summary judgment in this case previously.
23 MR. DOBIN: To a prior pleading.
24 MR. WEBER: Unless you are going to tell me
25 now that you are not asserting a statute of

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1 limitations defense.
2 MR. DOBIN: It's not right for you, in my
3 opinion, to ask this witness about claims and
4 defenses that are no longer in play until a new
5 pleading is filed.
6 MR. WEBER: Then we'll have to possibly
7 redepose him at that time, but let's continue on for
8 now, we can discuss it later.
9 We are going to mark this document as
10 Exhibit 5.
11 [The Congregation of the Holy Ghost Western
12 Province's Response to Plaintiffs' First Request for
13 Production of Document was marked for identification
14 as Plaintiffs' Exhibit 5.]
15 BY MR. WEBER:
16 Q. Father, I'm handing you a document that's
17 been marked as Exhibit 5. Take a moment to look at
18 this document and let me know when you are ready.
19 A. Ready.
20 Q. Do you know what the document marked as
21 Exhibit 5 is?
22 A. No. Can you explain it?
23 Q. This is your response to request for
24 production served by us, the plaintiffs, on the
25 Congregation of the Holy Ghost Western Province. Were

<p style="text-align: right;">Page 65</p> <p>1 you involve in responding to plaintiffs' request for 2 production at all? 3 A. Not directly, no. 4 Q. Okay. Who at the Congregation of the Holy 5 Ghost Western Province was in charge of searching for 6 documents in response to plaintiffs' request for 7 production? 8 A. I would imagine that Father Jeffrey Duaine 9 and Father John Sawicki. 10 Q. I just want to be clear, do you know that or 11 you are assuming? 12 A. I'm assuming. 13 Q. So you don't know? 14 A. No. 15 Q. It's very important for the record that we 16 just be clear. 17 Do you know how searches were conducted for 18 documents by Holy Ghost Western Province in response 19 to plaintiffs' first request for production of 20 documents? 21 A. No. 22 Q. Do you know where Holy Ghost Western 23 Province searched for documents in response to 24 plaintiffs' first request for production of documents? 25 A. Yes and no.</p>	<p style="text-align: right;">Page 67</p> <p>1 A. When I moved out to another position? 2 Q. Right. 3 A. Yes. 4 Q. What happened to your files when you were -- 5 A. They were left in the financial office in 6 Houston, Texas. 7 Q. Do you know what happened to those files? 8 A. No. 9 Q. You can put this one to the side. 10 [The Form was marked for identification as 11 Plaintiffs' Exhibit 6.] 12 BY MR. WEBER: 13 Q. Let me hand you a document that's been 14 marked as Exhibit 6. Take a moment to review this 15 document and let me know when you are ready. 16 A. Ready. 17 Q. What is the document that's been marked as 18 Exhibit 6? 19 A. It's a document that I received from P&S 20 Associates regarding how I want the quarterly 21 distributions, where I wanted it to go. 22 Q. And by this document, Exhibit 6, you also 23 executed the partnership agreement for P&S, correct? 24 A. I don't know. 25 Q. Well, it says, "The parties hereto have</p>
<p style="text-align: right;">Page 66</p> <p>1 Q. Okay. Explain. 2 A. The headquarters for the Congregation of the 3 Holy Spirit U.S.A. Province is in Bethel, 4 Pennsylvania. I would assume, which I don't want to 5 for the record, that they searched there for the 6 documents because when the merger took place 7 everything was moved from San Antonio, Texas, which 8 was the headquarters of the congregation, the former 9 Western Province, Congregation of the Holy Spirit, to 10 Bethel Park, Pennsylvania. 11 Q. But you don't know? 12 A. I don't know, no. 13 Q. Did anyone ask you for documents related to 14 P&S? 15 A. No. 16 Q. Do you have any documents related to P&S? 17 A. No. 18 Q. What happened to all the documents you had 19 related to P&S when you were CFO and provincial 20 treasurer? 21 You kept files -- 22 A. Yes. 23 Q. -- right? 24 A. Yes. 25 Q. There came a time when you retired, correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 executed this agreement by the signature and date set 2 forth below," correct? 3 A. Yes. 4 Q. Why did you elect to have your quarterly 5 distribution reinvested in the partnership? 6 A. I don't recall. 7 Q. What was the purpose of you signing this 8 document? 9 A. To let them know that I wanted my quarterly 10 distribution reinvested in the partnership. 11 Q. That was the only reason? 12 A. Yes. 13 Q. You can put this one to the side. 14 MR. WEBER: We are going to mark this 15 document as Exhibit 7. 16 [The December 19, 1995 Letter was marked for 17 identification as Plaintiffs' Exhibit 7.] 18 BY MR. WEBER: 19 Q. I'm handing you a document that's been 20 marked as Exhibit 7. Take a moment to look at it and 21 let me know when you are ready. 22 MR. DOBIN: Steven, Exhibit 2, which are 23 the documents that Father Joe brought with him -- 24 MR. WEBER: You want me to make a copy for 25 you?</p>

1 MR. DOBIN: We should make a copy so we
2 know what the universe is of those documents.
3 MR. WEBER: That's fine. There will be a
4 copy attached to the transcript.
5 MR. DOBIN: Yeah, but I need to make sure
6 that the copy in the transcript is the same as the
7 copy that I now have and the copy that he has.
8 THE WITNESS: I'm ready.
9 BY MR. WEBER:
10 Q. Ready?
11 A. Yes.
12 Q. What is the document marked as Exhibit 7?
13 A. It's a receipt for the check that -- the
14 first amount of \$100,000 that we sent as a capital
15 contribution to P&S Associates.
16 Q. And Exhibit 7 is a letter sent to you,
17 correct?
18 A. Yes.
19 Q. Father Joseph B. Gaglione?
20 A. Yes.
21 Q. And do you recognize the names on the top of
22 this letter marked as Exhibit 7, Michael D. Sullivan
23 and Gregory O. Powell?
24 A. Only as the fact that they were sincerely
25 Michael Sullivan and Greg Powell in the bottom.

1 Q. So they were the managing partners of P&S,
2 correct?
3 A. I assume so, yes.
4 Q. But you don't know for sure?
5 A. No.
6 Q. But you take this letter as true, correct?
7 A. Yes.
8 Q. Okay. It says in the second paragraph that,
9 "We acknowledge our responsibility as managing
10 partners to keep you informed with the return on our
11 collective investments and your proportionate share of
12 the profits and losses."
13 Do you see that?
14 A. Yes.
15 Q. Were you ever kept informed of the return on
16 the collective investments and your proportionate
17 share of the profits and losses?
18 A. Not that I recall, no.
19 Q. Okay. In the third paragraph it says, "It
20 is our intent that all partners receive a copy of the
21 partnership agreement for review and as part of your
22 financial records."
23 Do you see that?
24 A. Yes.
25 Q. You received a copy of the partnership

1 agreement, correct?
2 A. I don't recall.
3 Q. Okay. "If you have not received this
4 document, please let us know and we will forward a
5 copy to you."
6 Do you see that?
7 A. Yes.
8 Q. Did you ever let Michael Sullivan or Greg
9 Powell know you did not receive a copy of the
10 partnership agreement?
11 A. No.
12 Q. Okay. You can put that down to the side.
13 [The October 18, 1996 Letter was marked for
14 identification as Plaintiffs' Exhibit 8.]
15 BY MR. WEBER:
16 Q. I'm handing you a document that's been
17 marked as Exhibit 8. Please take a moment to look at
18 this document and let me know when you are ready.
19 A. Ready.
20 Q. What is this document marked as Exhibit 8?
21 A. It is a letter I sent to Mr. Powell of P&S
22 Associates requesting that there be a change in the
23 distribution, that we would like to have the
24 distribution be done on a quarterly basis instead of
25 being reinvested in the partnership.

1 Q. Okay. Aside from this letter marked as
2 Exhibit 8, which is a letter from you to Mr. Powell,
3 did you send any other letters to Mr. Powell or
4 Michael Sullivan?
5 A. No.
6 Q. Okay. In the third paragraph it states --
7 A. Not that I recall.
8 Q. Not that you recall?
9 A. Yes.
10 Q. Okay. In the third paragraph it states,
11 "There is one change we would like to make regarding
12 distribution. We would elect distribution on a
13 quarterly basis instead of it being reinvested in the
14 partnership."
15 Why did you decide to make that change?
16 A. Because we needed the monies to support our
17 men in the missions and our retirement and our
18 education of seminarians.
19 Q. So there was a change from when you
20 initially invested, correct?
21 A. Yes.
22 Q. Okay. Are there any other reasons why you
23 decided to receive distributions on a quarterly basis
24 instead of being reinvested?
25 A. We were a poor order at the time so we

<p style="text-align: right;">Page 73</p> <p>1 needed as much cash as possible to meet our 2 obligations. 3 Q. You said you were a poor order at the time, 4 are you no longer a poor order? 5 A. Depending on -- 6 Q. Relative, right? 7 A. -- judgment, yes. 8 Q. Let me rephrase it then. 9 A. Yes. 10 Q. Do you consider yourself still a poor order? 11 A. Oh, definitely, yes. 12 Q. Compared to other orders? 13 A. Not -- compared to what our obligations are 14 as far as the spreading of the gospel. 15 Q. Understood. I'm a poor man also. 16 What is the -- I don't know what the proper 17 term for the congregation -- but what is the 18 Congregation of the Holy Ghost Western Province's 19 current yearly revenue? 20 A. Cash is about a million and a half dollars. 21 Q. I don't know if it's the right word, but 22 what is the Congregation of the Holy Ghost Western 23 Province's current yearly profit? 24 A. None. 25 Q. Okay. What would be the --</p>	<p style="text-align: right;">Page 75</p> <p>1 THE WITNESS: Okay. The former Western 2 Province, their cash receipts were far less than what 3 our expenses were. 4 MR. WEBER: Okay. 5 THE WITNESS: The million dollars has no 6 relationship to the former Western Province. 7 MR. WEBER: Right. You can put this one to 8 the side. 9 [The June 30, 2002 Letter was marked for 10 identification as Plaintiffs' Exhibit 9.] 11 BY MR. WEBER: 12 Q. I'm handing you a document that's been 13 marked as Exhibit 9. Please take a moment to look at 14 the document marked as Exhibit 9 and let me know when 15 you are ready to begin. 16 A. Ready. 17 Q. Have you ever seen the document marked as 18 Exhibit 9 prior to today? 19 A. Yes. 20 Q. When did you last see the document marked as 21 Exhibit 9? 22 A. Ten days ago. 23 Q. What context did you see the document marked 24 as Exhibit 9? 25 A. Correspondence from Marc.</p>
<p style="text-align: right;">Page 74</p> <p>1 A. What our obligations are? 2 Q. Well, the congregation has expenses and its 3 revenue covers some of those expenses. Does it have 4 any revenue in excess of its yearly expenses? 5 A. Cash revenue or -- 6 Q. Correct. 7 A. No. 8 Q. Okay. 9 A. Now, you are talking about, for 10 clarification -- 11 Q. Right, I guess -- 12 A. -- the Western Province? 13 Q. Right. It doesn't -- 14 A. The Western Province no longer exists 15 anymore so . . . 16 Q. So when you say a million, about a million 17 revenue, you are talking about the new entity, 18 correct? 19 A. Yes. 20 Q. Currently? 21 A. Yes. 22 Q. Go ahead, you wanted to clarify something. 23 A. Off the record. 24 Q. No, you can be on the record. 25 MR. DOBIN: There's no question pending.</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Okay. Do you know why this document has not 2 been produced to plaintiffs by the Congregation of the 3 Holy Ghost Western Province? 4 A. No. 5 Q. Aside from the documents marked as Exhibit 2 6 and this document marked Exhibit 9, have you seen any 7 other documents regarding the Congregation of the Holy 8 Spirit from counsel? 9 A. You know, I can't answer that question 10 because you all took all the documents. 11 Q. The Number 2, right? 12 A. Yes, that was -- that's the only documents 13 that I have seen. 14 Q. The only documents you've personally seen 15 are the ones in Exhibit 2, correct? 16 A. Yes. 17 Q. Aside from when you saw this document with 18 counsel, did you previously see this document? 19 A. No. 20 Q. What do you know about this document that's 21 been marked as Exhibit 9? 22 A. Nothing. 23 Q. Exhibit 9 is a letter from Philip D. 24 Evanstock to Mr. Powell, correct? 25 A. Yes.</p>

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1 Q. And it states, "At this time, I would like
2 to liquidate our assets with your firm."
3 Do you see that?
4 A. Yes.
5 Q. Do you know why Mr. Evanstock wanted to
6 liquidate his assets with the firm?
7 A. No. I can assume but --
8 Q. Right, no assumptions, please.
9 A. No assumptions. All I can tell you on the
10 record is that I wasn't in agreement with this when I
11 heard this done, but I have never seen this document.
12 Q. Okay. We can stay on the record. Why
13 weren't you in agreement with this when this was done?
14 Well, let's back up. What were you not in
15 agreement with?
16 A. Liquidating the assets from P&S Associates.
17 Q. Okay. I thought you had previously
18 testified you were not involved in the liquidation of
19 the assets from P&S?
20 A. I wasn't.
21 Q. How do you know --
22 A. After the fact.
23 Q. Oh, after the fact.
24 A. After the fact, when they liquidated, I
25 was -- I questioned it because we were getting good

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1 returns.
2 Q. When you found out -- when did you find out
3 that --
4 A. Oh, I can't remember. It was years after
5 that, five years after it was -- sometime after it was
6 done.
7 Q. Got you.
8 A. As a former treasurer things, you know --
9 Q. Understood. So you personally were -- you
10 questioned the Congregation of the Holy Ghost Western
11 Province liquidating its P&S investment, correct?
12 A. I didn't question it, no.
13 Q. But you disagreed with it?
14 A. Yes.
15 Q. Did you feel that your investment, not you
16 personally, did you feel that the Congregation of the
17 Holy Ghost Western Province's investment with P&S was
18 better than its investment in other places?
19 A. No.
20 Q. So why did you disagree with the
21 Congregation liquidating its investment with P&S?
22 A. It was a steady income with unfavorable
23 futures of what was happening with the economy, that I
24 saw personally.
25 Q. Okay. How did it compare to the other

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1 investments that the Congregation of the Holy Ghost
2 Western Province had?
3 A. I had no idea because I had been out of it
4 for a while.
5 Q. Okay. Is it fair to say that you don't know
6 the basis for any of the statements in the document
7 marked as Exhibit 9?
8 A. Yes.
9 Q. Okay, let's put this one to the side.
10 I want to show you -- let's look back at
11 Exhibit 7. In Paragraph 1 it states, "These monies
12 will be forwarded, when funds have cleared, through
13 the investment broker."
14 Do you see that?
15 A. Uh-huh.
16 Q. Who was the investment broker?
17 A. I don't know.
18 Q. Did you ever question Mr. Powell and
19 Mr. Sullivan regarding the identity of the investment
20 broker?
21 A. No.
22 Q. What was your understanding of the role of
23 the investment broker?
24 A. No understanding.
25 Q. Did you know that there was an investment

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1 broker involved prior to this letter?
2 A. No.
3 Q. Okay. You know today that P&S was involved
4 with Madoff, correct?
5 A. Do I know?
6 Q. Yes.
7 A. No.
8 Q. Okay.
9 MR. WEBER: We are going to mark this
10 document as Exhibit 10.
11 [The Congregation of the Holy Ghost Western
12 Province's Supplemental Response to Plaintiffs' First
13 Set of Interrogatories was marked for identification
14 as Plaintiffs' Exhibit 10.]
15 BY MR. WEBER:
16 Q. I'm handing you a document marked as
17 Exhibit 10. Please take a moment to review this
18 document and let me know when you are ready.
19 MR. DOBIN: Just for the record, this
20 witness was produced and was given the task of
21 preparing for the topics that are on what is marked
22 as Exhibit 1.
23 MR. WEBER: Right.
24 MR. DOBIN: The document that you've now
25 marked as Exhibit 10 is not on that topics list.

<p style="text-align: right;">Page 81</p> <p>1 MR. WEBER: I think we have it under your 2 response to our discovery request. 3 MR. DOBIN: No, it says responses -- oh, 4 excuse me. 5 MR. WEBER: Right? 6 MR. DOBIN: Discovery request, I was 7 reading his document request. My apologies. 8 MR. WEBER: Just before we go forward, keep 9 this on the record. Marc, I'm handing you a copy of 10 Composite Exhibit 2. Can you just confirm that all 11 documents are what's been marked as Composite 2 given 12 to you and the Composite 2 that we've marked as the 13 exhibit in this action? I just want to make sure you 14 have a copy of all the documents. 15 MR. DOBIN: Yes. 16 MR. WEBER: You have a copy of all the 17 documents, correct? 18 MR. DOBIN: Correct. 19 MR. WEBER: The one we are submitting to the 20 court reporter is accurate? 21 MR. DOBIN: Yes. 22 MR. WEBER: Thank you. 23 THE WITNESS: I don't want it. 24 BY MR. WEBER: 25 Q. Are you familiar with the document that's</p>	<p style="text-align: right;">Page 83</p> <p>1 A. Yes, I was. 2 Q. You were involved? 3 A. Oh, yes. I thought you meant putting them 4 together, formulating them. 5 Q. You were only involved in formulating the 6 responses to certain of these interrogatories, 7 correct? 8 A. Yes. 9 Q. And which ones were you involved in 10 formulating the response to? If you look at number 11 nine, I think that might give you some assistance. 12 A. Excuse me. 13 Q. Actually, withdrawn. 14 Just let me know which ones you were 15 involved in formulating the response to. 16 A. Everything with my name attached to it, I 17 would imagine. By numbers? 18 Q. Right. If you look at number nine -- 19 A. Number nine. 20 Q. -- it says, "Moreover, Father Gaglione 21 supplied information relating to Interrogatories 1, 2, 22 3, 7, and 8." 23 A. Yes. 24 Q. Did you personally, Father Gaglione, provide 25 information to formulate responses to any other</p>
<p style="text-align: right;">Page 82</p> <p>1 been marked as Exhibit 10? 2 Sorry, I gave you the wrong copy. Let the 3 record reflect that I restuck Exhibit 10 to a new copy 4 of the document. 5 And just for the record, do you recognize 6 the document that's now marked as Exhibit 10? 7 A. Yes. 8 Q. Okay. What is the document that's been 9 marked as Exhibit 10? 10 A. A document that I was -- that I viewed a 11 while ago, that certain questions were asked about our 12 involvement with P&S Associates from the people who 13 were involved in the U.S. Province East/West -- U.S. 14 Province West. 15 Q. Were you involved in formulating the answers 16 to these interrogatories? 17 A. No. 18 Q. Okay. Exhibit 10 is Congregation of the 19 Holy Ghost Western Province's responses or 20 supplemental responses to our first set of 21 interrogatories, correct? 22 A. Yes. 23 Q. Okay. You were not involved, you 24 personally, were not involved in formulating the 25 responses to these interrogatories?</p>	<p style="text-align: right;">Page 84</p> <p>1 interrogatories? 2 A. No. 3 Q. Okay. What part of the response to 4 Interrogatory Number 1 did you provide information? 5 A. That I was the provincial treasurer from 6 1990 to 1998. The second paragraph. 7 Q. Talking about the second paragraph on 8 Page 2, correct? 9 A. Page -- yes, Page 2. 10 Q. Any other paragraphs in the answer to number 11 one that you provided information and response to? 12 A. Number two, response. 13 Q. Actually, just looking at the response to 14 Interrogatory Number 1, it's on Pages 2 and 3? 15 A. Yeah, I'm just looking it over so I don't 16 give you more information than you really need. 17 Q. But in response to Interrogatory Number 1, 18 aside from Paragraph 2 on Page 2, did you provide any 19 other information in response to Interrogatory Number 20 1? 21 A. No, that's basically it. 22 Q. Okay. Do you have information regarding the 23 other paragraphs in response to Interrogatory Number 24 1? 25 A. No.</p>

1 Q. Okay. Who would have the information
 2 regarding the other paragraphs in response to
 3 Interrogatory Number 1?
 4 A. I have no idea.
 5 Q. Okay. Let's look at number -- response to
 6 Interrogatory Number 2.
 7 A. Uh-huh.
 8 Q. Did you provide information in response to
 9 Interrogatory Number 2?
 10 A. Yes.
 11 Q. Okay. That would be the statement that,
 12 "During Father Gaglione's term as provincial
 13 treasurer, the congregation made the original
 14 investment of \$200,000 in P&S Associates. Father
 15 Gaglione recalls the Congregation receiving quarterly
 16 returns that equalled anything that the Congregation
 17 could get with CDs at that time." Correct, that's
 18 from you?
 19 A. Yes.
 20 Q. "Father Gaglione left his position as
 21 provincial treasurer prior to the time that the
 22 Congregation received its last distribution from P&S
 23 Associates," correct?
 24 A. Yes.
 25 Q. Then it states, "When Father Evanstock took

1 over, Merrill Lynch was handling the Congregation's
 2 investments," correct?
 3 A. Yes.
 4 Q. Why was Merrill Lynch handling the
 5 Congregation's investments?
 6 A. They were the original holder handling all
 7 of our investments from the very beginning, 1968.
 8 Q. What does it mean by, "The Congregation was
 9 not actively involved with P&S Associates during
 10 Father Evanstock's tenure"?
 11 A. I have no idea what that means.
 12 Q. Okay.
 13 A. I can assume that they were just referring
 14 to the quarterly distributions.
 15 Q. Uh-huh.
 16 A. That was the only communication. I assume
 17 that.
 18 Q. I don't want you to assume, just you know or
 19 you don't know.
 20 A. I don't know.
 21 Q. Okay. The last sentence says, "Father White
 22 only recalls that in 1995, the first year the
 23 Congregation invested in P&S Associates, the
 24 Congregation acknowledged receipts of the
 25 partnership."

1 Do you know what that means?
 2 A. No.
 3 Q. What was Merrill --
 4 A. I don't want to assume, so no.
 5 Q. What was Merrill Lynch's role with P&S?
 6 A. None, no role at all.
 7 Q. Okay. So when it says, "Merrill Lynch was
 8 handling the Congregation's investments," does that
 9 mean that Merrill Lynch was handling all the
 10 Congregation's investments but P&S?
 11 A. No, there were other investments that they
 12 didn't handle either.
 13 Q. What investments were those?
 14 A. We had an investment with Meridian, which
 15 was a -- I can't remember the name of it. It's a
 16 hedge fund that I got involved in through a personal
 17 relationship with the president of Meridian Capital.
 18 Q. Okay.
 19 A. I also had another investment broker who was
 20 a friend of mine handling portions of our investments
 21 out of New York.
 22 Q. Okay. Why were Merrill Lynch not handling
 23 those investments?
 24 A. Just personal judge -- just personal.
 25 Q. You didn't think Merrill Lynch needed to be

1 involved?
 2 A. Right.
 3 Q. Okay. Let's look at the response to
 4 Interrogatory Number 3. Were you involved in
 5 formulating the response to Interrogatory Number 3?
 6 A. Yes.
 7 Q. It states that, "Father Gaglione only
 8 remembers that this representative from P&S Associates
 9 provided him with the necessary investment papers."
 10 What representative are you referring to
 11 there?
 12 A. From the papers that I got it must have been
 13 Mr. Powell.
 14 Q. What were the necessary investment papers
 15 you were referring to?
 16 A. The papers that were handed to me were --
 17 which states that with the \$100,000 primary investment
 18 we were part of the P&S Associates partnership.
 19 Papers that requested how we wanted our quarterly
 20 dividends dealt with, whether they were to be
 21 reinvested or sent on a quarterly basis.
 22 MR. DOBIN: So that the record is clear, I
 23 think that the witness is referring specifically to
 24 documents that he's viewing in this deposition --
 25 MR. WEBER: Right.

<p style="text-align: right;">Page 89</p> <p>1 MR. DOBIN: -- not based on his 2 recollection from 1995. 3 MR. WEBER: I understand that. 4 THE WITNESS: Yes. 5 BY MR. WEBER: 6 Q. Aside from the exhibits that we've marked 7 today, are you referring to any other papers as 8 necessary investment papers? 9 A. No. 10 Q. Okay. Let's look at Interrogatory Number 4. 11 Were you involved in formulating the response to 12 Interrogatory Number 4? 13 A. No. 14 Q. It says that, "At any time, a partner could 15 have requested to inspect the books and records." 16 What's the basis for that statement? 17 MR. DOBIN: That's when he said that he 18 wasn't involved with the preparation -- 19 MR. WEBER: Marc, let's just let him -- 20 THE WITNESS: I have no idea. 21 BY MR. WEBER: 22 Q. It says, "Upon doing so, the partner would 23 have discovered the distributions made by the 24 partnership." 25 What's the basis for that statement?</p>	<p style="text-align: right;">Page 91</p> <p>1 A. All of it. 2 Q. It says that, "The Congregation was only 3 aware that other Catholic institutions, including the 4 Irish Province, had invested in P&S Associates." What 5 is the Irish Province? 6 A. The Irish Province is a Province of the 7 Congregation of the Holy Spirit. 8 Q. When did the Irish Province invest in P&S 9 Associates? 10 A. I have no idea. 11 Q. How do you know if the Irish Province 12 invested in P&S? 13 A. Father Mark O'Meara. 14 Q. He told you that? 15 A. I assumed. 16 Q. Why did you assume? 17 A. Because he was a representative of the Irish 18 Province. 19 Q. So you don't know for sure the Irish 20 Province invested in P&S? 21 A. No. 22 Q. This is back in 1999 you assumed? 23 A. Back in 1995. 24 Q. Okay, 1995, correct. 25 What other Catholic institutions had</p>
<p style="text-align: right;">Page 90</p> <p>1 A. I have no idea. 2 Q. Were you involved in the response to 3 Interrogatory Number 5? 4 A. No. 5 Q. Do you know what the basis is for the 6 response to Interrogatory Number 5? 7 A. Not directly, no. 8 Q. Do you know indirectly what the basis of the 9 response is? 10 A. I mean, yeah. After 16 years, you know, why 11 are they -- 12 Q. That's not what this says, actually. It 13 says -- 14 A. Okay, but -- no, go ahead. 15 Q. You are referring to generally the 16 proposition that 16 years later that you shouldn't 17 have to pay the money back, correct? 18 A. Right. 19 Q. Okay. Interrogatory Number 7, were you 20 involved in formulating the response to Interrogatory 21 Number 7? 22 A. Yes. 23 Q. What parts of the response to Interrogatory 24 Number 7 did you help formulate? Is there a specific 25 sentence or all of it?</p>	<p style="text-align: right;">Page 92</p> <p>1 invested in P&S Associates? 2 A. Specifically I have no recollection of who 3 they were. 4 Q. Generally? 5 A. Generally there were religious orders that 6 were -- that Father Mark O'Meara told me had invested. 7 Q. Did he tell you what religious orders 8 invested? 9 A. No. 10 Q. How did Mark O'Meara get invested -- 11 Father O'Meara get invested in P&S? 12 A. I have no idea. 13 Q. Then it states, "The Congregation became 14 aware of this prior to its original investment." 15 How did the Congregation become aware of 16 this prior to its original investment? 17 A. Where are you at? 18 Q. It's still Interrogatory Response 7, the 19 second sentence says, "The Congregation became aware 20 of this prior to its original investment." 21 A. Yes. 22 Q. You are referring to the first sentence, 23 correct, there? 24 A. Yes. 25 Q. How did the Congregation become aware of</p>

<p style="text-align: right;">Page 93</p> <p>1 what's in the first sentence prior to its investment 2 with P&S? 3 A. Father Mark O'Meara. 4 Q. Is there anything you haven't told me 5 about -- I'm sorry, withdrawn. 6 "The Congregation had knowledge that these 7 other institutions were receiving good returns on 8 their investments." 9 What institutions are you referring to in 10 that sentence? 11 A. The religious orders that were referred to 12 me by Father Mark O'Meara. 13 Q. What knowledge did you have regarding the 14 returns? 15 A. None. 16 Q. What do you mean by "good returns on their 17 investments"? 18 A. What the CDs were paying at the time. 19 Q. You were assuming that based on what 20 Father O'Meara was telling you, correct? 21 A. Yes. 22 Q. You don't actually know that other 23 institutions were receiving good returns on their 24 investments, correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 95</p> <p>1 quarterly basis -- 2 Q. You are referring to -- 3 A. -- of dividends. 4 Q. I'm sorry, I didn't mean to interrupt you 5 there. 6 You are referring to the quarterly 7 distributions, correct? 8 A. Yes. 9 Q. When you state they were receiving good 10 returns on their investments with respect to other 11 institutions, was that the quarterly distributions you 12 were referring to? 13 A. Yes. 14 Q. So you were aware prior to your investment 15 and filing of the complaint that at least some 16 institutions were receiving good returns through their 17 quarterly distributions, correct? 18 A. No. 19 Q. How am I wrong? 20 A. The fact that I didn't know what the others 21 were receiving, just that this was a sound investment 22 by Father Noel O'Meara. 23 Q. So you are saying you don't know 24 specifically what distributions they received, you 25 just know prior to filing of the complaint that they</p>
<p style="text-align: right;">Page 94</p> <p>1 MR. DOBIN: Just for clarification, Father 2 Gaglione has been referring to him as Mark O'Meara 3 but you mean -- 4 MR. WEBER: Father O'Meara, it's the same 5 person, correct? 6 MR. DOBIN: You mean Noel. 7 THE WITNESS: Noel. Mark is the golfer, 8 who was also a friend of mine. 9 MR. WEBER: Which would make this case 10 really interesting. 11 BY MR. WEBER: 12 Q. So just for the record, is it fair to say 13 that whenever we were referring to Mark O'Meara that 14 we were referring to Noel O'Meara; is that correct? 15 A. Yes. I'm sorry, I didn't realize I was 16 saying Mark. 17 Q. Your response to Interrogatory Number 7 18 says, "The Congregation was not aware of any other 19 distributions received by any other partner at P&S 20 Associates prior to the filing of the complaint." 21 You see that? 22 A. Yes. 23 Q. What distributions are you referring to 24 there? 25 A. Same distributions that we were getting on a</p>	<p style="text-align: right;">Page 96</p> <p>1 were receiving good returns through their 2 distributions? 3 A. No, that other religious orders had invested 4 in P&S. 5 Q. Okay. Well, you state that, "The 6 Congregation had knowledge that these other 7 institutions were receiving good returns on their 8 investments," correct? 9 A. Correct. 10 Q. And that was through their distributions 11 from P&S, correct? 12 A. Right. 13 Q. So prior to the filing of the complaint, you 14 knew that at least one partner was receiving 15 distributions from P&S, correct? 16 A. One partner -- 17 Q. At least one partner through Noel O'Meara. 18 A. Yes. 19 Q. Okay. In response to Interrogatory Number 20 8 -- sorry, were you involved in formulating the 21 response to Interrogatory Number 8? 22 A. I don't recall, but I would say probably 23 yes. 24 Q. The response to number eight says, "Upon 25 information and belief, the Congregation spoke to the</p>

<p style="text-align: right;">Page 97</p> <p>1 Irish Province about its investments in P&S 2 Associates." What does that mean? 3 A. I spoke to Father Noel O'Meara about P&S 4 Associates from the beginning that -- one, maybe two 5 conversations with him about P&S Associates. 6 Q. How did those -- you say one, maybe two 7 conversations. How did those conversations differ? 8 A. I don't recall. 9 Q. Like one you say, oh, I'm thinking about 10 investing and he got back to you the next day? 11 A. I'm thinking about investing, does he have 12 any investments. Possibly either the first time he 13 said, yes, I do have one, P&S, or he got back to me 14 and says, yes, there's P&S, and that's the extent of 15 my conversation with him. 16 Q. So you didn't have any further conversations 17 with Mr. O'Meara -- Father O'Meara about the Irish 18 Province? 19 A. Father Noel, no. 20 Q. You are not aware of any other conversations 21 with Irish Province about your investments with P&S, 22 correct? 23 A. Correct. 24 Q. Then it says, "As such, the Irish Province 25 possibly had knowledge that the Congregation was also</p>	<p style="text-align: right;">Page 99</p> <p>1 Q. It states that your total investments were 2 200,000, correct? 3 A. Yes. 4 MR. DOBIN: This is not one of our 5 documents, right? 6 MR. WEBER: No. 7 BY MR. WEBER: 8 Q. And it states the distributions were in the 9 amount of \$382,532.35, correct? 10 A. That's what it states, yes. 11 Q. Do you know what the return on 200,000 or 12 investment that pays out \$382,532 -- I'm sorry. 13 Do you know what the return on an investment 14 of \$200,000 that pays \$382,532.35 is? 15 A. No. 16 Q. It's about 52 percent. 17 Did the Congregation of the Holy Ghost 18 Western Province have any investments, aside from P&S, 19 that paid a return of approximately 52 percent? 20 MR. DOBIN: Objection to form. 21 MR. WEBER: You can answer. 22 MR. DOBIN: You can answer. 23 THE WITNESS: I can answer? State the 24 question again. 25</p>
<p style="text-align: right;">Page 98</p> <p>1 receiving returns on its investment." What do you 2 mean by that? 3 A. I don't mean anything but that's -- I have 4 no knowledge of me responding that way. 5 Q. You don't know the basis of that statement, 6 correct? 7 A. No. 8 MR. WEBER: We are going to mark this as 9 Exhibit 11. 10 [The Detail of Account was marked for 11 identification as Plaintiffs' Exhibit 11.] 12 BY MR. WEBER: 13 Q. Please take a moment to look at the document 14 marked as Exhibit 11, and let me know when you are 15 ready. 16 A. Ready. 17 Q. Do you know what this document is that's 18 been marked as Exhibit 11? 19 A. It's the account for the Congregation of the 20 Holy Ghost Western Province, a detailed account, from 21 P&S Associates. 22 Q. And it shows investments by the Congregation 23 of the Holy Ghost Western Province and distributions, 24 correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 BY MR. WEBER: 2 Q. Did the Congregation of the Holy Ghost 3 Western Province have any investments, aside from P&S, 4 that paid the Congregation of the Holy Ghost Western 5 Province a return of approximately 52 percent? 6 MR. DOBIN: Same objection. 7 You can answer. 8 THE WITNESS: You know, I would say yes, 9 over the course of seven years, nine years, we 10 doubled our money. 11 MR. WEBER: Okay. 12 THE WITNESS: CDs, you know, long-term CDs, 13 Meridian Capital Hedge Fund. 14 BY MR. WEBER: 15 Q. There's a column for management fees. Are 16 you aware of the management fees paid by the 17 Congregation of the Holy Ghost Western Province to 18 P&S? 19 A. No. 20 Q. Are you aware of the miscellaneous fees paid 21 by the Congregation of the Holy Ghost Western Province 22 to P&S? 23 A. No. 24 Q. Now, put that one to the side. 25 MR. WEBER: Let's just take a five-minute</p>

1 break. I think we can wrap up, Marc.
 2 MR. DOBIN: Okay, good.
 3 [Short recess taken.]
 4 BY MR. WEBER:
 5 Q. Just a few more questions for you.
 6 We had mentioned a number of Holy Ghost
 7 entities during today's deposition. Were you aware no
 8 other Holy Ghost entities withdrew their investment
 9 from P&S?
 10 A. No.
 11 Q. Okay.
 12 MR. WEBER: We have no further questions at
 13 this time, but we are going to keep the deposition
 14 open because we don't believe that you provided an
 15 adequate witness to address some of the topics that
 16 we've noticed for today, and we can address that
 17 separately with counsel afterward and decide how we
 18 are going to proceed.
 19 MR. DOBIN: While this witness is still
 20 here, why don't you tell me what you think we haven't
 21 covered and I may have responses for you. There's
 22 questions that you didn't ask that would explain some
 23 of the holes that you think that you have.
 24 MR. WEBER: Well, I want to know the
 25 circumstances under which the Congregation of the

1 Holy Ghost Western Province withdrew from P&S.
 2 MR. DOBIN: Other than they decided to
 3 withdraw?
 4 MR. WEBER: Right.
 5 MR. DOBIN: What more do you want other
 6 than they decided to withdraw?
 7 MR. WEBER: I want more than that. I want
 8 facts and circumstances. I don't want your
 9 testimony, Marc, I want it from a witness.
 10 MR. DOBIN: I understand, but what more do
 11 you want when this witness testified --
 12 MR. WEBER: Why did they decide to do it?
 13 MR. DOBIN: This witness testified why they
 14 decided to do it. They consolidated. They made a
 15 change in their investment philosophy and they
 16 decided to liquidate. What more do you want than
 17 that?
 18 MR. WEBER: Well, why did they choose to
 19 liquidate the P&S Investments as opposed to others?
 20 MR. DOBIN: Number one, that --
 21 MR. WEBER: He doesn't know.
 22 MR. DOBIN: But that's not necessarily a
 23 topic --
 24 MR. WEBER: Sure, it is, in the
 25 relationship.

1 MR. DOBIN: No, but it does say what's the
 2 reason for it.
 3 MR. WEBER: Look, Marc, you can --
 4 obviously we are going to disagree here.
 5 MR. DOBIN: All right. So what else?
 6 MR. WEBER: The responses to some of the
 7 interrogatories, he doesn't know.
 8 MR. DOBIN: Well, your list of topics says
 9 discovery requests. Now, I interpreted that to mean
 10 document request.
 11 MR. WEBER: Well, you know what --
 12 MR. DOBIN: You know, it doesn't
 13 specifically say interrogatories, it says discovery
 14 requests. Interrogatories are not discovery
 15 requests, interrogatories are interrogatories.
 16 Document requests are document requests. If you want
 17 to play games about that or have a fight about it,
 18 that's fine. But what more does this witness have to
 19 know?
 20 You have sworn statements -- you have the
 21 sworn statement of Father Duaine who conducted his
 22 inquiry throughout the organization. This witness
 23 testified to what he knew within those
 24 interrogatories. But you didn't specifically say the
 25 facts and circumstances in the background regarding

1 each interrogatory. That's not what you asked. You
 2 asked your responses, the vagueness of that creates a
 3 problem.
 4 MR. WEBER: Are you done?
 5 MR. DOBIN: I want to make sure that the
 6 record is clear.
 7 MR. WEBER: Absolutely. You know, we
 8 served our notice, we didn't get any objections to
 9 vagueness or ambiguity or anything. And there's
 10 well-settled case law that it's your obligation to
 11 clarify, not ours. And, frankly, we are going to
 12 pursue this. We want to know where you searched for
 13 documents, how you searched for documents, who
 14 searched for documents. And it's clear that at least
 15 one document is in your possession that hasn't been
 16 produced to us.
 17 MR. DOBIN: What document is that?
 18 MR. WEBER: The document about liquidating
 19 their investment in P&S.
 20 MR. DOBIN: That question was never asked
 21 of this witness, whether or not that document exists.
 22 Did you ask this witness about records retention?
 23 MR. WEBER: He said that --
 24 MR. DOBIN: Did you ask this witness
 25 about --

<p style="text-align: right;">Page 105</p> <p>1 MR. WEBER: Excuse me, Marc. 2 MR. DOBIN: No, I asked you a question. 3 MR. WEBER: Excuse me, we can talk about 4 this later. 5 MR. DOBIN: No, because I don't want this 6 witness to get back on a plane to San Diego -- 7 MR. WEBER: I'm not worried about document 8 retention. I want to know who searched where for 9 documents. 10 MR. DOBIN: Well, except that you should 11 ask about document retention. You should ask about 12 where were the documents kept. You didn't ask that. 13 MR. WEBER: He doesn't know where the 14 documents are kept. He said that he doesn't know 15 what happened to the documents after he left his 16 position. He doesn't know. 17 MR. DOBIN: Well -- 18 MR. WEBER: Who knows, that's what I want 19 to know. 20 MR. DOBIN: Did you ask him about document 21 retention? No. 22 MR. WEBER: What is the policy of document 23 retention? 24 MR. DOBIN: So we are back on the record. 25 This witness is now being asked a question by</p>	<p style="text-align: right;">Page 107</p> <p>1 that you sent to me. Our client -- I will state on 2 the record that we have asked our client for every 3 document and they have told us the documents don't 4 exist. 5 MR. WEBER: Well, I want to know who 6 searched where and what happened to the documents, 7 because obviously there were documents but, you know, 8 they are not here anymore. 9 MR. DOBIN: Well, yeah, and that's the 10 reason why we have a statute of limitations. 11 MR. WEBER: Look, it's clearly in dispute 12 here. We'll have to either resolve it somehow or go 13 before Judge Streitfeld, but this witness here today 14 doesn't have the information. 15 MR. DOBIN: Well, you can take it before 16 the judge, you can send me a letter, you can do -- 17 MR. WEBER: Look, I'll tell you what I 18 think is missing and then -- it sounds like we may 19 have to talk to Father Evanstock because he's the one 20 who was in charge of when they withdrew. I think he 21 might be an adequate witness, but, you know, it's 22 really your burden to designate someone who knows. 23 MR. DOBIN: And we did that, we believe 24 that we did that. So if you want to disagree, you 25 can disagree. Maybe we can make an accommodation</p>
<p style="text-align: right;">Page 106</p> <p>1 Mr. Weber, what is the document retention policy of 2 the Province? 3 THE WITNESS: After seven years most of the 4 documents were destroyed. 5 BY MR. WEBER: 6 Q. Most of the documents. Were all documents 7 destroyed? 8 A. I have no idea whether or not all were, but 9 most were. 10 Q. Okay. 11 A. That was the policy of the Province at the 12 time, that documents after seven years that were not 13 needed anymore were destroyed. 14 Q. Do you know if the P&S records were 15 destroyed? 16 A. No. 17 MR. WEBER: Okay. So our objection remains 18 the same, that we don't have an adequate witness for 19 this topic. We want to know -- and specifically I'm 20 concerned that he testified that he was shown by you 21 the document, the letter -- 22 MR. DOBIN: Right. 23 MR. WEBER: -- from Father Evanstock which 24 you did not produce to us. 25 MR. DOBIN: Yeah, I showed him the copy</p>	<p style="text-align: right;">Page 108</p> <p>1 but -- 2 MR. WEBER: Look, I'm not here to argue 3 with you. If there's an accommodation that could be 4 made, then we'll make it. But we want to know the 5 circumstances under which the Congregation withdrew 6 from P&S, and we want to know why no documents were 7 produced in response for discovery, and there were a 8 few other topics that once we get the transcript back 9 we'll go through them and we'll tell you exactly what 10 we thought was missing. 11 MR. DOBIN: That's fine. 12 MR. WEBER: Okay. So, Father, you are free 13 to go for now, but we'll keep your deposition open 14 until we receive answers to all topics presented. 15 MR. DOBIN: I think we'll read only because 16 we are dealing with some unfamiliar terms. 17 [Thereupon, the taking of the deposition was 18 concluded at 11:50 a.m.] 19 20 21 22 23 FATHER JOSEPH GAGLIONE 24 Sworn to and subscribed 25 before me this day of , 2014. Notary Public, State of Florida at Large.</p>

1 CERTIFICATE

2
3 STATE OF FLORIDA)
4 COUNTY OF MIAMI-DADE)
5 I, Pearlyck Martin, a Notary Public in and
6 for the State of Florida at Large, do hereby certify
7 that, pursuant to a Notice of Taking Deposition in
8 the above-entitled cause, FATHER JOSEPH GAGLIONE was
9 by me first duly cautioned and sworn to testify the
10 whole truth, and upon being carefully examined
11 testified as is hereinabove shown, and the testimony
12 of said witness was reduced to typewriting under my
13 personal supervision and that the said deposition
14 constitutes a true record of the testimony given by
15 the witness.

16 I further certify that the said deposition
17 was taken at the time and place specified hereinabove
18 and that I am neither of counsel nor solicitor to
19 either of the parties in said suit nor interested in
20 the event of the cause.

21 WITNESS my hand and official seal in the
22 City of Miami, County of Dade, State of Florida, this
23 day of March 4, 2014.

24
25
26 _____
27 Pearlyck Martin.

28 NOTARY PUBLIC-STATE OF FLORIDA
29 PEARLYCK MARTIN
30 COMMISSION# FF 079392
31 EXPIRES: JAN 30, 2018
32 Bonded Thru Notary Public Underwriters

1 FRIEDMAN, LOMBARDI & OLSON
2 Suite 924, Biscayne Building
3 19 West Flagler Street
4 Miami, Florida 33130
5 Telephone (305) 371-6677

6 March 4, 2014

7 RE: PHILIP VON KAHLE -vs- JANET A. HOOKER CHARITABLE
8 TRUST, ET AL.

9 FATHER JOSEPH GAGLIONE C/O MARC DOBIN
10 500 University Boulevard, Suite 205
11 Jupiter, Florida 33458

12 Dear FATHER JOSEPH GAGLIONE:
13 With reference to the deposition of yourself
14 taken on February 25, 2014, in connection with the
15 above-captioned case, please be advised that the
16 transcript of the deposition has been completed and is
17 awaiting signature.

18 Please arrange to stop by our office for the
19 purpose of reading and signing the deposition. Our
20 office hours are 9:00 a.m. to 4:00 p.m., Monday
21 through Friday. Please telephone in advance.

22 You may, however, read a copy of the
23 transcript, provided by any of the attorneys connected
24 with the case, denoting any corrections by page and
25 line number on a separate sheet of paper. This
26 correction page must be signed by you and notarized
27 and returned to us for filing with the original.

28 If this has not been taken care of, however,
29 within the next 30 days, or by the time of trial,
30 whichever comes first, I shall then conclude that the
31 reading, subscribing and notice of filing have been
32 waived and shall then proceed to deliver the original
33 of the transcript to ordering attorney without further
34 notice.

35 _____
36 Pearlyck Martin

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