

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO. 12-034123 (07)

P & S ASSOCIATES GENERAL
PARTNERSHIP, etc. et al.,

Plaintiffs,

v.

STEVEN JACOB, et al.

Defendants.

**PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT OF
RACHEL LIERSCH TAKEN JUNE 8, 2016**

Plaintiffs, by and through undersigned counsel, hereby give notice of filing the deposition transcript of Rachel Liersch dated June 8, 2016. A copy is attached hereto as **Exhibit A**.

Respectfully submitted,

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1 IN THE CIRCUIT COURT OF THE
2 SEVENTEENTH JUDICIAL CIRCUIT, IN
3 AND FOR BROWARD COUNTY, FLORIDA
4 Case No.: 12-034123(07)
5 Complex Litigation Unit

6 -----x
7 P&S ASSOCIATES, GENERAL PARTNERSHIP,
8 a Florida limited partnership; and
9 S&P ASSOCIATES, GENERAL PARTNERSHIP, a
10 Florida limited partnership, PHILIP VON KAHLE
11 as Conservator of P&S ASSOCIATES, GENERAL
12 PARTNERSHIP, a Florida limited partnership,
13 S&P ASSOCIATES, GENERAL PARTNERSHIP, a
14 Florida limited partnership,
15 Plaintiffs,

16 v.
17 STEVEN JACOB, an individual, STEVEN F.
18 JACOB, CPA & ASSOCIATES, INC., a Florida
19 corporation, FRANK AVELLINO, an individual,
20 and MICHAEL BIENES, an individual,
21 STEVEN JACOB, et al.,
22 Defendants.

23 -----x

24 DEPOSITION OF RACHEL LIERSCH
25

26 Taken before Gina M. Ruocco, LSR #516, Court
27 Reporter and Notary Public within and for the
28 State of Connecticut, pursuant to Notice and
29 the Connecticut Practice Book, at 6 Landmark
30 Square, Suite 400, Stamford, Connecticut on
31 Wednesday, June 8, 2016 commencing at 9:55 a.m.

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S T I P U L A T I O N S

1
2
3 It is stipulated by counsel for the parties
4 that all objections are reserved until the time of
5 trial, except those objections as are directed to the
6 form of the question.

7 It is stipulated and agreed between counsel
8 for the parties that the proof of the authority of the
9 Notary Public before whom this deposition is taken is
10 waived.

11 It is further stipulated that the deposition
12 may be signed before any Notary Public.

13 It is further stipulated that any defects in
14 the notice are waived.
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25

1 (Deposition commenced: 9:55 a.m.)

2 Rachel Liersch, Deponent, of 241
3 Riverside Avenue, Riverside, Connecticut having been
4 first duly sworn by the Notary Public, was examined
5 and testified, on her oath, as follows:

6 EXAMINATION BY MICHEL WEISZ:

7 Q. So Ms. Liersch, could you please spell
8 your full name for the record?

9 A. R-A-C-H-E-L, L-I-E-R-S-C-H.

10 Q. Okay, and Ms. Liersch, what is your
11 profession or occupation?

12 A. Homemaker.

13 Q. Okay, and you are being deposed today
14 with respect to a lawsuit in which your father is
15 involved. Have you ever been deposed before?

16 A. Never.

17 Q. All right, so I'm going to get to ask
18 you questions. I'd like you to please wait until I
19 finish asking the question before you answer and
20 then when you do answer, please answer verbally and
21 try to keep your voice up so that the Microphone
22 picks up what you're saying so I can understand and
23 hopefully hear everything that you have to say. If
24 you don't understand the question, please ask me to
25 rephrase it or repeat it. I'm happy to do so. If

1 you don't know an answer or don't have an answer,
2 that's fine. I don't want you to guess if you don't
3 have, you know, certainty that what you're telling
4 me is what you know or what you've seen, okay?

5 A. Okay.

6 Q. All right.

7 MR. WEISZ: Mr. Woodfield provided
8 some documents to us yesterday. I'm assuming that
9 you have a set of those with you or in front of you
10 or near you?

11 MR. WOODFIELD: I have them, yes.

12 Q. Okay. So I'm going to be referring to
13 those documents a little bit later in the
14 deposition. I just wanted to make sure that they
15 were available for you to use.

16 So Ms. Liersch, you were asked at a
17 particular point in time to help gather some emails.
18 Can you please explain to me what your understanding
19 was of what you were asked to do?

20 A. I was asked to search for emails from a
21 list of names.

22 Q. Okay, and so who asked you to do that?

23 A. Mr. Woodfield.

24 Q. I apologize, I did not mean to cut your
25 answer. If you hadn't finished --

1 A. It's okay. That's it. I was asked to
2 search a list of names by Gary Woodfield on Frank's
3 AOL email account.

4 Q. And Frank is Frank Avellino, your
5 father?

6 A. My stepfather.

7 Q. Your stepfather, okay. Do you have any
8 particular skill or training in searching computers
9 for emails?

10 A. I do not.

11 Q. Had you ever been asked to do something
12 like this before?

13 A. No.

14 Q. What did you understand that you were
15 looking for or supposed to do?

16 A. I understood that I was supposed to find
17 all the emails sent or received from the list of
18 names I was given.

19 Q. Okay, and in order to do that, what did
20 you do?

21 A. I searched by their last name and by a
22 known email address, if that was available.

23 Q. Okay. So before you did the search, in
24 order to actually get to the information, what did
25 you do?

1 A. I --

2 Q. How did you access the information? I
3 mean, did you go to the computer? Did you do
4 this -- how did you get on to the computer?

5 A. I turned on the computer. I typed --

6 Q. So you were actually -- you were
7 actually using the computer that your stepfather
8 uses?

9 A. No.

10 Q. What computer were you using to do the
11 search?

12 A. My computer. I have -- I did do part of
13 the search on their computer and part of the search
14 on my computer. There's been multiple searches.

15 Q. Okay. So first of all, tell me which
16 did you do first? Did you first do the search from
17 your computer?

18 A. I believe I first did a search from my
19 computer.

20 Q. Okay. Tell me -- just walk me through
21 the steps, you know, after your computer was on,
22 what did you do in order to conduct your search?

23 A. I typed in www.aol.com, logged in or --
24 and went to the section that says search, and typed
25 in a last name.

1 Q. Okay. Whose account did you log into?

2 A. Frank Avellino's AOL account.

3 Q. Then what did you do when you got access
4 to his account?

5 A. I searched the emails.

6 Q. Tell me how you did that.

7 A. Typed in a last name and saw what emails
8 came up. I also went into his contacts and searched
9 last names there to find out any known email
10 addresses which then I also searched for.

11 Q. Okay. So tell me how you go into the
12 contact list and search a name to find out if there
13 are any emails from that person or sent to that
14 person.

15 A. Well, I don't think your question is
16 either clear or accurate. You don't search in
17 contacts if there's emails sent or received. You
18 search in contacts for contact information.

19 Q. So the contact folder will give you a
20 list of people whose emails are stored; is that
21 right?

22 A. I believe -- I don't know how AOL works
23 so I don't know if it's stored or if Frank manually
24 inputted those emails. Excuse me, email addresses,
25 not emails.

1 Q. What date did you do this search?

2 A. I believe it was sometime in November
3 was the first one.

4 MR. WOODFIELD: Whatever you
5 recall.

6 A. I believe it was in November.

7 Q. Okay.

8 A. But I don't remember the exact date
9 though, so.

10 Q. Okay. And so when you looked in
11 contacts, did you see an actual list of names?

12 A. Yeah, there's lists of names, yes.

13 Q. Okay, and what did you do with that
14 information? Did you copy it? Did you print it?

15 A. I did not print or copy the contact
16 list.

17 Q. And what did you use the contact list
18 for?

19 A. To search for the emails. So --

20 Q. And how would --

21 A. So for example, if I was searching for
22 an email for Gary Woodfield, I'd type in Woodfield
23 in the contacts and then whatever email addresses
24 were there, I would search for those email addresses
25 and I would search also just for Woodfield.

1 Q. Okay, and how did you verify that typing
2 in the name Woodfield would draw up all email
3 addresses for Gary Woodfield?

4 A. I did it several times and I did it to
5 the best of my ability.

6 Q. Okay, but my question is, how were you
7 able to verify that by typing in Woodfield, the
8 contact list would provide you all email addresses
9 associated with Gary Woodfield?

10 A. No, because it's not all email addresses
11 associated with Gary Woodfield, it's all email
12 addresses that that account has known to it which
13 isn't by whether or not an email is sent or
14 received. As I said, I believe Frank manually
15 inputted known emails. It's not an advanced account
16 like, for say, my Yahoo account that remembers
17 things once you send or receive an email. It's very
18 outdated.

19 Q. Okay. So looking in contacts would not
20 necessarily give you all of the email addresses that
21 Gary Woodfield may have used to send an email to
22 your stepfather, right?

23 A. That is correct.

24 Q. And that would be true for every name in
25 the contact list. Looking at the contact list would

1 not necessarily provide you with every email address
2 a particular person used to communicate with your
3 stepfather?

4 A. I believe so. As I said, I'm not that
5 familiar with the AOL account. I don't believe that
6 it saves all emails like the new advanced accounts.
7 But I also searched by last name in hopes to vet
8 that issue.

9 Q. So after you went into the contact list,
10 did you then go into the emails?

11 A. To search, yes.

12 Q. Okay. Tell me what you did from the
13 contact list. How did you get -- you know, where
14 did you go next?

15 A. I clicked on either new mail, old mail,
16 something along those lines, but I don't remember
17 what I clicked on but you go back to the emails and
18 then there is a box that says search mail, and in
19 there I typed in all the information I had to search
20 each name.

21 Q. Okay, and where did you get the
22 information that you used?

23 A. From the contacts.

24 Q. Okay.

25 A. Or from the actual name I was provided.

1 Q. And who provided you with names?

2 A. Gary Woodfield.

3 Q. And were these -- was the information
4 you were searching, where was it stored?

5 A. In the AOL account, wherever it was.

6 Q. Okay. Is that the only place you
7 searched for emails, on the AOL account?

8 A. I also looked on Frank's computer and
9 didn't see any emails stored.

10 Q. Okay. So when did you look on Frank's
11 computer?

12 A. When I was first asked to search. His
13 computer does not save emails.

14 Q. How do you know that?

15 A. I did as thorough a search as I could.

16 Q. What qualifications do you have to
17 search hard memory drives --

18 A. None.

19 Q. -- or any memory drives on a computer in
20 order to verify that, in fact, the search was
21 complete, thorough and, in fact, did not reveal
22 emails?

23 A. None.

24 Q. Okay. Did any of the emails have
25 attachments?

1 A. Excuse me?

2 Q. Did any of the emails have attachments?

3 A. I believe so.

4 Q. Did you open any attachments?

5 A. I believe I was directed to open two
6 attachments and send them by Gary.

7 Q. Which attachments did you open and send?

8 A. I do not recall.

9 Q. Okay. Were there any emails that had
10 attachments that you did not open?

11 A. Possibly. I didn't open attachments
12 unless I was asked to, but I don't believe many of
13 the emails had attachments. Probably the only ones
14 that had attachments were the ones that I was asked
15 to open.

16 Q. Okay. Do you know what metadata is?

17 A. Excuse me?

18 Q. Do you know what metadata,
19 M-E-T-A-D-A-T-A, is?

20 A. I do not.

21 Q. Okay. Do you know whether your search
22 included any archives?

23 A. I'm not sure what you're asking.

24 Q. Do you know whether there were any
25 archives that were accessible either on the computer

1 or on AOL to conduct searches for emails?

2 A. I'm -- archiving to what?

3 Q. I'm just asking if you are aware of any
4 archives that were created or existed --

5 A. No.

6 Q. Did you search for such archives?

7 A. Given I'm not really sure what you're
8 asking, I don't think I can answer that question.

9 Q. Okay. So let me ask you this
10 differently. Do you know what protocols exist on a
11 computer or in AOL to save emails?

12 A. No. Most emails are just saved if
13 not -- if no other action is taken.

14 Q. Okay. But you are not aware from your
15 own personal knowledge how even if an email is moved
16 to another folder or, in fact, deleted, whether or
17 not that -- that email can still be retrieved from
18 somewhere?

19 A. No, I -- I don't know. You're right. I
20 don't know.

21 Q. Your stepfather's computer, how many
22 times did you search that for emails?

23 A. I think I did one search on his email.

24 Q. Okay. Tell me --

25 A. I'm sorry on his computer.

1 Q. Tell me what you did to search the
2 computer.

3 A. Oh, to search the computer?

4 Q. Yes.

5 A. I typed in AOL, I typed in -- I searched
6 around. I mean, I don't know. I just looked around
7 at icons to see if there was anything that would
8 hold. There was nothing in documents.

9 Q. Do you know what a directory is?

10 A. Yes. On a computer?

11 Q. Yes.

12 A. Yes.

13 Q. Did you look in any directories on the
14 computer, on your stepfather's computer?

15 A. I didn't look -- I didn't penetrate
16 through directories on his computer. I just
17 searched and usually they have a search function.
18 So I tried searching for email addresses sort of
19 thing and nothing came up. So since nothing came up
20 for multiple names, it didn't look like there were
21 any email addresses -- sorry, emails saved on his
22 computer.

23 Q. And can you verify or certify that your
24 search was, in fact, a complete and thorough search
25 of all the directories and subdirectories on your

1 stepfather's computer?

2 A. Only that I did it to the best of my
3 ability, but as --

4 Q. And your ability is not based on any
5 training or specific knowledge on how to
6 forensically evaluate or examine a computer, is it?

7 A. No.

8 Q. Did you search to see whether or not any
9 emails or attachments to emails were on your
10 stepfather's computer?

11 A. Any -- sorry, say that again.

12 Q. Did you search your stepfather's
13 computer to determine whether or not any emails or
14 attachments to emails were on the computer?

15 A. So we discussed the emails already,
16 correct?

17 Q. Right.

18 A. So no, I did not look for any
19 attachments.

20 Q. Okay. Now, was this the first time you
21 had access to your stepfather's email account?

22 A. No.

23 Q. What is your history in terms of
24 accessing your stepfather's AOL account?

25 A. I've always, as long as I can remember,

1 accessed their account. They don't check email
2 regularly so I would alert them if they had an
3 email, per se, from a child or a friend.

4 Q. How long does this memory go?

5 A. Probably since they had the account.

6 Q. And when was that?

7 A. I don't know.

8 Q. More than ten years?

9 A. I believe so, but -- you know, I don't
10 know.

11 Q. Okay. Do you know whether your
12 stepfather has had the same computer for the entire
13 time that you have been accessing the email AOL
14 account?

15 A. I don't know.

16 Q. Okay. Do you remember at any point in
17 time accessing your stepfather's AOL account and
18 noticing that the computer you were using to access
19 it was different?

20 A. I was not attuned to that.

21 Q. Okay. When you accessed your
22 stepfather's account to help him or, I guess, your
23 mother with the email account, did you always do
24 that from their computer or did you look through it
25 from your computer?

1 A. Both.

2 Q. Okay. Which was more frequent? Which
3 computer did you use more frequently to check the
4 accounts?

5 A. Probably theirs.

6 Q. Okay, and how far away did they live
7 from you?

8 A. We used to live very close.

9 Q. Until when did you live very close?

10 A. Two years ago.

11 Q. So 1914 -- 2014, you moved to a further,
12 more remote distance?

13 A. Well, let me go back. I lived close to
14 them when they were in New York City. When they are
15 in Florida which is where they are mostly, I don't
16 live close to them ever.

17 Q. And how long have they been living in
18 Florida mostly?

19 A. They've been living in Florida my whole
20 life.

21 Q. Okay. So where were you living when you
22 first started helping them access their AOL account?

23 A. In New York City. Oh, no, sorry. Yes,
24 probably in New York City.

25 Q. And was your stepfather's computer

1 always in New York City?

2 A. No.

3 Q. Okay. Were you -- when you started
4 accessing the AOL account, was the computer in
5 New York City?

6 A. Most likely.

7 Q. Okay, and how long after that did it
8 move to Florida?

9 A. The computer goes where he goes.

10 Q. Okay, so when did the computer go to
11 Florida?

12 A. When he goes.

13 Q. Okay. Is it a laptop?

14 A. Yes.

15 Q. Okay, and do you know whether or not
16 that laptop is connected to any external hard
17 drives?

18 A. Not that I have ever seen, but I
19 don't --

20 Q. How about in Florida? You don't what?

21 A. I said not that I've ever seen, but I
22 don't know the answer.

23 Q. And when the laptop goes to Florida,
24 does anybody help your father access emails?

25 A. Not that I know of.

1 Q. Okay. Do you not access the account
2 from your computer and give them information as to
3 what's happening if he needs it?

4 A. I do.

5 Q. Okay. So even if -- even if your
6 stepfather's computer is not accessible to you, you
7 were continuing to monitor their -- the email
8 account and provide information as needed; is that
9 right?

10 A. Yes.

11 Q. And how often would you do that?

12 A. It depends on what time frame or what's
13 going -- you're talking about or what's going on in
14 my life.

15 Q. Okay. I don't know how to parse that
16 out so let me give it a try. If your life was in an
17 even keel, how often would you check the email
18 account, your stepfather's email account?

19 A. I'm more asking like, are you talking
20 about in the past six months? Are you talking about
21 since the inception of the account? I'm just trying
22 to understand what time frame you're looking for.

23 Q. I would like to know what your routine
24 was from the inception of the account and your
25 involvement in checking emails.

1 A. I would say when they first got their
2 account, I checked it infrequently. Just because --

3 Q. I'm sorry, infrequently?

4 A. Infrequently.

5 Q. You checked in frequently? Was it like
6 you checked infrequently or you checked in very
7 often?

8 A. I checked in not very frequently.

9 Q. And what would you describe as not very
10 frequently?

11 A. Once a month, once every other month.

12 Q. Okay. All right, and did that change?

13 A. It did.

14 Q. Okay. When and what was the change?

15 A. I would have to say the change would be
16 around 2008 and they started having emails that they
17 needed to attend to and their behavior didn't
18 change. They don't actively use computers nor were
19 actively using their email.

20 Q. Okay, so what was the change in 2008?

21 A. I'm not saying 2008 is a hard time
22 period, but.

23 Q. Approximately.

24 A. But what changed, Madoff's company
25 dissolved.

1 Q. And how did that impact your accessing
2 your stepfather's email account?

3 A. I wouldn't say right away, but
4 eventually they had -- there was -- they needed to
5 be more communicative.

6 Q. And what happened in terms of your
7 accessing the account?

8 A. I started accessing it more frequently.

9 Q. How much more frequently?

10 A. Maybe weekly, maybe more.

11 Q. Okay, and for how long did you do that?

12 A. I have accessed their account
13 continuously up until now.

14 Q. So starting somewhere more or less in
15 2008, you would access your stepfather's AOL account
16 more often than once every month?

17 A. Yes, I believe so.

18 Q. And that -- as you recollect, that
19 increased frequency has continued through the
20 present time?

21 A. Yes.

22 Q. Okay, and has your stepfather maintained
23 the same AOL account throughout the time you've
24 accessed it?

25 A. Yes.

1 Q. Okay, and what would you do when you
2 monitored the account? What was your function?

3 A. I would check their email. I would, at
4 one point in time, delete vendor, spam type of email
5 so that it was cleaned up for them and then let them
6 know if there was something that they should look
7 at.

8 Q. And what were the things that was on
9 your list of things to alert your mother and your
10 stepfather to? What was on that list?

11 A. If a child emailed them, if a friend
12 emailed them, if they had an email that was some
13 sort of personal in nature.

14 Q. And given the relative number of emails
15 that were on that account, what percentage of those
16 emails were personal?

17 A. They don't receive a lot of personal
18 emails, so not many.

19 Q. How many emails would be in their new
20 email box when you were checking with greater
21 frequency?

22 A. New emails that are actually in
23 intentional emails or new emails that include emails
24 from any particular source whatsoever?

25 Q. Emails from any source other than what

1 you would characterize as vendors or spam.

2 A. Okay. Sometimes none, sometimes one,
3 and then from personal emails, and then they get --
4 yeah.

5 Q. Now how about nonpersonal emails?

6 A. They received emails from their
7 attorneys.

8 Q. Well, starting in 2008, did your
9 stepfather receive emails that were not spam and not
10 personal?

11 A. Yes. I mean, I don't know if it's in
12 2008, but sometime after December 11, 2008, yes,
13 there were emails from not personal and not spam.

14 Q. How about before this time in 2008?
15 Were there ever emails in that account that when you
16 looked at it were not family emails --

17 A. No, not that I ever recall seeing.

18 Q. So the email names that you were given
19 to search for, okay, did any of those names appear
20 in your stepfather's email account before December
21 of 2008?

22 A. I don't know.

23 Q. Okay. Now, one person that you were
24 looking for was named Michael Bienes; is that
25 correct?

1 A. Yes.

2 Q. How long has your father known
3 Michael Bienes?

4 A. I don't know the answer to that.

5 Q. And how long has your father, your
6 stepfather, emailed or communicated by email to
7 Michael Bienes?

8 A. I don't know.

9 Q. How about Mr. Sullivan? Do you know who
10 Mr. Sullivan is?

11 A. I do.

12 Q. Do you know how long your stepfather has
13 known Mr. Sullivan?

14 A. I do not know.

15 Q. Do you know how long they have
16 communicated with each other through email?

17 A. I do not know.

18 Q. Okay. Do you have any recollection of
19 seeing Mr. Sullivan's emails or emails from
20 Mr. Sullivan when you checked your stepfather's
21 email account?

22 A. Yes, I have seen emails from
23 Mr. Sullivan when I've checked his email account.

24 Q. And has -- to the best of your
25 recollection now, how far back do those go as to

1 what you think you may have first seen emails from
2 Mr. Sullivan?

3 A. I don't know.

4 Q. Okay. Does your stepfather have a cell
5 phone?

6 A. He does.

7 Q. Does he use that phone for email
8 transfers? Does he write emails on his phone?

9 A. Not that I know of.

10 Q. Does he read emails on his phone?

11 A. I don't believe he does.

12 Q. Do you know whether or not he has ever
13 used another email account?

14 A. No, I do not believe he has ever used
15 another email account. I'm fairly --

16 MR. WOODFIELD: Let her just
17 finish.

18 A. I was going to say I'm fairly certain
19 because my mother hates their email address and has
20 always talked about wanting to change it and it's
21 never been changed.

22 Q. Has your mother ever set up her own
23 email account?

24 A. No.

25 Q. Do you know if your stepfather has ever

1 set up an email account without your mother on it?

2 A. No. I don't know and I don't believe
3 so.

4 Q. Ms. Liersch, apart from what anyone may
5 have told you, all right, do you have any personal
6 knowledge of how long emails on your stepfather's
7 email account would remain there in 2008?

8 A. The emails theoretically would remain
9 there indefinitely.

10 Q. Okay. When you searched your
11 stepfather's email account to the best of your
12 ability, what was the earliest date of any email on
13 that account?

14 A. There's a 2009 date and a 2010 date,
15 depending on which folder you're referring to.

16 Q. Okay. Do you know if any emails
17 subsequent to 2008 -- I'm sorry, subsequent to 2009,
18 were deleted?

19 A. I don't believe any emails were ever
20 deleted -- I'm sorry, substantial emails were ever
21 deleted. I personally deleted vendor spam, those
22 sorts of email. But to my knowledge nothing of
23 consequence, whether it even be a personal
24 communication, was ever deleted.

25 Q. Do you know if the act of deleting an

1 email from the AOL account is something that is
2 recorded and can be searched and retrieved? Not the
3 email itself, but simply the act of deleting an
4 email?

5 A. I have no idea.

6 Q. Do you know whether your stepfather can
7 delete emails?

8 A. I honestly don't believe he knows how to
9 do that, but I don't know if he does.

10 Q. Okay. Does your stepfather have people
11 he knows who can delete emails for him?

12 A. Yes, myself.

13 Q. Does he know anybody else who he could
14 ask to delete an email?

15 A. No.

16 Q. There's nobody in his whole world your
17 stepfather could ask to delete an email?

18 A. My mother, but my mother doesn't know
19 how to use a computer.

20 Q. How about Mr. Sullivan?

21 A. He would never ask Mr. Sullivan.

22 Mr. Sullivan doesn't have access to his computer.

23 Q. How about Michael Bienes?

24 A. Does not have access to his computer.

25 Q. Well, his computer is a laptop, right?

1 A. True. So --

2 Q. And he could take the laptop with him
3 anywhere, right?

4 A. Yes.

5 Q. Did he ever take the laptop to his
6 office?

7 A. His office in our house in Florida?

8 Q. Any office.

9 A. Not that I ever saw him do.

10 Q. Okay. So is it your recollection that
11 your stepfather never took the laptop out of his
12 house wherever he was, either Florida or New York?

13 A. I mean, aside from transporting it, no.
14 He did not take it to meetings or anything of that
15 nature.

16 Q. Okay. Did any -- did he ever have any
17 friends visit him in his house?

18 A. Not really.

19 Q. Okay, so in your view it is remote in
20 approaching probability that your stepfather would
21 ever have asked somebody to help him delete emails
22 from the AOL account?

23 A. Yes.

24 Q. Was there a housekeeper?

25 A. There are various housekeepers. It

1 depends on what the time frame is.

2 Q. Okay. Could your stepfather have asked
3 any of them to help him delete emails?

4 A. I would not think he would.

5 Q. Well, that's not the question.

6 A. Well, I think you need to reframe the
7 question. Could he ask someone to do something?

8 You can ask someone to do anything. Are these
9 people capable of deleting his emails? I don't have
10 the answer to that. Do I think he'd ever asked them
11 to? No. Was there a situation in which that would
12 happen? No.

13 Q. I'm sorry, you're saying there was no
14 situation under any circumstances under which your
15 stepfather would ask somebody in the house who was
16 working there to help him delete emails?

17 A. I can't imagine a situation that that
18 would happen.

19 Q. But can you say with certainty that it
20 never happened?

21 A. Given I'm not physically present with
22 him 24 hours a day, I cannot say with certainty.

23 Q. How much time does your stepfather spend
24 in Florida as compared to in New York?

25 A. I think they're predominantly there. I

1 can't answer their travel schedule.

2 Q. So eighty percent of the time; is that
3 predominantly?

4 A. I can't answer that.

5 Q. Seventy percent?

6 A. The percentage is not going to change my
7 answer. I don't know the answer.

8 Q. So just so we're clear, does
9 predominantly, as we use that word, mean more than
10 50 percent of the time?

11 A. Predominantly means -- yes, I would
12 assume so but yes. I don't know where they are all
13 the time. They used to live in Nantucket, like, I
14 think -- I mean, there's three places they could be.
15 I mean, I do know where they are. I don't have a
16 record of where they are and actually keep track of
17 them.

18 Q. Okay. What I'm really trying to get at
19 is, is it fair to say that your stepfather and
20 mother are predominantly not in New York City or in
21 close proximity to where you live?

22 A. Yes. I mean, they're not always with me
23 or near me. That is correct.

24 Q. All right. And when they are not near
25 you, they do have the ability to interact with other

1 people and have other people visit them and speak to
2 them and have relationships and, you know, do things
3 that you don't know about, right?

4 A. Of course. Free will.

5 Q. Do you know -- when you work on -- not
6 work on but when you were accessing or using your
7 stepfather's laptop, either when you were searching
8 it for Mr. Woodfield or before when you were
9 accessing the email account to help keep tabs on it,
10 do you know what the settings were for that account?

11 A. You mean the password?

12 Q. No. The password is what gives you
13 access to the account. I mean any of the settings
14 that they could manipulate in order to make --
15 customize the account for their purposes?

16 A. I don't know what the settings are but I
17 also don't believe they did any customization. It
18 just was whatever -- what they signed up for.

19 Q. Did you ever check what the settings
20 were on the AOL account?

21 A. No.

22 Q. Do you know if this was a free AOL
23 account or a fee based AOL account?

24 A. I don't know. I believe it was fee but
25 I don't know -- or at one time --

1 Q. Did you ever -- I'm sorry, I think I was
2 cutting you off.

3 A. I believe at one time it was fee based
4 but I don't know for certain and if and when that
5 ever changed.

6 Q. Okay. Do you know whether or not the
7 AOL account that was on your stepfather's -- that
8 your stepfather had access to had any limit on how
9 much data could be stored?

10 A. I don't know the answer to that.

11 Q. Do you know whether or not your
12 stepfather's computer ever had some sort of
13 malfunction or crash that caused any data to be
14 lost?

15 A. Not to my knowledge, but I cannot answer
16 that question.

17 Q. Do you know whether or not the hard
18 drive or any other memory drive on your stepfather's
19 computer has ever been changed?

20 A. Not to my knowledge, but I don't know.

21 Q. Now, I understand that you received or
22 you communicated directly with AOL as part of the
23 efforts you undertook to search for the email. Can
24 you please describe for me why you called AOL?

25 A. I called AOL because when looking at the

1 computer -- sorry, at the email account at Gary's
2 direction, that there was a stop at a certain date
3 where there are no emails found. So --

4 Q. A stop meaning, no emails --

5 A. There's no emails prior to a certain
6 date.

7 Q. Okay.

8 A. So in an effort to figure out what
9 happened, I contacted AOL and spoke to a
10 representative there.

11 Q. Okay, and did you have any actual email
12 correspondence with this representative?

13 A. No.

14 Q. So what did you ask the representative
15 and what were the responses that you received?

16 A. I asked the representative what happened
17 to the emails prior to the dates given and I was put
18 on hold for a long time, and she came back and told
19 me that his account was an account that if it was
20 not logged into for sixty days, that all the emails
21 would be deleted.

22 Q. Did you receive anything in writing
23 indicating the fact --

24 A. No, sorry, I misspoke. Not all the
25 emails, half the emails at that time would be

1 deleted. And did I receive -- and then she said
2 that there was a yellow dot next to his computer --
3 I'm sorry, next to his account that indicated that
4 that had happened to his account.

5 Q. And any other information concerning
6 when this yellow dot was created?

7 A. No. I asked if she could determine when
8 that actually took place for the account. She told
9 me she could not -- not that she couldn't tell me,
10 that that information wasn't available. I asked if
11 the emails could be retrieved that were deleted.
12 She said they could not be retrieved. I asked if
13 she could send me documentation of this conversation
14 and she said she could not.

15 Q. Did you ask her whether it was possible
16 that any of those emails were actually stored on the
17 laptop?

18 A. I did not ask that question.

19 Q. And I assume you don't know whether they
20 could or couldn't?

21 A. You're right. I do not know.

22 Q. Now, if I understand your testimony
23 correctly -- well, let me just ask a different
24 question. Starting in December of 2008, which I
25 believe is the starting date when you indicated that

1 you accessed your stepfather's AOL account more
2 frequently, do you recall any period of time between
3 December of 2008 and the present where you went more
4 than sixty days without checking into that account?

5 A. That's certainly a possibility.

6 Q. I'm not asking you that. I'm asking
7 whether you specifically recall such a hiatus.

8 A. I recall that I gave birth to a child on
9 April 23rd of 2009 and I was fairly busy.

10 Q. So -- congratulations, but so is it your
11 supposition that between the birth of your child in
12 April of -- what was -- April what?

13 A. April 2009.

14 Q. April --

15 A. The 23rd.

16 Q. Okay, so between April 23, 2009 and June
17 23, 2009, you did not look at your father's email
18 account even once?

19 A. I'm not stating that. I don't know.

20 Q. Okay. And that, in fact, was within
21 four-to-six months of the time in December 2008 when
22 you began checking your stepfather's email account
23 at least weekly, if not more often?

24 A. It would honestly depend on if there was
25 something going on that needed to be checked. I

1 mean, I said that 2008 because that's when things
2 started to change, but honestly it wasn't
3 immediately after, you know, Madoff's firm dissolved
4 that there was, you know -- you know, attorney
5 communication on a regular basis.

6 Q. Okay. Well, you know that your
7 stepfather was first sued in December 2008, right?

8 A. Maybe. I don't know. I'm not sure what
9 you're referring to.

10 Q. Okay, and your stepfather was sued a
11 second time in March of 2009; did you know that?

12 A. If you say so. You have to give me more
13 information. You know, the date of the lawsuit
14 doesn't ring a bell.

15 Q. Okay, but certainly from the time
16 Madoff's scheme was exposed, things were different
17 and your stepfather was involved in a great many
18 more things that probably were agitating than before
19 then, correct?

20 A. I can't speak to his mindset.

21 Q. Okay. Well, you can speak to what you
22 observed.

23 A. I'm not sure about the word agitating,
24 but there was -- everyone's life changed
25 dramatically.

1 Q. Right, and during that time frame was
2 when you undertook the responsibility of checking
3 your stepfather's email account more frequently to
4 alert them to things that you believe they needed to
5 be aware of?

6 A. Yes.

7 MR. WEISZ: I'm going to ask that
8 we take maybe a five-minute break. I'm going to
9 turn to the documents that we have and ask you some
10 questions about them. So is that okay?

11 MR. WOODFIELD: Fine.

12 THE WITNESS: Yeah.

13 MR. WEISZ: All right.

14 (Whereupon, a recess was taken.)

15 Q. Ms. Liersch, did anybody else help your
16 stepfather with his email account other than you?

17 A. Not to my knowledge.

18 Q. How about your brother?

19 A. I don't have a brother.

20 Q. I'm sorry. I'm sorry. Your
21 stepfather's children. I apologize.

22 A. That's okay. No, he never helped him
23 with his account.

24 Q. And how do you know that?

25 A. They don't communicate all that much. I

1 mean, they're not like -- I don't think he would
2 be -- he would not check his email account.

3 Q. As a complete stranger to the
4 relationship, please don't get offended by this
5 question, but is it your view that the relationship
6 between your stepfather and his son is such that
7 your stepfather would not ask him to help with his
8 email account?

9 A. Exactly, yes. He would not ask him to
10 help with his email account.

11 Q. Do you know if your stepfather ever
12 printed out any emails?

13 A. I don't know.

14 Q. That wasn't something you asked him when
15 you were searching for emails?

16 A. I did not ask him, no.

17 Q. Okay.

18 A. But given how little he used his email,
19 I don't believe he'd print out emails but I don't
20 know.

21 Q. All right. You haven't seen or heard
22 any of your stepfather's deposition testimony, have
23 you?

24 A. No.

25 Q. All right. Mr. Woodfield was kind

1 enough to provide us with a series of documents and
2 emails prior to today which I believe he has a copy
3 or set of with him. Before we start on those, what
4 did you do with the emails that you found?

5 A. When I was asked to do the searches?

6 Q. Yes.

7 A. I copied and pasted them into a Word
8 document and then emailed that Word document to
9 Gary.

10 Q. Why did you do it that way?

11 A. I figured that was -- instead of -- I
12 don't know. That was the only way -- that's the way
13 I thought of doing it.

14 Q. Could you not have forwarded the emails
15 by email?

16 A. I could, but I figured that would be
17 confusing for him and I was trying to be efficient.

18 Q. Did any of the emails that you forwarded
19 have attachments?

20 A. I think -- not that I recall, but I
21 believe there was something that Gary asked me to
22 then get for him. I'd have to look back through it.

23 Q. Do you -- sorry. Do you know if any of
24 the emails on your stepfather's computer and any
25 information related to the emails including what is

1 commonly referred to as metadata has been altered or
2 changed as a result of the efforts you undertook to
3 search the emails?

4 A. I don't believe anything would have been
5 changed.

6 Q. Okay. I don't have any way to know
7 whether the emails that you have or the documents
8 that you have are in the same order that I have them
9 in.

10 MR. WOODFIELD: Michel, I didn't
11 have time to Bates stamp them, but I believe that
12 the set we're looking at is in the same order as the
13 ones you have starting with my email to Rachel dated
14 May 23, 2016; is that right?

15 MR. WEISZ: That happens to be
16 right but you should never assume that anything that
17 I have gotten and reviewed is in the same order as
18 when I got it.

19 MR. WOODFIELD: Go for it.

20 Q. So the first document I have is an email
21 from you to Gary Woodfield dated May 23, 2016 at
22 11:16 a.m.

23 A. Uh-huh.

24 Q. And as far as I can tell, this document
25 is a one-page document. It is not an email string

1 that goes beyond the first page. Is that consistent
2 with what you're looking at?

3 A. As far as I know, yes.

4 Q. From which computer did you send this
5 email?

6 A. Probably mine. Mine.

7 Q. All right, and then the email behind
8 that is an email dated Monday, May 23, 2016 at
9 10:34 a.m.

10 A. Yes.

11 Q. That's an email from Mr. Woodfield to
12 you?

13 A. Yes.

14 Q. And it appears to be the same email
15 that's at the bottom of the first page we looked at?

16 A. Yes.

17 Q. And then the page after that appears to
18 be an email dated Tuesday, April 1, 2014, that has a
19 sticker mark with Plaintiff's Exhibit number?

20 A. Uh-huh.

21 MR. WOODFIELD: You have to answer
22 audibly.

23 A. Yes. Sorry.

24 Q. And the question that Mr. Woodfield asks
25 you is that you, at this deposition, you may be

1 asked how it is that you located an email that
2 predates the July 2010 date as the starting date for
3 emails on your stepfather's computer?

4 A. Yes.

5 Q. And the email that is attached as an
6 example has an email dated June 8, 2010?

7 A. Right.

8 Q. And the response is what?

9 A. The response is --

10 Q. Why --

11 A. If you can look at the format of that,
12 it is an email that was forwarded and that email was
13 forwarded to someone, and thus, it was part of his
14 sent email which dates to 2009.

15 Q. Okay. So what I see is an email that's
16 an original message, is that right, that's sent
17 Tuesday, June 8, 2010?

18 A. That's not -- it says original message,
19 yes, and that's the formatting when you forward
20 something.

21 Q. I see. So when it says original
22 message, that means that it has been sent on to
23 somebody else?

24 A. Yes.

25 Q. And then -- so the email was sent on --

1 can you tell us to whom this email was sent on to,
2 the original email was sent on to?

3 A. I believe it was sent to Gary.

4 MR. WOODFIELD: If you know.

5 Q. Well, above the original message from
6 Michael to Frank, it says, Dear Frank.

7 A. Yes. Those are -- these are three
8 separate emails on that page. I was trying to be as
9 thorough as possible. I found an email that had
10 Michael Bienes' email address that wasn't the
11 original email and I included it.

12 Q. So what you're saying is that this
13 particular page is a composite of three emails that
14 you cut and pasted and sent to Mr. Woodfield?

15 A. I believe so.

16 Q. So I'm not looking at a string of emails
17 that --

18 A. No.

19 Q. -- were exchanged between the three
20 emails on this page?

21 A. No. I mean, the top of the first email
22 is cut off for me, but in looking at the format, it
23 looks like that's an individual email, the second's
24 an individual email and the third is a separate
25 email that I cut and pasted from a forward.

1 Q. Okay. I want you to know I spent an
2 hour trying to figure out how these three emails
3 were related and how they got in one email string.
4 So thank you for explaining that.

5 A. You're welcome.

6 Q. It gives me great comfort to know that
7 these are, in fact, three separate emails that are
8 unrelated.

9 What we're going to do -- and this will
10 be a little more time consuming, but I would like
11 these three pages that we've just identified to be
12 marked as Plaintiff's Exhibit 1 for this deposition.
13 So if you could give these three pages to the court
14 reporter, she'll mark them, okay.

15 (Whereupon, the Three page emails dated
16 May 23, 2016 was marked as Plaintiff's Exhibit
17 Number 1 for Identification.)

18 Q. The next email is from you dated
19 April 19, 2016 at 11:02 a.m.

20 A. Yes.

21 Q. And this is an email that you wrote; is
22 that right?

23 A. Yes.

24 Q. And does this email reflect all of the
25 names that you searched for when you accessed your

1 stepfather's email account?

2 A. This reflects the list of names I
3 searched for at this moment in time. I believe
4 there were other searches.

5 Q. With different names?

6 A. I'd have to cross-reference. This might
7 be a complete list, although looking at this, I
8 don't see Bienes, which I believe I searched for.
9 I'd have to look.

10 Q. Okay. Now, this email at the bottom has
11 a note with a reference to John -- is it Combs?

12 A. Combs.

13 Q. And it indicates that Mr. Combs used to
14 send lots of "forwards" before he had health issues.
15 "I'm pretty sure I deleted some of them. He used to
16 send them to me, too." When did you delete those
17 emails?

18 A. That would have been, I would say,
19 probably over two years ago. I mean, not any time
20 recently. I don't actually know, and I also don't
21 know -- as what I was trying to say there is whether
22 it was my account I deleted them from or their
23 account, since I also received forwards from him.

24 Q. Okay.

25 A. But it terms -- and when I refer to a

1 forward, it's not a forward like the forward that --
 2 something that was forwarded to Gary. It's one of
 3 those look at my puppies pictures sort of forward or
 4 a political joke forward. It's nothing of some
 5 substantive or personal interaction.

6 Q. But when John would send a forward, and
 7 he sent them to you and to your stepfather, did he
 8 send separate emails to each or did he simply
 9 forward and list all of the names to whom that email
 10 was being forwarded?

11 A. I can't answer that. I would assume it
 12 was a group but nothing I looked at.

13 Q. If you deleted these emails from your
 14 stepfather's computer at or about the time they were
 15 sent, is that because you viewed these emails as
 16 spam or read an email that were not worthy of being
 17 kept?

18 A. Exactly. My parents don't check email.
 19 They don't use email so I figured they're not going
 20 to spend time to look at pictures of kittens.

21 Q. So did you act as a, I guess, a little
 22 bit of a, you know, weed picker and decide which
 23 emails were not worthy of being kept, in addition to
 24 simply vendor and spam emails?

25 A. I don't think that's an accurate

1 categorization. If it was something that was
 2 written, even if the first line was -- if there was
 3 something like, please take a look at this, that was
 4 personal in nature, I did not delete it. If it was
 5 clearly a forward of some sort of thing that some
 6 third party somewhere put together that gets passed
 7 around and fills up people's computers, yes, I would
 8 sometimes make my executive decision and delete it.

9 Q. Would you tell your stepfather, this
 10 email is here, you can look at it if you want to, if
 11 not, I'll get rid of it?

12 A. Maybe.

13 Q. Let's make this April 19th email as
 14 Exhibit 2.

15 (Whereupon, the One page email dated
 16 April 19, 2016 was marked as Plaintiff's Exhibit
 17 Number 2 for Identification.)

18 Q. Now, also at the bottom or near the
 19 bottom of this email, it indicates that I've
 20 attached the emails to you from John Combs. What
 21 attachments went with this email?

22 A. It says here, I found four emails
 23 received and five emails sent. It was those, I'm
 24 presuming.

25 Q. So at the bottom when you're referring

1 to you've attached the emails, you've attached the
 2 ones that you found?

3 A. Yes.

4 MR. WEISZ: Gary, the documents you
 5 provided do not have the attachments. Were those
 6 provided separately?

7 MR. WOODFIELD: As I sit here, I
 8 don't recall.

9 Q. Okay, but I assume, Ms. Liersch, that
 10 these attachments are not part of the package that
 11 you have?

12 MR. WOODFIELD: That's correct.

13 A. Yes, I don't see it here.

14 Q. So the next one is an email dated
 15 December 7, 2015 and to me, this appears to be two
 16 emails on one page and that is a complete string of
 17 emails?

18 A. I believe so, yes.

19 Q. This email is a question to you
 20 concerning whether or not you were able to
 21 understand what may have happened to some of the
 22 emails on your stepfather's AOL account and whether
 23 or not the emails were or could have been deleted,
 24 right?

25 A. I'm sorry, could you repeat that?

1 Q. Yeah. This email concerns the
 2 investigation of whether or not emails might have
 3 been deleted from your stepfather's account?

4 A. Correct.

5 Q. And the circumstances surrounding how
 6 the deletion occurred?

7 A. Correct. It was the information -- it's
 8 a recount of the information I was provided.

9 Q. Okay, and your email on Monday,
 10 December 7, 2015, references a link to a term of
 11 service.

12 A. Right.

13 Q. Did you actually download the terms of
 14 service?

15 A. I didn't download it. I mean, I clicked
 16 on it and it opened up in another window.

17 Q. All right. And do you know if those
 18 were the terms of service that were in place in
 19 2008, in 2009?

20 A. I don't know and -- no, I don't know.

21 Q. Okay. Did you look at the terms of
 22 service that you actually opened to see if, in fact,
 23 there was any indication that -- if there was
 24 inactivity or no one signed onto the account for
 25 sixty days, half the emails would be deleted?

1 A. No. As I says in this email, I looked
2 at it and it doesn't directly state what I was told.

3 MR. WEISZ: Let's mark this email
4 as Exhibit 3, please.

5 (Whereupon, the One page email dated
6 December 7, 2015 was marked as Plaintiff's Exhibit
7 Number 3 for Identification.)

8 Q. The next email, again, appears to be a
9 single page dated November 30, 2015 at 2:55 p.m.
10 This is an email you wrote?

11 A. Yes.

12 Q. What does this email describe?

13 A. It describes a snapshot of their email
14 account.

15 Q. Okay. When you say a snapshot, did you
16 actually take a screen shot?

17 A. No, but I looked in each folder and
18 wrote down -- I mean, it's obviously not a screen
19 shot. I typed up the information.

20 Q. Okay, and is this information taken from
21 the web-based AOL account or is this information
22 taken from data stored on the laptop?

23 A. From the internet.

24 Q. Okay. Did you check to see if any of
25 this information was also contained on the laptop?

1 A. I think we talked about searching the
2 computer for emails which we discussed, and whether
3 that was before or after this date, I cannot say.
4 On this date, I was probably at home so I did not do
5 it on his computer.

6 Q. Okay. Do you have any specific
7 recollection of searching your stepfather's computer
8 for any of this data?

9 A. Not this data here, no, but as we talked
10 about, I searched for the emails he questioned.

11 MR. WEISZ: Okay. Let's mark this
12 as Exhibit 4, please.

13 (Whereupon, the One page email dated
14 November 30, 2015 was marked as Plaintiff's Exhibit
15 Number 4 for Identification.)

16 Q. The next email, the top email is from
17 you to Mr. Woodfield dated November 30, 2015 at
18 2:55 p.m.

19 A. Yes.

20 Q. To me, it appears to be with two pages
21 of emails which are all one chain; is that accurate?

22 A. Yes.

23 Q. So starting on the bottom email of page
24 two, November 30, 2015 at two p.m., Mr. Woodfield
25 asks you to check for accuracy and completeness.

1 What is he asking you to check?

2 A. I'm assuming it's a document that he had
3 me check but it's not here, so I can't say
4 specifically.

5 Q. Okay. So the question to you is, "Don't
6 recall whether I ran this by you." As you sit here
7 right now, you don't know what this means in this
8 email, do you?

9 A. Sitting here?

10 Q. What Mr. Woodfield was trying to run by
11 you?

12 A. Sitting here right now, it says right
13 above, "I'll cross reference and confirm
14 dates/quantities for folders," so it was obviously
15 referring to information on his email -- regarding
16 his email.

17 Q. Okay, but Mr. Woodfield's email says,
18 "Don't recall whether I ran this by you." Do you
19 know what this refers to, specifically?

20 A. It refers to whatever was attached to
21 that email, I'm assuming.

22 Q. Well, we cannot -- we can't remember
23 what that is because we don't have the email, the
24 attachment?

25 A. I don't have it in front of me, no.

1 Q. Right. I don't either, so I just -- and
2 did you, in fact, prepare the report referenced
3 here?

4 A. I didn't prepare any reports.

5 Q. Okay. Let me rephrase the question.
6 Did you, in fact, prepare a list of a tally of what
7 data and emails you found when you searched the
8 web-based AOL account?

9 A. Yes, like the one we just reviewed. I
10 prepared that.

11 Q. So the one we just reviewed, Exhibit 4,
12 is that what you prepared in reference to the emails
13 we're looking at now?

14 A. As I said, the attachment is in here. I
15 cannot state what it's referring to.

16 Q. Okay. On the first page, the bottom
17 email, November 30, 2015 --

18 A. Really quickly, I'm assuming there is an
19 attachment based on what it says. I don't know if
20 there was.

21 Q. Okay. Thank you for the clarification.

22 A. Okay.

23 Q. On the email of the first page of what
24 we're currently looking at which we did not mark as
25 an exhibit yet dated November 30, 2015, you

1 referenced the contacts having a bunch of email
2 addresses with associated name saved; do you see
3 that?

4 A. Umm-huh.

5 Q. Do you know if that data is still
6 available?

7 A. I'm sorry, you're talking about my first
8 email on November 30th at the top, the first email
9 of this string?

10 Q. The one on the bottom of that page,
11 November 30, 2015 at 2:28 p.m.

12 A. Oh, this here where it says contacts tab
13 and calendar tab?

14 Q. It says write email report, yes.
15 Contacts and calendar tab, that one.

16 A. Are they still in his email account?

17 Q. Yes. Are those contacts still there?

18 A. Yes.

19 MR. WEISZ: Okay. So let's mark
20 this then as Exhibit 5, please.

21 A. But just to be clear, you're asking me
22 is there still a contacts tab? I believe so, yes.

23 Q. Well, actually the question was a little
24 different. Do you know if the information that you
25 saw is still there?

1 A. As far as I know, nothing would have
2 been changed, but -- so yes, it should be the same.

3 (Whereupon, the Two page emails dated
4 November 30, 2015 was marked as Plaintiff's Exhibit
5 Number 5 for Identification.)

6 Q. The next email is dated Monday,
7 November 30, 2015 at 2:16 p.m.; do you see that?

8 A. Yes.

9 Q. And this is -- this looks like it's two
10 pages of emails with the second page having just one
11 email to you from Mr. Woodfield?

12 A. Yes.

13 Q. And this one appears to be mostly the
14 same as the one we just marked as Exhibit 5, with
15 the exception that the top email seems to be a
16 separate insert that's not contained in the earlier
17 email chains?

18 A. Yes.

19 MR. WEISZ: Okay, so let's mark
20 this one as Exhibit 6, please.

21 (Whereupon, the Two page emails dated
22 November 30, 2015 was marked as Plaintiff's Exhibit
23 Number 6 for Identification.)

24 Q. Now, I appreciate your patience doing
25 this. I know it's very tedious but we'll get

1 through it as quickly as we can.

2 A. Okay.

3 Q. The next email is dated Monday,
4 November 30, 2015 at 2:07 p.m. and this looks to be
5 one page and it looks to be a duplicate, like it has
6 duplicate information that's on the previous email
7 that we just reviewed.

8 MR. WEISZ: We'll mark this one as
9 Exhibit 7, please.

10 (Whereupon, the One page email dated
11 November 30, 2015 was marked as Plaintiff's Exhibit
12 Number 7 for Identification.)

13 Q. So the next one is Monday, November 30,
14 2015 at 1:51 p.m. This looks to be two pages of an
15 email chain.

16 A. Yes.

17 Q. The second page appears to be a cut and
18 paste of an email from Michael Sullivan to Frank; is
19 that right?

20 A. Yes.

21 Q. And then on the top page, there's a
22 reference from Mr. Woodfield that he's unable to
23 open attachments. Do you know what attachments you
24 sent?

25 A. It's the two missing Sullivan emails

1 docs. Only because it says it up there.

2 Q. Do you know whether the two missing
3 Sullivan docs, whether one of them is the one
4 attached and cut and pasted on the second page or
5 are there an additional two emails that were sent as
6 an attachment?

7 A. I can't recall.

8 Q. Okay.

9 MR. WEISZ: We'll mark this one as
10 Exhibit 8, please.

11 (Whereupon, the Two page emails dated
12 November 30, 2015 was marked as Plaintiff's Exhibit
13 Number 8 for Identification.)

14 Q. The next one is emails -- one page
15 email, November 30, 2015 at 1:40 p.m.; do you see
16 that?

17 A. Yes.

18 Q. My question on this one is can you
19 explain what you were referring to or saying on this
20 email?

21 A. I think it's referring to the page
22 behind it.

23 Q. Okay. When you say behind it, you mean
24 the next email?

25 A. Yes, the next document.

1 Q. That's the one dated November 30, 2015
2 at 1:23 p.m.?

3 A. Yes.

4 Q. Okay. So what is a one page grouping
5 and what is an attachment grouping?

6 A. If you're -- you look at the -- not the
7 page that has very little on it, the next page, in
8 Gary's second paragraph, it says, could you print --
9 it says, it is unclear whether the entire email --
10 whether the entire emails were produced since they
11 appear to continue on a single page. Could you
12 print out these emails separately and scan to me.
13 That is assuming is what's referenced to one page
14 grouping.

15 Q. Okay.

16 A. And the last group or two emails that
17 have attachments and that refers to attachment
18 grouping.

19 Q. Okay, and then so the page that you're
20 holding now, let's please mark that as Exhibit 9.

21 (Whereupon, the One page email dated
22 November 30, 2015 was marked as Plaintiff's Exhibit
23 Number 9 for Identification.)

24 Q. And one day technology will improve so
25 we can do this without the old fashioned paper and

1 pen.

2 So the next document then is an email
3 dated November 30, 2015 at 1:23 p.m. So you refer
4 to the second paragraph of that email in your
5 previous answer. So when about the first paragraph
6 on the email that Mr. Woodfield sent to you at
7 2:34 p.m., he asked you a question there, and what
8 was your answer to that question?

9 A. I believe my answer was that it was a --
10 an email address that I wasn't aware of so that's
11 why I hadn't found it.

12 Q. Okay, and then as far as I can tell, the
13 email we're looking at right now, the 1:23 p.m.
14 email of November 30th, that's just a one pager; is
15 that right?

16 A. Yes.

17 MR. WEISZ: So let's mark this as
18 Exhibit 10, please.

19 (Whereupon, the One page email dated
20 November 30, 2015 was marked as Plaintiff's Exhibit
21 Number 10 for Identification.)

22 Q. So with respect to the documents we just
23 marked as Exhibit 10, did you cut and paste the
24 information and send it to Mr. Woodfield or did you
25 actually forward these to Mr. Woodfield?

1 A. I cannot recall that information.

2 Q. Okay, and do you know who Tinka/Fernando
3 is or are?

4 A. Yes.

5 Q. Who are they?

6 A. The Estebans.

7 Q. Okay, and were they friends of your
8 stepfather or were they in business with your
9 stepfather?

10 A. You said were they friends or what was
11 the other question?

12 Q. Were they in business with your
13 stepfather?

14 A. Friends.

15 Q. Okay. Do you know whether or not they
16 invested in any of the Madoff accounts?

17 A. I don't know.

18 Q. So then the next document is dated
19 November 30th at 1:15 p.m. I believe this is a
20 duplicate of an email that was part of another set
21 that we marked earlier; is that right? I think it's
22 the Merry Christmas one, the one that was the cut
23 and paste?

24 A. Yes.

25 MR. WEISZ: So let's mark this one

1 as Exhibit 11.

2 (Whereupon, the One page email dated
3 November 30, 2015 was marked as Plaintiff's Exhibit
4 Number 11 for Identification.)

5 Q. So then the next one is dated
6 November 24, 2015 at 4:27 p.m., and that was an
7 email from you to Mr. Woodfield?

8 A. Yes.

9 Q. And this, again, asks for some
10 clarification about your search of your stepfather's
11 computer?

12 A. Yes.

13 Q. Do you have the attachments that are
14 referenced in the body of the email to you in the
15 middle of the first page?

16 A. I don't have it unless it's in his
17 packet.

18 Q. Well, I don't have it either so I'm just
19 asking if -- I want to make sure we're looking at
20 the same document.

21 A. No, I don't see it.

22 Q. Okay, and this particular email chain
23 comprises of two pages, right? The second page is
24 the signature block?

25 A. Yes.

1 Q. So your response indicates that this was
2 a Michael Sullivan email; is that right?

3 A. Yes.

4 Q. With an email address that was not
5 previously known to be his, right?

6 A. Yes.

7 Q. It says, "The email is, though, in their
8 email not deleted. Whose email are you referring
9 to?"

10 A. Frank and Nancy Avellino's email.

11 MR. WEISZ: So we'll mark this then
12 as Exhibit 12, please.

13 (Whereupon, the Two page email dated
14 November 24, 2015 was marked as Plaintiff's Exhibit
15 Number 12 for Identification.)

16 Q. So the next email is dated November 19,
17 2015 at 4:06 p.m?

18 A. Yes.

19 Q. This is an updated list of the folders
20 that were on your stepfather's AOL account; is that
21 right?

22 A. These are a list of the emails. It's
23 updated I think the other dates later.

24 Q. Okay. Well, let's just take a quick
25 look then and make sure that that's correct. So the

1 first list is an Exhibit 2, do you have that?

2 A. I have that, but these are referring to
3 two separate things. Exhibit 2 is a list of
4 names --

5 Q. I'm sorry, you're right. You're right.
6 That's not the right list.

7 A. Exhibit 4.

8 Q. Thank you. Okay, so Exhibit 4 updates
9 the document we're looking at now?

10 A. It's a more recent snapshot, not an
11 actual snapshot, but a more recent viewing of --
12 Exhibit 4 is a more recent viewing of their email
13 account.

14 Q. Okay. So Exhibit 4 indicates that there
15 are six emails from November 24th to the present?

16 A. Yes.

17 Q. And the earlier email says there are 12
18 emails, the earliest date 10/21/15; do you see
19 that --

20 A. I do.

21 Q. -- in the new email folder? What
22 happened to the emails starting with the 10/21/15
23 date, all of those emails?

24 A. They were presumably opened and then AOL
25 moves them to the old mail folder.

1 Q. Do you know who opened those emails?

2 A. No idea. I don't know what those emails
3 are.

4 Q. While you were doing your work and your
5 searching, did your stepfather continue to use his
6 computer to access his AOL account without you?

7 A. I would believe so but I can't answer
8 that.

9 MR. WEISZ: So the document we're
10 looking at now which is the November 19, 2015 4:06
11 p.m. document, we'll mark that as Exhibit 13,
12 please.

13 (Whereupon, the One page email dated
14 November 19, 2015 was marked as Plaintiff's Exhibit
15 Number 13 for Identification.)

16 Q. The next email appears to be two pages
17 and the top email is dated November 5, 2015 at
18 3:54 p.m. The email at the bottom of the top page
19 which is from you to Mr. Woodfield on November 5,
20 2015 at 1:37 p.m., what is it that you're describing
21 in this email?

22 A. I'm describing the search I was
23 requested to do.

24 Q. Okay, and what were you highlighting?

25 A. The to/from stamp on each email I

1 included, I put that in yellow for him so it could
2 be easily seen where a beginning of an email is.

3 Q. And then the page behind this has a list
4 of names indicating and it looks like as if there's
5 an indication of whether there were emails with that
6 name or no emails with that name; is that right?

7 A. That's correct.

8 Q. Did you print these emails and highlight
9 them and scan them or did you forward them or how
10 did you --

11 A. I forwarded them. They were in a Word
12 document and I sent the Word document to Gary via
13 email.

14 Q. So this is a cut and paste?

15 A. This is -- yes, which we talked about
16 earlier. I cut and paste them.

17 Q. And then the yellow highlighting was
18 also done as part of the formatting of the document?

19 A. That is the only change I made to any of
20 the emails in an effort to make it easier.

21 MR. WEISZ: So we'll mark this one
22 as Exhibit 14, please.

23 (Whereupon, the Two page email dated
24 November 5, 2015 was marked as Plaintiff's Exhibit
25 Number 14 for Identification.)

1 Q. This is an email dated November 5, 2015
2 at 1:57 p.m.?

3 A. Yes.

4 Q. And this is a continuation of your email
5 communications with Mr. Woodfield about the searches
6 you were doing and the efforts you were undertaking
7 to find emails on your stepfather's computer?

8 A. Yes.

9 Q. And the top two emails discussed the
10 issue of transferring emails from one folder to
11 another; is that right?

12 A. Yes, yes.

13 MR. WEISZ: So we'll mark this as
14 Exhibit 15, please.

15 (Whereupon, the Two page email dated
16 November 5, 2015 was marked as Plaintiff's Exhibit
17 Number 15 for Identification.)

18 Q. The next email is dated November 5, 2015
19 at 1:37 p.m. and this looks to be a duplicate of an
20 earlier email that I think had two pages on it?

21 A. Yes, correct.

22 MR. WEISZ: We'll mark this one as
23 Exhibit 16 and move on.

24 (Whereupon, the One page email dated
25 November 5, 2015 was marked as Plaintiff's Exhibit

1 Number 16 for Identification.)

2 Q. So the next email appears to be -- well,
3 it's dated November 5, 2015 at 11:53 a.m., and this
4 looks to be a four-page string or chain; is that
5 correct?

6 A. Yes.

7 Q. So beginning at the top of page two, you
8 write in an email, October 27, 2015 at 9:15 a.m.,
9 asking Mr. Woodfield how he would like you to send
10 the information that you find or emails that you
11 find to him; is that right?

12 A. Yes.

13 Q. And then on the first page, Mr.
14 Woodfield responds to you and indicates that either
15 method is acceptable. And then he indicates that he
16 assumes that your stepfather kept copies. Do you
17 know anything about your stepfather's recordkeeping
18 and whether he kept copies of the emails?

19 A. I don't know anything about
20 recordkeeping and copies of emails, no.

21 Q. Okay, and you never discussed that with
22 your stepfather whether that was his habit was to
23 print out emails and put them in folders?

24 A. I've never discussed that with him, but
25 to be clear, it's not suggesting that he did that.

1 It's saying here that he printed them for Gary.

2 Q. Well, it says I assume he kept copies.

3 A. Of what he printed and gave Gary --

4 Q. Okay.

5 A. -- would be my reading of Gary's words.

6 Q. Now, this email indicates that the
7 starting date for the emails was 2009; do you see
8 that?

9 A. Yes.

10 Q. But in fact, your search indicated that
11 the starting date was July of 2010?

12 A. That's incorrect. My search found that
13 in the old mail was 2010, but in the sent mail was
14 2009, so that is accurate.

15 Q. Okay. So what year in 2009 were the
16 sent mails -- I'm sorry, what was the first date of
17 the sent mail in 2009?

18 A. I believe you have this but I will look
19 through the paperwork to give it to you.

20 Q. Why don't you look at Exhibit 4 --
21 Exhibit 4?

22 A. Right. Sorry, there it is. Yes, so it
23 says sent mail from December 2, 2009.

24 Q. Okay. So let's go back to the email we
25 were looking at of November 3rd, 2015 at 11:53 a.m.

1 A. Yes.

2 Q. Your email on top indicates that AOL
3 would delete one half of all his email starting from
4 the oldest messages; do you see that?

5 A. Yes.

6 Q. So why would his sent emails have a
7 start date of December 2009 and his old mail have a
8 start date of July 2010 --

9 A. Maybe --

10 Q. -- if one half of all his emails would
11 have been deleted for no activity?

12 A. I can't assume to know what AOL does,
13 but maybe they sort it by folder. I have no idea.

14 Q. Okay.

15 MR. WEISZ: Let's mark this then as
16 Exhibit 17, please.

17 (Whereupon, the Four page email dated
18 November 3, 2015 was marked as Plaintiff's Exhibit
19 Number 17 for Identification.)

20 Q. Let's go to the next document which is
21 October 27, 2015 at 9:15 a.m.

22 A. Yes.

23 Q. This seems to be a duplicate of what was
24 part of the most recent exhibit we marked which was
25 Exhibit 17. It appears to be part of those four

1 pages; is that correct?

2 A. I'm sorry, say it again.

3 Q. These two pages and -- I'm sorry, these
4 three pages appear to be part of the email that are
5 the four-page exhibit we just looked at which is
6 Exhibit 17. In other words, if you look at
7 Exhibit 17 --

8 A. Yes, it looks that way to me, too. Yes.

9 MR. WEISZ: So let's mark these
10 three as Exhibit 18.

11 (Whereupon, the Three page email dated
12 October 27, 2015 was marked as Plaintiff's Exhibit
13 Number 18 for Identification.)

14 Q. The next email is dated October 25, 2015
15 at 12:01 p.m. This appears to be two pages of an
16 email chain, and again, this appears to be part of
17 what was marked as Exhibit 17, specifically the last
18 two pages there?

19 A. Yes.

20 MR. WEISZ: So we'll mark this as
21 Exhibit 19.

22 (Whereupon, the Two page email dated
23 October 25, 2015 was marked as Plaintiff's Exhibit
24 Number 19 for Identification.)

25 Q. I'm happy to say we're here at the last

1 document. So Ms. Liersch, is this the AOL terms of
2 services and conditions that you referenced in your
3 email with the link? Earlier on you indicated that
4 you spoke to an AOL representative and that they
5 referred you to terms and conditions and they gave
6 you an email link, and that's Exhibit Number 3?

7 A. Yes, I did say that.

8 Q. I'm just wondering if this printout is
9 linked to that document -- the printout of that link
10 to that document? And for what it's worth, if you
11 look at Exhibit 3, that was written Monday,
12 December 7, 2015 at 11:40 a.m., and it appears that
13 the document we're looking at now is printed on
14 December 7, 2015 at 11:43 a.m. So I don't know if
15 that refreshes your recollection but --

16 A. It also has the same email address --
17 I'm sorry, web address on it, so I presume that is
18 the link, that is the substance of the link.

19 Q. Do you recall actually printing it out
20 at that time? If you do, you do. If you don't, you
21 don't. I'm just curious.

22 A. I don't recall printing it out, but I
23 don't know if I printed it out or if Gary printed it
24 out.

25 Q. Okay. All right.

1 MR. WEISZ: So we'll mark this last
2 document as Exhibit 20, and if I ever get the
3 opportunity to depose Mr. Woodfield, I'll make sure
4 I ask him.

5 (Whereupon, the AOL terms of service was
6 marked as Plaintiff's Exhibit Number 20 for
7 Identification.)

8 Q. Ms. Liersch, if you can allow us another
9 five-minute break. I just want to confer with Tom
10 and see if there's anything else that we missed, and
11 hopefully we'll be done or be done very, very
12 promptly.

13 (Whereupon, a recess was taken.)

14 Q. Okay. I don't have anymore questions so
15 unless Mr. Woodfield has questions, from our side,
16 we're done.

17 MR. WOODFIELD: I just have a
18 couple.

19 EXAMINATION BY MR. WOODFIELD:

20 Q. Ms. Liersch, you indicated that you're a
21 stay-at-home mom now. Can you just briefly
22 describe -- did you go to college?

23 A. Yes, I went to Harvard University and
24 afterwards I graduated and was an investment banking
25 analyst.

1 Q. What was your degree at Hartford?

2 A. Economics. I graduated with Honors.

3 Q. Did you work after you graduated from
4 Harvard?

5 A. Yes.

6 Q. Where did you work?

7 A. JPMorgan.

8 Q. What did you do there?

9 A. Investment banking analyst.

10 Q. In connection with that, did you have
11 occasion to use computers on a daily basis?

12 A. Yes.

13 Q. Now, are you familiar and comfortable
14 with using the use of computers?

15 A. I am.

16 Q. Now, with regard to --

17 MR. WOODFIELD: I'm going to mark
18 one exhibit, Michel, and unfortunately I don't have
19 a copy for you but I can describe it. I don't think
20 it was an issue as to what it is, and this is the
21 Defendant Frank Avellino's notice of filing amended
22 report regarding emails and it was filed on
23 December 8, 2015, and it -- the notice of filing
24 includes a two-page report entitled Defendant Frank
25 Avellino's Amended Report Regarding Emails. I'm

1 going to mark that document as Defendant's Exhibit
 2 A.
 3 MR. WEISZ: I'm going to object.
 4 Is that the errata sheet?
 5 MR. WOODFIELD: No.
 6 MR. WEISZ: Is that a report as to
 7 what he did or didn't do?
 8 MR. WOODFIELD: It's a report on
 9 the status of the computer.
 10 MR. WEISZ: Okay. I'm going to
 11 object as improper examination of a witness with the
 12 testimony of another witness.
 13 MR. WOODFIELD: Will you mark this
 14 as Defendant's Exhibit A, please.
 15 (Whereupon, the Defendant Frank
 16 Avellino's Notice was marked as Defendant's Exhibit
 17 Number A for Identification.)
 18 Q. Now, I'll show you what we've marked as
 19 Exhibit A, and turn particularly to the third page
 20 which is entitled Frank Avellino's Amended Report
 21 Regarding Emails, and have you seen this before
 22 today?
 23 A. Yes, I was asked to review it.
 24 Q. And just generally, what is included in
 25 this report?

1 A. It looks like the substantive portion
 2 is the -- it looks to be a reflection of the
 3 information I gave you at that date, on November
 4 30th.
 5 Q. And does it accurately state what the
 6 status was of Frank Avellino's AOL account on or
 7 about that date which is first week in December or
 8 on or about November --
 9 MR. WEISZ: I'm sorry, are you
 10 asking this witness to vouch for and read somebody
 11 else's assertion statement of facts?
 12 MR. WOODFIELD: I'm asking her
 13 whether or not to her knowledge the information
 14 contained in this amended report is accurate.
 15 MR. WEISZ: That's irrelevant, but
 16 I cannot object on that ground, but I can still
 17 object on the grounds that it's improper for one
 18 witness to be vouching for the accuracy of another
 19 witness' statement.
 20 Q. So you can answer my question. To the
 21 best of your knowledge, does this report accurately
 22 reflect the status of Frank Avellino's AOL account
 23 at or about this time?
 24 A. It does, to the best of my knowledge.
 25 MR. WEISZ: And for the purposes of

1 the record, since I can't see what it says, would
 2 you please read aloud the portion of the statement
 3 that you believe is accurate and correct?
 4 MR. WOODFIELD: Well, that would
 5 take awhile, but I can tell you if you look at
 6 Exhibit 4 which you marked, it's an exact recital of
 7 that.
 8 MR. WEISZ: I'm sorry, Exhibit 4 is
 9 an exact recital of what Mr. Avellino wrote in his
 10 statement?
 11 MR. WOODFIELD: Do you have Exhibit
 12 4 in front of you?
 13 MR. WEISZ: I do.
 14 MR. WOODFIELD: Is that the
 15 information -- is the information contained in --
 16 first of all, Exhibit 4 is a recital of your search
 17 of Frank Avellino's AOL account, correct?
 18 A. Correct.
 19 Q. And is that the information that's
 20 substantively contained within this exhibit that we
 21 just marked as Exhibit A?
 22 A. Correct.
 23 Q. Now, with regard to -- Frank Avellino
 24 has testified that he deleted emails every few days.
 25 From your review of Mr. Avellino's AOL account, do

1 you have any indication that substantive emails were
 2 deleted on a daily or frequent basis?
 3 MR. WEISZ: Object to form. Beyond
 4 the scope and there's no foundation for this witness
 5 to have any basis to accurately verify or testify
 6 that she has the ability to determine that
 7 information.
 8 Q. Okay. You can answer the question.
 9 A. Okay. I don't believe he has deleted
 10 emails. Before this whole email deletion question
 11 came up, I'm not even sure he knew how to delete an
 12 email.
 13 MR. WOODFIELD: Okay. No further
 14 questions.
 15 FURTHER EXAMINATION BY MR. WEISZ:
 16 MR. WEISZ: We mean no disrespect
 17 to Harvard University or JPMorgan. Ms. Liersch, did
 18 anything you did at either Hartford or at JPMorgan
 19 train you or prepare you to conduct a forensic
 20 examination of a computer or an AOL account to
 21 determine whether or not emails of those accounts
 22 were complete and whether emails had or had not been
 23 deleted from those accounts?
 24 A. Not specifically, no.
 25 Q. How about generally? What general

1 education or training did you have --

2 A. I don't have any training.

3 MR. WEISZ: Okay. Okay. Nothing
4 further. Thank you.

5 Ms. Liersch, you have the right to read
6 the deposition that was transcribed and to make any
7 annotations and corrections or -- that you feel are
8 appropriate with respect to any of the testimony
9 you've giving, or you have the right to waive your
10 reading and to -- if the deposition is ordered, it
11 will be transcribed and provided to us without your
12 review. Which would you choose?

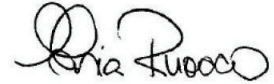
13 THE WITNESS: Waive.

14 MR. WEISZ: Thank you.

15 (Whereupon, the deposition was concluded
16 at 11:59 a.m.)

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I, GINA M. RUOCCO, a Notary Public, duly commissioned and qualified in and for the State of Connecticut, do hereby certify that pursuant to Agreement there came before me on the 8th day of June 2016, the following named person, to wit: Rachel Liersch, who was by me duly sworn to testify to the truth and nothing but the truth; that she was thereupon carefully examined upon her oath and her examination reduced to writing under my supervision; that this deposition is a true record of the testimony given by the witness. I further certify that I am neither attorney nor counsel for, nor related to, nor employed by any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action. In WITNESS THEREOF, I have hereunto set my hand this ____ day of _____, 2016.



Gina M. Ruocco, LSR #516

Notary Public
My Commission expires:
August 31, 2017