

0 UNITED STATES OF AMERICA

1 BEFORE THE COMMODITY FUTURES TRADING COMMISSION

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3 :

4 In the Matter of: :

5 : Order Designating

6 TOBY WAYNE DENNISTON, II, : Officers to Take

7 YURI PLYAM, and : Testimony in a

8 ACCELERATION CAPITAL, LLC : Private Investigation

9 :

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11 Washington, D.C.

12 Friday, March 24, 2006

13 The deposition of TOBY WAYNE DENNISTON, II,
14 called for examination by counsel for the Commission
15 in the above-entitled matter, pursuant to notice, at
16 the offices of the Commodity Futures Trading
17 Commission, 1155 21st Street, N.W., Washington,
18 D.C., convened, pursuant to notice, at 8:58 a.m.,
19 before Catherine B. Crump, a notary public in and
20 for the District of Columbia, when were present on
21 behalf of the parties:

22 APPEARANCES:

23 On behalf of the Commission:

24 THEODORE J. DOWD, II, ESQ.

25 MICHAEL SOLINSKY, ESQ.

26 JOSEPH VARGAS, ESQ.

27 Commodity Futures Trading Commission

28 1155 21st Street, N.W.

29 Washington, D.C. 20581

30 (202) 418-5407

31 On behalf of the Respondent:

32 TOBY WAYNE DENNISTON, Pro Se

33 C O N T E N T S

34 EXAMINATION BY COUNSEL FOR

35 WITNESS COMMISSION RESPONDENT

36 Toby Wayne Denniston

37 By Mr. Dowd: 4 --

38 E X H I B I T S

39 DENNISTON DEPOSITION MARKED

40 No. 1 6

41 No. 2 6

42 No. 3 25

43 No. 4 60

44 No. 5 93

45 No. 6	104
46 No. 7	126
47 No. 8	136
48 No. 9	171
49 No. 10	172
50 No. 11	174
51 No. 12	174
52 No. 13	177

53 P R O C E E D I N G S

54 MR. DOWD: We're on the record at
55 approximately 9 a.m. on March 24, 2006 in connection
56 with the Commission's investigation in the matter of
57 Toby Wayne Denniston, II, Yuri Plyam, and
58 Acceleration Capital, LLC.

59 Will the court reporter please swear in
60 the witness.

61 Whereupon,

62 TOBY WAYNE DENNISTON, II
63 was called to testify and, having first been duly
64 sworn by the notary public, was examined and
65 testified as follows:

66 EXAMINATION BY COUNSEL FOR THE COMMISSION

67 BY MR. DOWD:

68 Q Mr. Denniston, would you please state
69 and spell your full name?

70 A Toby Wayne Denniston, II,
71 D-E-N-N-I-S-T-O-N.

72 Q Mr. Denniston, are you represented by
73 counsel today?

74 A I am not.

75 Q Have you had adequate time to seek
76 counsel?

77 A I have.

78 Q Do you need more time to seek an
79 attorney?

80 A I do not.

81 Q Do you wish to proceed today without an
82 attorney?

83 A Yes.

84 Q This is an investigation by the
85 Commission to determine whether or not there have
86 been violations of the Commodity Exchange Act or its
87 regulations or whether there are or may be
88 violations in the future. The facts developed in
89 this investigation might also constitute violations
90 of other Federal or State, civil or criminal laws.

91 My name is Ted Dowd, and with me today
92 is Michael Solinsky, and we are both officers of the
93 Commodity Futures and Trading Commission for purpose
94 of this proceeding. At some point later today, we
95 may be joined by Joe Vargas, who is also an officer
96 of the Commission for purposes of this proceeding.

97 When and if Mr. Vargas enters the room, I will
98 announce that for the record.

99 MR. DOWD: Will you mark this as one,
100 please?

101 [Denniston Exhibit No. 1 was
102 marked for identification.]

103 BY MR. DOWD:

104 Q Mr. Denniston, do you recognize the
105 document that's been marked as Exhibit No. 1?

106 A Yes, sir.

107 Q What do you recognize this document to
108 be?

109 A A subpoena asking for documents
110 pertaining to my employment with Castle Trading.

111 Q And also requiring you to appear here
112 today?

113 A Exactly. Yes.

114 MR. DOWD: We'll mark this as two.

115 [Denniston Exhibit No. 2 was
116 marked for identification.]

117 BY MR. DOWD:

118 Q Mr. Denniston, do you recognize the

119 document marked as Exhibit No. 2?

120 A Is it not the same thing? Oh. There's
121 a different address. Yes.

122 Q Right. So the document marked as
123 Exhibit No. 1, it was mailed to 5139 Aspen Drive,
124 Montclair, California; is that correct?

125 A Yes.

126 Q And the document marked as two was
127 mailed to a different address; is that correct?

128 A Yes.

129 Q And that's 5825 Reseda Boulevard, No.
130 208?

131 A Yes, sir.

132 MR. DOWD: And for the record, Joe
133 Vargas has now joined us.

134 BY MR. DOWD:

135 Q Mr. Denniston, did you receive a copy of
136 the document that's been marked as Exhibit No. 1?

137 A Yes.
138 Q And did you also receive a copy of the
139 document marked as Exhibit No. 2?
140 A No.

141 Q All right. If we could look at Exhibit
142 No. 1, attached to the subpoena on the ninth page is
143 a document entitled "Statement to Persons Directed
144 to Provide Information Pursuant to a Commission
145 Subpoena or Requested to Provide Information
146 Voluntarily". Do you see that?
147 A Yes.
148 Q Did you receive a copy of that document
149 with the subpoena you received?
150 A Yes.
151 Q Have you had a chance to review that
152 document?
153 A Yes.
154 Q And I'd like to go this document with
155 you in a little bit of detail. Specifically on Page
156 No. 1, under the heading "False Statements and
157 Documents", do you see that heading?
158 A Yes.
159 Q Do you see the language that states "any
160 person who knowingly and willfully makes false or
161 fraudulent statements whether under oath or
162 otherwise or who falsifies, conceals, or covers up a
163 material fact or submits any false writing or
164 document knowing to contain false, fictitious, or
165 fraudulent information is subject to criminal
166 penalties set forth in 18 U.S.C. Section 1001 which
167 includes imprisonment of not more than five years,
168 imposition of a substantial fine under the Federal
169 Sentencing Guidelines or both"?
170 A I do.
171 Q Do you see that statement?
172 A Yes.
173 Q Do you understand that statement?
174 A I do.
175 Q So you understand there are criminal
176 penalties for providing false statements and
177 documents?
178 A Yes.
179 Q If I could move you forward to the next
180 page, Page No. 2, and under No. 4, "Routine Uses of
181 Information ", do you see that paragraph?
182 A Yes.

183 Q Have you had an opportunity to review
184 that?

185 A Yes.

186 Q Do you understand the information that's
187 in that paragraph?

188 A Yes.

189 Q And do you see the heading "Specific
190 Routine Uses Including the Following Information"?
191 Do you see that heading?

192 A Yes.

193 Q And do you see where it states that the
194 information you provide us today may be used in
195 administrative proceedings before the Commission--

196 A Yes.

197 Q --injunctive actions authorized under
198 the Commodity Exchange Act, or in any other action,
199 proceeding in which the Commission or any member of
200 the Commission or staff participates as a party or
201 the Commission participate amicus surae?

202 A Yes.

203 Q So do you understand that the
204 information you provide us today may be used in an
205 administrative action against you?

206 A Yes.

207 Q And do you understand that the
208 information you provide us today might be used in an
209 injunctive action against you?

210 A Yes.

211 Q If I could move you forward to page 3,
212 paragraph C, do you see that?

213 A Yes.

214 Q Okay. Have you had an opportunity to
215 read that particular paragraph?

216 A Yes.

217 Q And do you understand that paragraph?

218 A Yes.

219 Q And do you understand that information
220 that you provide us today may be shared with the
221 United States Justice Department?

222 A Yes.

223 Q Do you understand that information you
224 provide us today may be used in a criminal action
225 against you?

226 A Yes.

227 Q If I could move you forward to Page No.
228 4 under the heading "Testimony"--

229 A Yes.
230 Q Okay. And specifically Item 2--
231 A Yes.
232 Q --labelled "Counsel", do you see that?
233 A Yes, sir.
234 Q Have you had an opportunity to review
235 that paragraph?
236 A I have.
237 Q Do you have any questions about that
238 paragraph?
239 A Not anymore.
240 Q Do you understand that you have the
241 right to have an attorney here with you today?
242 A Yes.
243 Q Okay. Is it your intention to go
244 forward today without an attorney?
245 A It is.
246 Q Do you need more time to find an
247 attorney?
248 A I do not.
249 Q If we go forward to page 5 and under
250 Paragraph No. 3 entitled "Perjury", have you had an
251 opportunity to review that paragraph?
252 A Yes.
253 Q Do you understand that there are
254 criminal penalties for perjuring yourself today?
255 A I do.
256 Q Finally, if I could move you down to
257 paragraph 5 on page 5, which says "Fifth Amendment".
258 A Yes.
259 Q Have you had an opportunity to review
260 that paragraph?
261 A I have.
262 Q And are you aware that you have the
263 right to assert your Fifth Amendment privileges
264 today?
265 A I do.
266 Q Under your Fifth Amendment rights, are
267 you aware that you may refuse to provide information
268 that may tend to incriminate you or otherwise
269 subject you to a fine, penalty, or forfeiture by
270 invoking your Fifth Amendment rights?
271 A Yes.
272 Q If I could back you up in Exhibit No. 1
273 to page 7, which is entitled "Documents to be

274 Produced by Toby Wayne Denniston, II Pursuant to
275 Subpoena.

276 A Yes.

277 Q To date, have you produced any documents
278 in response to the CFTC's subpoena?

279 A I have not.

280 Q Did you conduct a search for documents
281 that were responsive to these requests?

282 A No, sir.

283 Q Why not?

284 A I know for a fact I don't have any of
285 them in my possession.

286 Q Let's go through these items.

287 A Okay.

288 Q Specifically No. 1, which required you
289 to produce all documents related to any funds
290 received from Acceleration Mercury Fund including
291 but not limited to all checks payable to you or
292 payable to cash that you deposited or cashed, have
293 you ever received a check from Acceleration Mercury
294 Fund?

295 A Received?

296 Q Has Acceleration Mercury Fund ever paid
297 you any money?

298 A No.

299 Q No. 2, "All documents relating to any
300 correspondence between you and Yuri Plyam,
301 Acceleration Capital, or Acceleration Mercury Fund
302 relating to Acceleration Mercury Fund monies", do
303 you have any correspondence in your possession that
304 fits under that category?

305 A You know what? Come to think about it,
306 I do have, I believe, one document not with me
307 today, but I can get it to you, from a lawyer
308 representing the Mercury Fund.

309 Q Do you recall the date of that letter?

310 A Sometime in September.

311 Q September of 2005?

312 A Right.

313 Q Do you recall the lawyer who sent you
314 that letter?

315 A Jeffrey Henderson of Chicago, I believe
316 it is.

317 Q Was that a demand letter?

318 A I believe it was.

319 Q Okay. Let's move down to Item 3.

320 A I may or may not have that. I think I
321 do, but I don't remember if I do or not.

322 Q Okay. If you have it, I'm going to
323 request that you produce it.

324 A I will.

325 Q Item 3, "All statements you provided to
326 any governmental agency relative to Acceleration
327 Mercury Fund monies paid to you and/or summaries of
328 such statements", do you have any of those documents
329 in your possession?

330 A I do not.

331 Q Have you provided any statements to any
332 governmental agency with respect to Acceleration
333 Mercury Fund monies?

334 A I have.

335 Q Did you receive a copy of that
336 statement?

337 A I have not.

338 Q Do you have a bank account?

339 A Currently, no, sir.

340 Q Have you ever had a bank account?

341 A Yes, sir.

342 Q Have you ever deposited any Acceleration
343 Mercury Fund fund monies into that bank account?

344 A I have.

345 Q What bank did you maintain that account
346 with?

347 A Wilshire State Bank on Reseda Boulevard
348 in Northridge.

349 Q Did you ever deposit Acceleration
350 Mercury Fund monies into any other bank account?

351 A Not that I am aware of.

352 Q The Wilshire State Bank, what was the
353 name on that account?

354 A It was under Toby Wayne Denniston, II.
355 I have the account number too, if you'd like.

356 Q Sure.

357 A 0503-51049.

358 Q Do you have any account statements for
359 that bank account?

360 A I do not.

361 Q Have you ever?

362 A Yes.

363 Q When was the last time you had an
364 account statement for that account?

365 A I don't recall. I would believe August

366 or September of 2005.

367 Q Item 5, "All documents related to the
368 disposition of any monies paid to you from
369 Acceleration Mercury Fund"--

370 A I have nothing. I don't have anything,
371 any documents related to the disposition.

372 Q "All documents relating to any
373 correspondence with Wells Fargo Bank or any other
374 entity or individual concerning any monies paid to
375 you from Acceleration Mercury Fund"?

376 A I have never received anything from
377 Wells Fargo Bank.

378 Q "All documents reflecting any
379 compensation paid to you by Acceleration Capital or
380 Acceleration Mercury Fund", do you have any
381 responsive documents to that request?

382 A There was no compensation. So there was
383 no documents.

384 Q Okay.

385 A Does that make sense?

386 Q Yeah. Did Acceleration Capital pay you
387 any money?

388 A Acceleration Capital never voluntarily
389 paid me money.

390 Q Did Acceleration Mercury Fund ever pay
391 you any money?

392 A Not voluntarily, no, sir.

393 Q Were you an employee of Castle Trading?

394 A I was.

395 Q Did Castle Trading pay you?

396 A They did.

397 Q Do you have account statements or pay
398 stubs for the money Castle Trading paid you?

399 A I can get possession of a W-2 from last
400 year.

401 Q I'm going to request that you produce
402 that W-2.

403 A Yes, sir. Would it be possible to get a
404 piece of paper? I know you asked me that before,

405 and I apologize.

406 Q [Mr. Dowd complies.] At any point you
407 need more, let me know.

408 A Yes. So I'm going to provide a W-2 from
409 Castle Trading and a letter from Jeffrey Henderson;
410 is that correct?

411 Q That's correct.

412 Item No. 8, "All documents related to
413 your employment with Acceleration Mercury Fund
414 and/or Acceleration Mercury Fund, including but not
415 limited to all personnel and disciplinary files", do
416 you have any responsive documents to that request?

417 A I was never an employee of Acceleration
418 Capital or Acceleration Mercury Fund.

419 Q "All documents related to all
420 supervision policies or procedures employed by
421 Acceleration Capital and/or Acceleration Mercury
422 Fund", do you have any responsive documents to that
423 request?

424 A I do not.

425 Q Item 10, "All documents concerning or
426 relating to Acceleration Capital compliance

427 procedures, including but not limited to compliance
428 manuals", do you have any documents responsive to
429 that request?

430 A I do not. I know one exists, but I do
431 not have possession of it.

432 Q How do you know one exists?

433 A I created it.

434 Q When?

435 A When the fund was created back in, I
436 believe, 2004, maybe 2003. I don't recall.

437 Q Was that document ever in your
438 possession?

439 A Personally, no. In the office of Castle
440 Trading, yes.

441 Q When was the last time you had access to
442 that document?

443 A August of 2004.

444 MR. SOLINSKY: 2005?

445 THE WITNESS: Excuse me. You're right.
446 2005. Sorry about that.

447 BY MR. DOWD:

448 Q Item 11, "All training or compliance

449 materials provided to you by Acceleration Capital or
450 Yuri Plyam", do you have any documents responsive to
451 that request?

452 A I do not.

453 Q No. 12, "All documents containing
454 descriptions of your duties for Acceleration Capital
455 and/or Acceleration Mercury Fund"?

456 A Nothing exists.

457 Q "All documents that identify any current

458 or former participants of Acceleration Mercury
459 Fund"?

460 A I do not have possession of that.

461 Again, I know that it exists. I created it, but I
462 do not have possession of it.

463 Q Item 14, have you reviewed that request?

464 A Yes. There was never any promotional
465 material except for the disclosure document.

466 Q Item 15, have you reviewed that request?

467 A Yes, and I do not have any possession of
468 them.

469 Q You don't have any documents responsive
470 to that request?

471 A In my possession, no, sir.

472 I have my camera in here, and it's going
473 off.

474 MR. SOLINSKY: Off the record.

475 [Pause.]

476 BY MR. DOWD:

477 Q Before we go any further, Mr. Denniston,
478 I just want to discuss a few preliminary matters
479 that will hopefully make your testimony go a little
480 smoother today.

481 A Sure.

482 Q If you don't hear a question, let me
483 know. I'll be more than happy to state it again.
484 If you don't understand a question, let me know, and
485 I'll attempt to rephrase it and make it clearer.
486 The goal of our discussion today or a goal is to get
487 a clean transcript or as clean of a transcript as
488 possible, and in order for that to happen, you need
489 to allow me to finish my question before you begin
490 to answer, because the court reporter can't record
491 us talking over one another. So in that regard,
492 please allow me to finish my question even if you

493 think you know what it is before you begin your
494 answer, and in turn, I will attempt to provide you
495 the same courtesy, that is allow you to finish your
496 answer before I begin my next question.

497 Also in that regard, the court reporter
498 can't record you making a nod or shaking your head.
499 So you need to answer my questions audibly. So
500 rather than shaking your head, I need a yes or a no.

501 A Yes.

502 Q If at any point you want to take a
503 break, I'll be more than happy to accommodate you.

504 If there is a question pending, I might ask you to
505 answer the question before we go off the record.
506 It's also important to know that only the CFTC
507 controls the record. So you can't instruct the
508 court reporter to go off the record. Only myself,
509 Mr. Solinsky, or Mr. Vargas can do so. You should
510 also know that any discussion we have off the record
511 may be summarized when we go back on the record.
512 A I understand that. In regards to what
513 we just went through, Mr. Solinsky asked me to write
514 a letter in regards to the documents that I have. I

515 have that letter. Would you like it?

516 MR. DOWD: Okay. We'll mark this as
517 three, please.

518 [Denniston Exhibit No. 3 was
519 marked for identification.]

520 BY MR. DOWD:

521 Q Mr. Denniston, can you summarize the
522 information that is contained in the document marked
523 as Exhibit No. 3?

524 A It goes something like I have no
525 possession of any materials that were requested in
526 the subpoena, the two mistakes that made, the two
527 letters that we have.

528 Q And that's the letter from Mr.
529 Henderson?

530 A And the W-2 from Castle Trading, yes,
531 sir.

532 Q So absent those two documents, it's your
533 position that you have no responsive documents to
534 the CFTC's subpoena?

535 A That is true.

536 Q Do you understand all the instructions

537 I've just given you?

538 A Yes.

539 Q Is there any reason sitting here today
540 that you cannot give full and complete testimony?

541 A There is not.

542 Q Are you taking any medication that may
543 prevent you from giving full and complete testimony?

544 A Not that I'm aware of.

545 Q Do you understand all the instructions
546 I've given you?

547 A Yes.

548 Q Who have you spoken with regarding the
549 CFTC's subpoena to you?

550 A My family and Agent Michael--Secret
551 Service Agent Mark Heingst.

552 Q Who specifically in your family did you
553 discuss the CFTC subpoena with?

554 A My stepmother, my father, my brother, my
555 sister, and my partner. Oh. And one of his nieces.

556 Q One of your partner's nieces?

557 A Yes.

558 Q What is your partner's name?

559 A Leonardo Martinez.

560 Q And how many discussions with Mr.
561 Martinez did you have regarding the CFTC subpoena?

562 A I couldn't tell you. I don't know.

563 Q Approximately?

564 A Two or three.

565 Q When was the first conversation?

566 A The day that I received the subpoena,
567 on--I believe it was March 8th.

568 Q What did you say to Mr. Martinez upon
569 receiving this subpoena?

570 A Just that I had received it.

571 Q What was his response?

572 A He was worried. He is not very English
573 proficient. So we don't go too much detail into the
574 financials and the financial markets. He's just not
575 interested. So we don't really have conversations
576 about that kind of stuff, about this situation.

577 Q Did you say anything to him other than
578 the fact that you received a subpoena from the CFTC?

579 A Not that I am aware of. I don't think I
580 did.

581 Q Okay. And at any point subsequent to
582 that discussion, did you have another discussion
583 with Mr. Martinez with respect to the CFTC subpoena?

584 A Before?

585 Q No. After that March--what was the date
586 of it? March 3rd?

587 A March 8th, I believe it was.

588 Q Okay. After that March 8th conversation
589 that you just identified, did you have another
590 conversation with Mr. Martinez?

591 A Except for the travel arrangements being
592 made, no.

593 Q What is the name of Mr. Martinez's
594 niece?

595 A Gabriella Martinez.

596 Q The tennis player?
597 A No.
598 Q When did you have a conversation with
599 Gabriella Martinez?
600 A Probably the 9th or the 10th--I don't
601 recall--of March, this year.
602 Q How many conversations did you have with

603 Ms. Martinez?
604 A One.
605 Q And what did you say to her?
606 A Just that I was going to Washington in
607 regards to this.
608 Q What was her response?
609 A She wanted me to bring back a tee shirt.
610 Q How old is Ms. Martinez?
611 A In her mid-twenties, late twenties.
612 Q Did you have any discussion with her
613 about what you expected to testify about?
614 A I don't believe so.
615 Q Did--
616 A She is in the same situation as Mr.
617 Martinez, very English deficient, and we don't get
618 into too many details. Most of our conversation was
619 in regards to my trip here.
620 Q Did any of your conversations with Ms.
621 Martinez concern anything other than your travel
622 plans?
623 A I don't believe so.
624 Q What is your father's name?

625 A Toby Wayne Denniston.
626 Q And how many conversations did you have
627 with your father with respect to the CFTC subpoena?
628 A One.
629 Q When was that?
630 A On this past Sunday. I don't recall the
631 date.
632 Q So approximately March 19th?
633 A Yes.
634 Q What did you say to your father?
635 A That I was coming to Washington.
636 Q Did you tell him why?
637 A To testify for you guys in regards to my
638 problems.
639 Q What do you mean by your problems?
640 A Oh, in regards to the situation with the
641 fund and myself.

642 Q Did you have any discussion with your
643 father other than your travel plans?

644 A No, I did not.

645 Q What was your father's response when you
646 told him you were coming to Washington?

647 A He was a little surprised. He had other
648 things on his mind, burying my stepmother the
649 following day and with my aunt who doesn't anything
650 about my situation. The conversation was mostly
651 toward just travel plans. I told him that I would
652 talk to him after I got home tomorrow.

653 Q What is your sister's name?

654 A Tammy Denniston. No. Excuse me. Tammy
655 Llewelyn.

656 Q How many conversations with Tammy did
657 you have with respect to the CFTC subpoena?

658 A One.

659 Q When was that?

660 A A week ago this past Wednesday.

661 Q What did you say to her?

662 A I told her that I was coming to
663 Washington to testify in regards to the fund. I
664 told her that I was going to give you the same
665 information that I gave to the Secret Service, that
666 that was my plan, so just along those lines.

667 Q Okay. What information did you give to
668 the Secret Service?

669 A That I had stole money from the fund.

670 Q What was your sister's response?

671 A She wanted me to call her. She was
672 worried. She wanted me to call her when I was done.

673 Q Did she give you any advice on how to
674 testify?

675 A She did not.

676 Q Has anyone ever given you any advice on
677 how to testify?

678 A No.

679 Q Have you discussed what you expected
680 your testimony to be with any person?

681 A I did not. I didn't know myself. The
682 only thing, the only conversation I had with regards
683 to that was that I was going to be up-front and
684 truthful as I was with the Secret Service.

685 Q Who did you say that to?

686 A My sister and--my sister and my brother.

687 Q What is your brother's name?

688 A Richard Denniston.
689 Q How many conversations with Richard
690 Denniston have you had with respect to the CFTC
691 subpoena?
692 A Just one.
693 Q When did that conversation take place?
694 A The same date as my sister's, Wednesday
695 the past. A week ago Wednesday.
696 Q Was that a conversation separate from
697 that, that you had with your sister?
698 A It was.
699 Q What did you say to your brother?
700 A It was the same content as my sister,
701 that I was going to be truthful and provide you the
702 information that I had provided to the Secret
703 Service, as best as I could.
704 Q What was your brother's response?
705 A He was worried about Mr. Plyam's
706 situation, the trouble that I probably caused for
707 Mr. Plyam.
708 Q Can you elaborate on that for us? Why
709 was he worried? Specifically, what was he worried
710 about with respect to Mr. Plyam?
711 A He believes that the situation that I
712 brought upon Mr. Plyam may cause him to lose his
713 license to trade commodities. He feels that this
714 whole thing was my fault, that it should have been
715 avoided by not doing it, and that I brought shame to
716 him.
717 Q Has your brother ever met Mr. Plyam?
718 A Not that I'm aware of.
719 Q Do you know if your brother has ever had
720 any conversations with Mr. Plyam?
721 A I do.
722 Q Do you know how many conversations your
723 brother has had with Mr. Plyam?
724 A I do not.
725 Q How do you know your brother has had
726 conversations with Mr. Plyam?
727 A He's told me.
728 Q What did he tell you?
729 A This happened in August of 2005 when Mr.
730 Plyam was trying to get ahold of me in regards to
731 the matter.
732 Q By the matter, you're referring to your
733 theft of Acceleration Mercury Fund money?

734 A Yes. And he was trying to locate me. I

735 left my primary residence afraid that I was going to
736 be arrested and did not tell anybody in my family
737 where I was.

738 Q What is your stepmother's name?

739 A Her name was Delores Kolb. Excuse me.
740 I apologize. Debbie Henderson.

741 Q Who is Delores Kolb?

742 A Delores Kolb is my stepmother that
743 passed away in January. Debbie Henderson is my
744 stepmother from my mother's side, my mother's
745 partner.

746 Q Okay. Earlier, I believe you testified
747 that you had a conversation with your stepmother
748 regarding the CFTC subpoena; is that correct?

749 A Yes.

750 Q Okay.

751 A I consider Debbie Henderson as my
752 stepmother.

753 Q Okay. At any point, did you have a
754 conversation with Delores Kolb with respect to the
755 CFTC subpoena?

756 A No. She had passed before.

757 Q Okay. What did you say so
758 Mrs. Henderson?

759 A The same as I did with my brother and my
760 sister, that I was planning to come. I actually had
761 two conversations with Debbie. The subpoena came to
762 her house.

763 Q Okay. Which subpoena was that?

764 A The one addressed to 5139 Aspen Drive,
765 Exhibit 1, I believe it is. That's how I knew that
766 the subpoena existed.

767 Q So did she call you to tell you that a
768 subpoena had arrived at her house for you?

769 A No. The conversation came from my
770 brother. She was on the phone with my brother when
771 it came. My brother called me and told me it was
772 there.

773 Q What did your brother say to you when he
774 called you to tell you the subpoena was at your
775 stepmother's house?

776 A Just that, that she received a subpoena
777 from the CFTC for me and I needed to go get it.

778 Q Where were you living at that point in

779 time?

780 A The address is 10123 Finch Avenue, and
781 that's in Alta Loma, California 91737. The address
782 that you mailed the letter to is a different
783 address. I misspoke when I told you before. I told
784 you 10125. The real address is 10123. You'll want
785 to change your record.

786 Q By letter, are you referring to the
787 letter I sent you confirming our testimony for
788 today?

789 A Yes. I want to make sure you had the
790 correct address. The address I gave you before was
791 not that address.

792 Q And the correct address is 10123 Finch
793 Avenue, Alta Loma, California 91737?

794 A It is.

795 Q Is there an apartment with that?

796 A It is not.

797 Q And what, if anything, did Debbie say to
798 you when you informed her you were coming here to
799 testify?

800 A About the same thing as my brother. She

801 wanted me to make sure that I told the truth. She
802 was worried that it had come to this. She wanted to
803 make sure that I was okay.

804 Q And at some point subsequent to
805 receiving the subpoena from the CFTC, did you have a
806 conversation with Special Agent Mark Heingst?

807 A I did.

808 Q When did that conversation take place?

809 A As in response to the very first
810 conversation that I had with him? Because I talk to
811 him every week.

812 Q You received a subpoena from the CFTC on
813 March 8, 2006; is that correct?

814 A It is.

815 Q And at some point subsequent to that,
816 you have had a conversation with Agent Mark Heingst
817 regarding the CFTC subpoena?

818 A Yes.

819 Q When did that conversation take place?

820 A It was Monday of the week that I
821 received it. The 8th was a Thursday, I believe. I
822 don't know. It was the following Monday.

823 Q Okay. And have you ever had any other
824 conversations with Mark Heingst with respect to the

825 subpoena from the CFTC?

826 A The one and only was that day.

827 Q Did you contact him or did he contact
828 you?

829 A I contacted him.

830 Q What did you say to him when you
831 contacted him?

832 A That I received the subpoena, that I was
833 going to Washington, that I talked to you, and he
834 said that he was expecting it.

835 Q Did he say anything else?

836 A He said something to the effect that now
837 they're going after Yuri.

838 Q Did he explain what he meant by that?

839 A That it was administrative. I was
840 worried at the time that more charges, criminal
841 charges, would be filed against me. He told me that
842 this was administrative and that he wasn't aware
843 that any other criminal charges could be filed.

844 Q Okay. Have any criminal charges been

845 filed against you?

846 A No, not yet. My first conversation with
847 Mr. Heingst was that the criminal charges that would
848 be filed against me would be specifically bank fraud
849 versus any other, like embezzlement or anything like
850 that. My first conversation with him was in regards
851 to being worried that I could be charged with
852 commodity laws, with embezzlement, bank fraud, all
853 of it, and he told me that the U.S. Attorney--I
854 believe his name is Bill Yu--I received that name
855 from Mr. Solinsky--was going to just file bank fraud
856 charges against me.

857 Q Was that part of the conversation you
858 had with Mr. Heingst with respect to CFTC's subpoena
859 or is that a separate conversation?

860 A That was a separate conversation.

861 Q Are you aware that Agent Mark Heingst is
862 not an officer, a representative of the Commodity
863 Futures Trading Commission?

864 A I do.

865 Q And do you understand that any action
866 that the CFTC may take against you is set forth in

867 the Privacy Act document that we discussed earlier
868 today?

869 A Yes.

870 Q So do you understand that Mr. Heingst is

871 not qualified to tell you what the CFTC may or may
872 not do?

873 A Yes.

874 Q Do you understand the potential actions
875 that the CFTC may take against you?

876 A I believe so, yes. Both criminal and
877 civil.

878 Q The CFTC is a civil agency.

879 A You can recommend to the U.S. Attorney.

880 Q Do you recall the Privacy Act we
881 discussed stated that the CFTC could take an
882 administrative action against you?

883 A Yes.

884 Q And do you recall that it stated that it
885 could take an injunctive action against you?

886 A Yes.

887 Q Do you understand than an injunctive
888 action is a civil action in the United States

889 District Court?

890 A Yes.

891 Q Okay. Other than the people we've
892 identified thus far, have you had any conversation
893 with anyone with respect to the subpoena the CFTC
894 issued you?

895 A A conversation, no. Can I clarify?

896 Q Please.

897 A I did leave a message for Mrs. Plyam
898 that I did receive the subpoena, but I never talked
899 to them.

900 Q What did you say in that message?

901 A That I received a subpoena from the
902 CFTC, that I was going to have a conversation with
903 you in regards to it and wanted any feedback from
904 them that might help them.

905 Q Did they return your message?

906 A They did not.

907 Q Do you know anyone else who has been
908 subpoenaed or has testified in this investigation?

909 A I do not.

910 Q Did you do anything to prepare for your

911 testimony today?

912 A Other than a few deep breaths and a long
913 walk, no, sir.

914 Q Did you review any documents?

915 A Just the letter that I wrote for Mr.

916 Solinsky.

917 Q Let's slow down here for a minute. I
918 just want to get some general background information
919 from you?

920 A Certainly.

921 Q What's your date and place of birth?

922 A November 3, 1971 in Vista, California.

923 Q And your current home address is 10123
924 Finch Avenue, Alta Loma, California?

925 A It is.

926 Q How long have you lived there?

927 A Two months--one month.

928 Q Where did you live immediately before
929 that?

930 A I was homeless.

931 Q How long were you homeless?

932 A Approximately two months.

933 Q Where did you stay while you were
934 homeless?

935 A In my car.

936 Q Prior to the time you were homeless,
937 where did you live?

938 A At Gabriella Martinez's home.

939 Q And what's the address of that house or
940 apartment?

941 A 1512 East Fifth Street, Space 187.

942 That's in Ontario, California.

943 Q How long did you live at that address?

944 A Since August of 2005.

945 Q Prior to August 2005, where did you
946 live?

947 A You want the address?

948 Q Please.

949 A 10741 Camarillo, C-A-M-A-R-I-L-L-O,
950 Street, Apartment 216, in Toluca Lake, T-O-L-U-C-A,
951 California.

952 Q What is your current home telephone
953 number?

954 A (818) 378-8016. It's a cell phone

955 number.

956 Q Do you have a home telephone number?

957 A I do not.

958 Q Are you currently employed?

959 A I am.

960 Q Where are you employed?

961 A Empire Lakes Golf Course.

962 Q Where is that located?

963 A In Rancho Cucamonga.
964 Q Can you give us an address?
965 A 11015 Sixth Street in Rancho Cucamonga.
966 Q What do you do for the golf course?
967 A I'm a golf attendant in the pro shop.
968 Q How long have you been in that job?
969 A Two months.
970 Q What is your Social Security number?
971 A 550-63-7217.
972 Q Have you ever testified in a legal or
973 administrative proceeding before?
974 A Small Claims Court.
975 Q What was the nature of that case?
976 A An accident. I was the plaintiff, and
977 it was ruled against us, against me.
978 Q What type of accident?
979 A A vehicle, motor vehicle.
980 Q Other than that, have you ever testified
981 in a legal or administrative proceeding before?
982 A I have not.
983 Q Have you ever been subpoenaed in any
984 legal or administrative proceeding prior to today?
985 A No.
986 Q Have you ever been a witness or a
987 defendant in any civil litigation other than the
988 small claims action that you've identified?
989 A No.
990 Q Have you ever been a witness or a
991 defendant in any criminal litigation?
992 A I'll asset my Fifth Amendment. Well,
993 can I ask a question, if we go off the record, ask a
994 question?
995 Q Why don't you ask your question on the
996 record?
997 A Okay. I was--I do have a misdemeanor
998 that was expunged.
999 Q Do you have a question?
1000 A I guess not, a statement. There was a
1001 misdemeanor that was expunged.
1002 Q Have you ever been questioned in
1003 connection with a disciplinary proceeding by an
1004 exchange or self-regulatory organization?
1005 A By the exchange? No.
1006 Q What about by a self-regulatory
1007 organization?
1008 A No.

1009 Q Do you understand--
1010 A I apologize. Yes. Yes, I have.
1011 Q Okay. When was that?
1012 A The National Futures Association in
1013 August of 2005.
1014 Q Other than the NFA inquiry in August of
1015 2005, have you ever been questioned by an SRO?
1016 A No. And those questions with the NFA
1017 was just pertaining to the audit prior to. It
1018 wasn't anything--it was me answering questions
1019 through an audit.
1020 Q It wasn't a formal disciplinary
1021 proceeding?
1022 A It was not.
1023 Q Are you currently registered with the
1024 NFA?
1025 A I am not.
1026 Q Have you ever been registered with the
1027 NFA?
1028 A I believe I was registered, but I didn't
1029 pass the Series 3 exam. So it was never brought to
1030 fruition.
1031 Q So you applied for registration with the
1032 NFA?
1033 A I did.
1034 Q But you were never actually registered?
1035 A Exactly.
1036 Q Were you ever registered as an
1037 associated person?
1038 A I was not.
1039 Q Have you ever held any professional
1040 licenses?
1041 A No.
1042 Q Have you ever been registered with NASD?
1043 A No.
1044 Q Have you ever applied for registration
1045 with the NASD?
1046 A No.
1047 Q Have you ever been a member of any
1048 professional organization?
1049 A No.
1050 Q Did you complete high school?
1051 A Yes.
1052 Q What year did you graduate high school?
1053 A 1990.
1054 Q And what high school did you graduate?

1055 A Church Hill County High School, Fallon,
1056 Nevada.
1057 Q And did you ever enroll in college?
1058 A Yes.
1059 Q Identify every college that you've ever
1060 enrolled in for us.
1061 A Waterson College in 2001, a business
1062 school. I graduated with a diploma in accounting.
1063 Q Was that a B.A. or an associate's
1064 degree?

1065 A It was a certificate diploma.
1066 Q Okay. And how many credits did you take
1067 at Waterson College?
1068 A I don't recall.
1069 Q When did you receive the certificate?
1070 A In 1992.
1071 Q I'm sorry. I thought you said you
1072 enrolled in Waterson College in 2001.
1073 A Excuse me. 1991. My apologies.
1074 Q Was that the fall of 1991?
1075 A You know, I don't recall.
1076 Q When in 2001 did you receive the
1077 certificate?
1078 A 1990.
1079 Q I'm sorry?
1080 A The certificate was received in 1992,
1081 and I believe that was in June, maybe. I don't
1082 recall.
1083 Q Do you recall how many classes you took?
1084 A Oh, gosh.
1085 Q Approximately?
1086 A Forty-five.

1087 Q Forty-five classes or forty-five
1088 credits?
1089 A Forty-five separate classes. I was a
1090 long time ago, sir. I wish I could remember. I
1091 don't.
1092 Q Did you take any classes related to
1093 futures trading at Waterson College?
1094 A I did not.
1095 Q Have you ever attended any other
1096 college?
1097 A University of Phoenix.
1098 Q Is that an online institution?
1099 A It is, but at the time I was going, it
1100 was a classroom setting.

1101 Q Where did you take classes?
1102 A In Diamond Bar, California.
1103 Q During what period of time did you
1104 attend the University of Phoenix?
1105 A From 1996 to 1999, I believe.
1106 Q Did you receive a degree from the
1107 University of Phoenix.
1108 A Not yet. Seventy-two from 120 credits
1109 completed, business management.
1110 Q Is that an undergraduate degree or a
1111 master's degree?
1112 A Undergraduate.
1113 Q That was in business management, you
1114 said?
1115 A Yes.
1116 Q Have you taken any classes since 1999?
1117 A Not that I recall.
1118 Q Have you ever attended any other
1119 institution other than Waterson College and the
1120 University of Phoenix?
1121 A No.
1122 Q Have you ever taken any classes related
1123 to futures trading?
1124 A No.
1125 Q What was the first job you held after
1126 you graduated from high school?
1127 A Lloyds Equipment in Ontario, California.
1128 Q During what period of time were you
1129 employed by Lloyds Equipment?
1130 A 1990 to 1991, I believe.
1131 Q What did you do for Lloyds Equipment?
1132 A I was a parts driver.
1133 Q Auto parts?
1134 A Forklift.
1135 Q What was your next job?
1136 A ICN Pharmaceuticals.
1137 Q I-C what?
1138 A ICN Pharmaceuticals.
1139 Q What did you do for ICN Pharmaceuticals?
1140 A At first, I was a receptionist, and then
1141 I became a--I got into purchasing, a purchasing
1142 clerk.
1143 Q During what period of time were you a
1144 receptionist?
1145 A '91 to '92 maybe.
1146 Q Okay. During what period of time were

1147 you a purchasing clerk?
1148 A From '92 to '93.
1149 Q What was your next job after that?
1150 A '93, Home Base.
1151 Q How long were you employed by Home Base?
1152 A Eight years.

1153 Q So '93 to roughly 2001?
1154 A Yeah.
1155 Q Do you recall when in 2001 you left Home
1156 Base?
1157 A July.
1158 Q What did you do for Home Base?
1159 A I was a replenishment analyst at first,
1160 and then I was an inventory supervisor.
1161 Q Okay. What was your next job after Home
1162 Base?
1163 A Burkhart Sales.
1164 Q I'm sorry?
1165 A Burkhart, B-U-R-K-H-A-R-T.
1166 Q And during what period of time were you
1167 employed by Burkhart Sales?
1168 A From July of '01--maybe Home Base was
1169 2000 and then July of 2000 to July of 2001 at
1170 Burkhart.
1171 Q So you left Home Base in July of 2000?
1172 A I think so, yes.
1173 Q And then you joined Burkhart Sales?
1174 A Yes.

1175 Q And you were employed at Burkhart Sales
1176 for approximately a year?
1177 A Yes.
1178 Q So in July of 2001, you left Burkhart
1179 Sales?
1180 A Yes.
1181 Q What did you do at that point in time?
1182 A I went to work for Wood Flooring
1183 Distributors.
1184 Q What did you do for Wood Flooring
1185 Distributors?
1186 A I was a buyer.
1187 Q During what period of time?
1188 A July of '01 to September--oh, man. All
1189 the dates are bad, I believe.
1190 Q What is your best recollection?
1191 A I started the next company, Moon
1192 International, September of 2001. It was like right

1193 after September 11th. I can get you my resume, I
1194 believe, with the proper dates. I apologize.

1195 Q Actually, I will request that you
1196 produce that.

1197 A Okay.

1198 Q What did you do for Moon International?

1199 A Moon International, I was a buyer.

1200 Q When did you leave Moon International?

1201 A In April of 2003.

1202 Q Okay. And what was your next job after
1203 that?

1204 A Castle Trading.

1205 Q So you joined Castle Trading in April of
1206 2003?

1207 A Yes.

1208 Q At any point prior to joining Castle
1209 Trading, did you work involve commodity futures
1210 contracts?

1211 A It did not.

1212 Q Did you ever trade a futures contract
1213 prior to joining Castle Trading?

1214 A I did not.

1215 Q Have you ever held any securities
1216 trading accounts?

1217 A No. Securities trading? I had a stock
1218 trading account at--what's the name of that company?

1219 I don't remember the name of the company. I
1220 apologize.

1221 Q During what period of time was that
1222 stock account opened?

1223 A 2005.

1224 Q Is it still open?

1225 A It is not.

1226 Q Do you recall when you closed the
1227 account?

1228 A August of 2005, I believe.

1229 Q So it was both opened and closed in
1230 2005?

1231 A Yes. I believe it might have been June
1232 when I opened it.

1233 Q Do you recall the name on the account?

1234 A Toby Denniston.

1235 Q Is it Toby Denniston, II?

1236 A Yes.

1237 Q Was that a joint account?

1238 A It was not.

1239 Q Have you ever had any other security or
1240 brokerage accounts?

1241 A No.

1242 Q Have you ever had a IRA?

1243 A Yeah. That was an IRA, actually. That
1244 was an IRA. Other than that, no. It was a 401(k)
1245 I've had.

1246 Q And do you recall the brokerage firm or
1247 bank where the IRA was located?

1248 A One of the ones that I--I don't
1249 remember. I'm sorry.

1250 Q Do you still have account statements for
1251 that brokerage account?

1252 A Not in my possession, no. I'll get you
1253 the name of that. I'm sorry.

1254 Q Yeah. I'm going to request that you
1255 produce any documents that are related to that
1256 account.

1257 Have you ever had any discretionary
1258 trading authority over any security or brokerage
1259 account that was not in your name?

1260 A No.

1261 Q Have you ever had discretionary trading
1262 authority over any commodity futures trading

1263 account?

1264 A No.

1265 Q Have you ever had access to trade any
1266 securities account other than that account that
1267 you've identified thus far?

1268 A I apologize. Read the question one more
1269 time.

1270 Q Have you ever had access to trade any
1271 securities account other than that account that's
1272 been identified thus far?

1273 A Did I have access to trade an account?

1274 Q Did someone allow you to trade their
1275 account?

1276 A No.

1277 Q Have you ever deposited money into any
1278 securities account other than the account you've
1279 identified?

1280 A Have I ever deposited money in my
1281 personal--

1282 Q Any account, any securities account.

1283 A Securities account, no.

1284 Q Going back to the IRA--

1285 A Yes.
1286 Q --account that you can't remember the
1287 name of the brokerage, what was the most amount of
1288 money you ever had in that account?
1289 A About \$4,000, I believe.
1290 [Denniston Exhibit No. 4 was
1291 marked for identification.]
1292 BY MR. DOWD:
1293 Q Mr. Denniston, do you recognize the
1294 document marked as four?
1295 A Yes.
1296 Q Can you tell us what this document is?
1297 A It's a check from a personal bank
1298 account that I held.
1299 Q When did you open this account?
1300 A I don't know.
1301 Q Can you approximate what year it was?
1302 A Late 2004, maybe.
1303 Q Is the account number for the Wilshire
1304 State Bank account in your name 005351049?
1305 A It is.
1306 Q Has anyone else ever been a signatory on
1307 this account?
1308 A No.
1309 Q Is this account currently open?
1310 A It is not.
1311 Q When was it closed?
1312 A In August or September of 2005.
1313 Q Identify for us all bank accounts you've
1314 held since October 2004.
1315 A This one and a Wells Fargo account.
1316 Q What was the name of the Wells Fargo
1317 account?
1318 A Toby Wayne Denniston, II and Leonardo
1319 Martinez.
1320 Q Do you recall the account number for
1321 that account?
1322 A I do not.
1323 Q When was that account opened?
1324 A In June, I believe, of 2005. Maybe
1325 July.
1326 Q Is that account currently open?
1327 A It is not.
1328 Q When was the account closed?
1329 A In November 2005. Maybe October.

1330 Q Other than the Wilshire State Bank and
1331 the Wells Fargo Bank account, have you held any
1332 other bank accounts from October 2004 forward?
1333 A No.
1334 Q What about certificates of deposit?
1335 A No.
1336 Q Savings accounts?
1337 A No.
1338 Q Any type of bank account?
1339 A Those two accounts and the IRA, that was
1340 it.
1341 Q At any point from October 2004 forward,
1342 have you ever held any money at any financial
1343 institution other than that that you've identified?
1344 A Since what date?
1345 Q October 2004.
1346 A October 2004, have I ever held money?
1347 No, I have not.
1348 Q At any financial institution other than
1349 what you've identified thus far?
1350 A That's right.

1351 Q So from October 2004 forward, the
1352 accounts that you held were an IRA at an unnamed
1353 brokerage, the Wilshire State Bank account, and the
1354 Wells Fargo checking account?
1355 A That's right.
1356 Q No others?
1357 A That's right.
1358 Q When did you start at Castle Trading?
1359 A In April of 2003.
1360 Q How did you learn about the job at
1361 Castle Trading?
1362 A On line, I think. Maybe Monster.com.
1363 Q Do you recall the position that was
1364 posted on Monster?
1365 A Office clerk, maybe.
1366 Q Did you have any preexisting
1367 relationship with anyone at Castle Trading prior to
1368 applying for the job?
1369 A I did not.
1370 Q Do you recall who interviewed you?
1371 A Natalia Plyam, Yuri Plyam, and one other
1372 gentleman. I don't recall his name.

1373 Q Do you recall who hired you?
1374 A Yuri Plyam.
1375 Q Mr. Plyam had the authority to hire

1376 employees?
1377 A Yes.
1378 Q Do you know if anyone else at Castle
1379 Trading had that authority?
1380 A Maybe Mrs. Plyam.
1381 Q Do you know that for a fact or are you
1382 speculating?
1383 A Well, he made all of the decisions. It
1384 was based on her recommendation.
1385 Q But he had the final word?
1386 A Absolutely.
1387 Q Are you currently employed by Castle
1388 Trading?
1389 A I am not.
1390 Q When did you leave Castle Trading?
1391 A August of 2005.
1392 Q During your employment with Castle
1393 Trading, how many people did Castle Trading employ?
1394 A Anywhere between three to maybe six.

1395 Q And those employees would include
1396 yourself?
1397 A Yes.
1398 Q And Yuri Plyam?
1399 A Yes.
1400 Q Natalie Plyam?
1401 A Yes.
1402 Q Who else?
1403 A Different people on occasion.
1404 Q Do you recall the names of those people?
1405 A No, not off the top of my head.
1406 Q Do you know who Gregory Zane Parker is?
1407 A That's his name. Yeah, I do. Yes.
1408 Q Who is Gregory Zane Parker?
1409 A I've been trying to think of his name
1410 for a while. He was an MIS tech, information
1411 systems tech, that was hired for Castle Trading.
1412 Q And do you know what period of time Mr.
1413 Parker worked for Castle Trading?
1414 A Within a month or two prior to August of
1415 2004, he was hired.
1416 Q Okay. So he was hired in the summer of

1417 2004?
1418 A I believe so. Excuse me. 2005.
1419 Q 2005?
1420 A Yeah.
1421 Q So just a month or two before you left

1422 the company?

1423 A Within that time frame. Maybe a few
1424 months.

1425 Q What did he do for Castle Trading?

1426 A He made sure that the web site was
1427 updated. He did all the MIS, all the computer
1428 stuff.

1429 Q Do you know who hired him?

1430 A Mr. Plyam, Yuri.

1431 Q And is Mr. Parker still with Castle
1432 Trading?

1433 A I do not know.

1434 Q What is Castle Trading?

1435 A Castle Trading is a futures commodity
1436 brokerage.

1437 Q Is it an introducing broker?

1438 A It is.

1439 Q Does it have any other business
1440 operation other than that of introducing broker?

1441 A Castle Trading?

1442 Q Yes.

1443 A No.

1444 Q Where were Castle Trading's offices
1445 located?

1446 A Reseda Boulevard, I think 8619 Reseda
1447 Boulevard, Space 102, Northridge, California 91324.

1448 Q Did it ever have an address at 8949
1449 Reseda Boulevard?

1450 A It did.

1451 Q Was that separate from the address that
1452 you just identified?

1453 A No, sir. We lived--we were at 8949.
1454 Then we moved to 8619.

1455 Q When did that move take place?

1456 A Oh, shoot. About a year--August of
1457 2004, maybe.

1458 Q So as of August of 2004, Castle Trading
1459 was located at 8619 Reseda Boulevard, Northridge,
1460 California?

1461 A Prior to August 2004?

1462 Q What office did you move to? 8949 or
1463 8619?

1464 A We were at 8949. We moved to 8619.

1465 Q Okay. So August 2004 forward, Castle
1466 Trading was located at 8619 Reseda Boulevard?

1467 A It was.

1468 Q Describe those offices for me.
1469 A One room with a kitchenette-ish, like a
1470 closet for supplies and filing cabinets and stuff.
1471 Q Did employees have separate offices or
1472 was it an open work environment?
1473 A It was an open work environment.
1474 Q Did anyone have a separate office?
1475 A Nobody.
1476 Q Did you have a desks? Did you have
1477 cubicles?
1478 A We had desks, no cubicles.
1479 Q Where did you sit in relation to Yuri
1480 Plyam?
1481 A Directly in front of him like I am to
1482 you.

1483 Q And that would be approximately three
1484 feet?
1485 A Oh, six feet.
1486 Q And where did you sit in relation to
1487 Natalia Plyam?
1488 A She sat facing me, directly behind Mr.
1489 Plyam.
1490 Q Approximately how far away was her desk
1491 from yours?
1492 A Ten, fifteen feet maybe.
1493 Q Did you have the ability to lock your
1494 desk?
1495 A No. There was no drawers in any desk.
1496 Q In any desk?
1497 A In any desk. That was Mr. Plyam's
1498 policy.
1499 Q Where did the company keep its
1500 documents?
1501 A In a filing cabinet inside a closet in
1502 the office. Filing cabinets.
1503 Q Where did you keep your personal
1504 belongings?

1505 A I didn't have any.
1506 Q Where did you keep your pens, papers?
1507 A On my desk.
1508 Q Describe Natalia Plyam's role at Castle
1509 Trading for us.
1510 A She handled--god. She did a lot of the
1511 things that Yuri didn't want to do. Yuri did the
1512 trading. She did everything else, the paying of
1513 bills, that sort of thing.

1514 Q How often was she in the office?
1515 A Every day.
1516 Q Full time every day?
1517 A Yes.
1518 Q And what was the supervision role at
1519 Castle Trading?
1520 A Yuri was strict-handed. He did
1521 everything.
1522 Q Yuri was the supervisor?
1523 A He was.
1524 Q Yuri was in charge of the entire
1525 operation?
1526 A He was.

1527 Q Did anyone supervise you other than
1528 Yuri?
1529 A On occasion, Natasha, but through Yuri.
1530 Q Is it Natalia or Natasha?
1531 A Both. We called her Natasha.
1532 Q What specifically did Natasha do to
1533 supervise you?
1534 A She had access to all incoming E-mails,
1535 went through all of the postal mail, about that.
1536 She handled phone calls when there were problems.
1537 Like if there was a trading problem, she handled
1538 some of those phone calls when Yuri wasn't
1539 available.

1540 Q What did you do for Castle Trading when
1541 you started?
1542 A When I first started, I was just a
1543 clerk. I took daily orders from customers.
1544 Q Orders for futures trades?
1545 A Yes.
1546 Q What else did you do?
1547 A And I monitored written tickets versus
1548 what the FCM posted in each of the individual
1549 accounts.

1550 Q Did that role change at any point in
1551 time?
1552 A It did.
1553 Q When did it change?
1554 A When the Gauss Fund started trading
1555 in--no. Excuse me. I'm sorry. Almost immediately.
1556 Maybe June of 2003.
1557 Q How did your role change in June 2003
1558 from that of clerk?
1559 A I notified Mr. Plyam that I had an

1560 accounting background and that he just received a
1561 fine from the National Futures Association in
1562 regards to the accounting of the Gauss Fund, a
1563 separate fund that was administered by Mr. Plyam.

1564 Q What is the Gauss Fund?

1565 A The Gauss Fund is a commodity fund.

1566 Q A commodity pool?

1567 A Um-hum.

1568 Q Who is the CPO for the Gauss Fund?

1569 A Remind me what a CPO.

1570 Q The commodity pool operator.

1571 A Mr. Plyam.

1572 Q Did he do that through Acceleration
1573 Capital?

1574 A No. Through CHP Asset Management.

1575 Q CHP Asset Management, was that a
1576 registered CPO?

1577 A It was.

1578 Q And describe for us how your role
1579 changed in June 2003 when the NFA fined Mr. Plyam
1580 for activity relating to the Gauss Fund.

1581 A I got more involved in making sure that
1582 the office was compliant in regards to having the
1583 correct paperwork or organizing the office and doing
1584 accounting for the fund, the Gauss Fund, on
1585 Quickbooks, sending out invoices to customers,
1586 keeping all documents required by the NFA and the
1587 CFTC.

1588 Q Okay. Customer invoices for the Gauss
1589 Fund?

1590 A Yes.

1591 Q Did you send out customer invoices for
1592 Castle Trading?

1593 A No.

1594 Q Were you ever an employee for CHP Asset
1595 Management?

1596 A I was not.

1597 Q Did you ever do any work on behalf of
1598 CHP Asset Management?

1599 A I did.

1600 Q And was that with respect to the Gauss
1601 Fund?

1602 A Yes.

1603 Q And that was the paperwork for the Gauss
1604 Fund?

1605 A That's right.

1606 Q Compliance issues that the Gauss Fund?
1607 A Yes.
1608 Q Did you prepare customer statements for
1609 the Gauss Fund?
1610 A I did.
1611 Q Who supervised that?
1612 A Mr. Plyam. I'm getting a little cold.
1613 MR. DOWD: Why don't we go off the
1614 record, take a break.

1615 [Recess.]

1616 BY MR. DOWD:

1617 Q Mr. Denniston, would you like to make a
1618 clarification to the dates of employment that we've
1619 discussed thus far?

1620 A Yes. I recall the dates.

1621 Q Okay.

1622 A I worked at Lloyds Equipment as a parts
1623 clerk from 1990 to 1991; at ICN Pharmaceuticals as a
1624 receptionist first and then as a purchasing clerk
1625 after from 1991 to 1993; Home Base as a
1626 replenishment analyst and then an inventory
1627 supervisor from 1993 to 1998; at Burkhardt Sales as
1628 an office manager from 1998 to 1999; at Wood
1629 Flooring Distributors as a buyer from 1999 to 2001;
1630 at Moon International as a buyer from 2001 to 2003;
1631 at Castle Trading first as a clerk, then as an
1632 office manager from 2003 to 2005; and then from
1633 February 2005 to currently, I'm at Empire Lakes.

1634 Q When did you become an office manager at
1635 Castle Trading?

1636 A In June of 2005.

1637 Q 2005 or 2003?

1638 A 2005.

1639 Q In June of 2003, did you testify that
1640 your role changed at Castle Trading?

1641 A It did.

1642 Q Did you receive a title change?

1643 A No.

1644 Q Okay. And did you ever hold a title at
1645 Castle Trading other than clerk or office manager?

1646 A I did not.

1647 Q Regardless of title change, did your
1648 role at Castle Trading ever change at any point in
1649 time subsequent to that of June 2003 when you became
1650 involved in the compliance aspect?

1651 A Prior to that, no.

1652 Q What about subsequent to that?
1653 A Since that, yes.
1654 Q Okay.
1655 A I became an officer manager in June of
1656 2005. I took on more responsibilities as to
1657 disciplining employees.
1658 Q What do you mean by disciplining
1659 employees?
1660 A We put together an employee--we got more
1661 involved in giving out benefits to employees, having
1662 an employee manual, that sort of thing. I
1663 administered a lot of that.
1664 Q Prior to June of 2005, did Castle
1665 Trading have any compliance procedures?
1666 A Prior to--I'm sorry--what date?
1667 Q June of 2005.
1668 A Prior to 2005, yes.
1669 Q Okay. Were those procedures reduced to
1670 writing?
1671 A Prior to 2005, yes.
1672 Q Prior to June of 2005?
1673 A Yes.
1674 Q Okay.
1675 A Prior to June of 2003 is a different
1676 story.
1677 Q So what happened between June of 2003
1678 and June of 2005?
1679 A In regards to?
1680 Q In regards to compliance policies or
1681 procedures implemented or used by Castle Trading.
1682 A A compliance manual was completed.
1683 Q When was the compliance manual
1684 completed?
1685 A Ongoing from that date of June of 2003
1686 through June of 2005. The NFA required that Mr.
1687 Plyam through Castle Trading or the Gauss Fund have
1688 audits every four months. I was responsible to make
1689 sure that those audits were completed.
1690 Q And who developed the compliance manual
1691 for Castle Trading?
1692 A I did.
1693 Q Did anyone help you?
1694 A With the help of Mr. and Mrs. Plyam
1695 both.
1696 Q Who had final word on compliance
1697 procedures adopted by Castle Trading?

1698 A Mr. Plyam.
1699 Q What relationship, if any, was there
1700 between Castle Trading and CHP Asset Management?
1701 A Mr. Plyam was the managing member of
1702 both.

1703 Q And did Castle Trading do any work on
1704 behalf of CHP Asset Management?
1705 A CHP Asset Management, no. Gauss Fund,
1706 it was its I.B.
1707 Q So Castle Trading was the I.B. for the
1708 Gauss Fund?
1709 A The Gauss Fund.
1710 Q Did you ever receive any training from
1711 Castle Trading?
1712 A Yes.
1713 Q Okay. What training did you receive
1714 from Castle Trading?
1715 A How to write orders, how to answer the
1716 phone, how to place orders for customers. Gosh. It
1717 was ongoing verbally, nothing in writing. All
1718 verbal.
1719 Q Who provided that trading?
1720 A Mr. Plyam.
1721 Q Anyone else?
1722 A No.
1723 Q What was your salary when you started at
1724 Castle Trading?

1725 A I believe it was \$15 an hour.
1726 Q Did that change at any point in time?
1727 A It did.
1728 Q When did it change?
1729 A I don't recall. Several times between
1730 April of 2003 and August of 2005.
1731 Q What was your salary when you left
1732 Castle Trading?
1733 A \$19 per hour.
1734 Q What is Acceleration Capital?
1735 A It is a CPO for a Mercury--the Mercury.
1736 Q For Acceleration Mercury Fund 4X?
1737 A Exactly. Acceleration Mercury and
1738 Acceleration Granite Fund actually never began
1739 trading.
1740 Q Do you know if Acceleration Capital is
1741 registered as a CPO with the NFA?
1742 A At the time, I believe it was. As of
1743 today, I do not know that.

1744 Q So during your employment at Castle
1745 Trading, Acceleration Capital was a registered CPO?
1746 A It was.

1747 Q Do you know if it was also a registered
1748 CTA?
1749 A It was.
1750 Q Did it ever provide any CTA services?
1751 And by CTA, I'm referring to commodity trading
1752 advisor.
1753 A I'm not exactly sure.
1754 Q Do you know who founded Acceleration
1755 Capital?
1756 A Curtis Faith and Yuri Plyam.
1757 Q Who is Mr. Faith?
1758 A Curtis Faith was a prodigy in futures
1759 trading. He was taken under a wing by some big
1760 investor, traded for this investor, and a book was
1761 written about the whole experiment.
1762 Q And aside from being involved in the
1763 formation of Acceleration Capital, what did Mr.
1764 Faith do on behalf of Acceleration Capital?
1765 A Nothing.
1766 Q Do you know how often Mr. Faith was in
1767 contact with Acceleration Capital?
1768 A At the beginning, once ever few months.

1769 Towards the end, not at all.
1770 Q Do you know how often he was in touch
1771 with Mr. Plyam?
1772 A At the same time. When Curtis Faith
1773 contacted Acceleration Capital, it was Yuri Plyam.
1774 Q So do you know how often Mr. Plyam and
1775 Mr. Faith spoke or corresponded after the formation
1776 of Acceleration Capital?
1777 A I do not know that.
1778 Q Who ran Acceleration Capital?
1779 A Yuri Plyam.
1780 Q Okay. Did Mr. Faith run Acceleration
1781 Capital at all?
1782 A Did not.
1783 Q Did he have any role in Acceleration
1784 Capital policies and procedures other than the
1785 formation of the entity?
1786 A The formation only. They were using his
1787 name, Yuri's know-how.
1788 Q Where is Acceleration Capital located?
1789 A The same address as Castle Trading, 8619

1790 Reseda Boulevard in Northridge.

1791 Q So the two entities shared an office?

1792 A As well as the CH Asset Management.

1793 Q Was any other entity located at that
1794 address?

1795 A I don't know. They have Castle
1796 Development, which was a real estate company,
1797 separate.

1798 Q That was in a separate office?

1799 A At the beginning, it was not. At the
1800 end of my employment, it was.

1801 Q You said Castle Real Estate Development?

1802 A I believe it was called Castle
1803 Development.

1804 Q What business was Castle Development
1805 engaged in?

1806 A Castle Development purchased land to
1807 develop for multimillion dollar homes.

1808 Q And who founded Castle Development?

1809 A Mr. Plyam.

1810 Q Who ran Castle Development?

1811 A Mr. Plyam.

1812 Q Were any Castle Trading employees

1813 involved with Castle Development other than Mr.

1814 Plyam?

1815 A No.

1816 Q Did Castle Trading employees ever do any
1817 work on behalf of Castle Development other than Mr.

1818 Plyam?

1819 A Mrs. Plyam.

1820 Q Anyone else?

1821 A You know what? Greg Parker might have
1822 done computer stuff, but anything technical or
1823 anything like that, I don't recall.

1824 BY MR. VARGAS:

1825 Q Was Castle Development a corporation?

1826 A I believe it was.

1827 Q Do you know what State it was
1828 incorporated in?

1829 A I do not know.

1830 BY MR. DOWD:

1831 Q Were you ever employed by Acceleration
1832 Capital?

1833 A I was not.

1834 Q Did Acceleration Capital ever have any

1835 employees?

1836 A No.

1837 Q And Acceleration Capital served as a CPO
1838 for Acceleration Mercury Fund 4X; is that correct?

1839 A That is correct.

1840 Q As well as the Granite Fund; is that
1841 correct?

1842 A Yes, but the Granite Fund never traded.

1843 Q Aside from those two funds or pools, did
1844 Acceleration Capital ever serve as a CPO for any
1845 other commodity pool?

1846 A It did not.

1847 Q Who supervised Acceleration Capital's
1848 operations?

1849 A Mr. Plyam.

1850 Q Anyone else?

1851 A No.

1852 Q What relationship, if any, existed
1853 between Acceleration Capital and Castle Trading?

1854 A Castle Trading was the I.B. for the
1855 Mercury Fund and Mr. Plyam was managing member of
1856 both.

1857 Q Did Castle Trading ever perform any work
1858 on behalf of Acceleration Capital?

1859 A Besides being the I.B., no, not that I'm
1860 aware of.

1861 Q Did you ever do any work on behalf of
1862 Acceleration Capital?

1863 A Yes.

1864 Q Who supervised that work?

1865 A Mr. Plyam.

1866 Q And what specifically did you do on
1867 behalf of Acceleration Capital?

1868 A The same as with CHP Asset Management.
1869 I did the accounting. I did the compliance work.

1870 Q Compliance for what?

1871 A Made sure that all the documents were on
1872 hand for any particular reason that the CFTC and the
1873 NFA required.

1874 Q What documents specifically are you
1875 referring to?

1876 A A compliance manual.

1877 Q Any others?

1878 A A list of participants, the creation of

1879 a disclosure document. What else? And the
1880 accounting statements for each participant.

1881 Q What about monthly account statements?
1882 A That's what I just said. Yes.
1883 Q So by accounting statements, you're
1884 referring to monthly account statements that were
1885 distributed to Acceleration Mercury Fund pool
1886 participants?
1887 A That is right.
1888 Q During that period of time did you
1889 prepare those account statements?
1890 A I believe the fund began trading in
1891 January of 2004, and I stopped doing it in August
1892 2005.
1893 Q Were you doing it in January 2004 when
1894 the fund started trading?
1895 A I was.
1896 Q So from January of 2004 through August
1897 of 2005, you prepared account statements for
1898 Acceleration Mercury Fund participants?
1899 A Yes.
1900 Q Did you mail those account statements?

1901 A I did.
1902 Q Did anyone review those account
1903 statements prior to the time they were mailed to the
1904 pool participants?
1905 A Yes.
1906 Q Who?
1907 A Mr. Plyam.
1908 Q What did Mr. Plyam do to review those
1909 accounts statements?
1910 A I don't know.
1911 Q What was the procedure before they were
1912 mailed?
1913 A There's a statement on the bottom of
1914 each that Mr. Plyam had to sign.
1915 Q That stated what?
1916 A That to the best of his knowledge and
1917 belief, the account statements were correct.
1918 Q Do you know if he did anything to ensure
1919 that the account statements were correct?
1920 A I do not know. I believe that he just
1921 relied on me.
1922 Q Why do you believe that?

1923 A I believe his knowledge of accounting is
1924 minimal and the ability that I had to steal from the
1925 fund was not caught.
1926 Q Do you know if--let me state it this

1927 way: Do you recall any instance in which Mr. Plyam
1928 took any affirmative step to ensure that the
1929 information in the participant account statements
1930 was accurate?

1931 A I cannot tell you. I don't know.

1932 Q What specifically did Mr. Plyam do to
1933 supervise your work on behalf of Acceleration
1934 Capital?

1935 A He did all the trading. I gave him the
1936 numbers. He reviewed the overall--we had to create
1937 an overall document that showed the participant--or
1938 the changes by month on an Excel spread sheet.

1939 Q Changes in what?

1940 A On the performance.

1941 Q Performance of Mercury Fund?

1942 A Yes. We did that together constantly.

1943 Q And did you do any work independent of
1944 Mr. Plyam?

1945 A The accounting, yes.

1946 Q And did he supervise that accounting
1947 work?

1948 A I don't believe that he did. I mean up
1949 until--like I said, his knowledge in accounting is
1950 minimal. Other than wanting to know the performance
1951 or working with me on the performance, doing the
1952 trades, and signing the statements to the customers,
1953 his participation was left to me to do.

1954 Q And when you say working on the
1955 performance, what specifically do you mean?

1956 A Like I said, he wanted to know all the
1957 time how he was doing in comparison to the prior
1958 month, the prior day.

1959 Q In terms of rate of return of Mercury
1960 Fund?

1961 A Yes.

1962 Q And you prepared that information for
1963 him?

1964 A I did.

1965 Q Who founded Acceleration Mercury Fund?

1966 A Curtis Faith and Mr. Plyam.

1967 Q And where is the fund located? Does it
1968 have a mailing address?

1969 A It does, the 8619 Reseda Boulevard.

1970 Q And do you recall when the pool was
1971 formed?

1972 A The pool, I believe, was July of 2003.

1973 No. That couldn't have been right. July of 2004.

1974 I don't recall now, sir. We started trading the

1975 fund in January of 2004.

1976 Q January of 2004, the Acceleration

1977 Mercury Fund commenced trading?

1978 A I believe that's the date. I might be

1979 mixing the dates up again. I apologize if I am.

1980 Q And you prepared the account statements

1981 for the life of the Acceleration Mercury Fund?

1982 A I did. I set the entire accounting

1983 system up for the fund as well as the Gauss Fund.

1984 Q Did anyone supervise you in the creation

1985 of the accounting system for the Mercury Fund?

1986 A The NFA--or the auditor that we had, he

1987 was an accountant. He helped me.

1988 Q Who was the auditor?

1989 A I don't recall his name. I don't recall

1990 his name.

1991 Q Do you know how participants--

1992 A Dick, Dick something.

1993 Q Do you know how participants for Mercury

1994 Fund were solicited?

1995 A I do not know that, no.

1996 Q Do you know if Mercury Fund or

1997 Acceleration Capital advertised for the fund via

1998 print advertisements?

1999 A They did not.

2000 Q What about radio?

2001 A They did not.

2002 Q Television?

2003 A No.

2004 Q Internet?

2005 A No. I believe advertising would have

2006 been required by the NFA to get approval from them,

2007 and there was none that I remember. So no.

2008 Q It's your testimony that you did work on

2009 behalf of the Acceleration Mercury Fund?

2010 A It is.

2011 Q And were you an employee of Castle

2012 Trading during the period of time that you did this

2013 work on behalf of Acceleration Mercury Fund?

2014 A I was.

2015 Q Who authorized you to do work on behalf

2016 of Acceleration Mercury Fund?

2017 A Yuri Plyam.

2018 Q Were you ever compensated by Mercury

2019 Fund?

2020 A I was not.

2021 Q What about by Acceleration Capital?

2022 A No. In regards to official paychecks
2023 from either of those companies, I was not.

2024 Q Did Acceleration Mercury Fund maintain a
2025 futures trading account anywhere?

2026 A Yes. Rosenthal Collins Group.

2027 [Denniston Exhibit No. 5 was
2028 marked for identification.]

2029 BY MR. DOWD:

2030 Q Mr. Denniston, do you recognize the
2031 document marked as No. 5?

2032 A I do.

2033 Q Can you tell us what that document is?

2034 A It's a commodity statement from
2035 Rosenthal Collins for the Acceleration Mercury Fund
2036 4X Fund.

2037 Q Do you know if the Acceleration Mercury
2038 Fund ever had a futures trading account other than
2039 that reflected in Exhibit No. 5?

2040 A I don't believe so. It might have been
2041 Revco, but I don't recall. I think all of it was
2042 done through Acceleration Mercury--I mean through
2043 R.C., Rosenthal Collins. I don't think anything was
2044 done through Revco, is my recollection.

2045 Q Do you know who opened the account in
2046 Exhibit No. 5?

2047 A Mr. Plyam and Mr. Faith.

2048 Q And who is responsible for reviewing the
2049 account statements for the Acceleration Mercury Fund
2050 Rosenthal Collins account?

2051 A These statements monthly and daily, that
2052 was my responsibility.

2053 Q Okay. So in addition to the monthly
2054 account statements that are in Exhibit No. 5, did

2055 Acceleration Capital receive daily account
2056 statements for the Rosenthal Collins account?

2057 A When it traded, yes.

2058 Q How were those daily account statements
2059 delivered to Acceleration Capital and Mercury Fund?

2060 A I believe via E-mail. It might have
2061 been postal mail.

2062 Q Okay.

2063 A You know what? It was postal mail at
2064 first.

2065 Q So you received daily account statements
2066 via postal mail?
2067 A Yes.
2068 Q Who were those accounts statements
2069 mailed to?
2070 A Acceleration Mercury Fund at 8619 Reseda
2071 Boulevard.
2072 Q Were they directed to any particular
2073 individual's attention?
2074 A Attention Yuri Plyam.
2075 Q Okay. And you're referring to Exhibit
2076 No. 5 when you say attention Yuri Plyam?

2077 A I am.
2078 Q Do you recall if the daily account
2079 statements were addressed in the same fashion?
2080 A I do recall that they were, yes.
2081 Q So they were addressed to Acceleration
2082 Mercury Fund 4XLP, Attention Yuri Plyam?
2083 A Yes.
2084 Q And at some point in time, were the
2085 daily account statements E-mailed to Acceleration
2086 Capital and/or Yuri Plyam?
2087 A Yes.
2088 Q Do you recall the E-mail address that
2089 those were sent to?
2090 A Info at, I believe, Castle Trading.com.
2091 It might have been Info at Acceleration Capital.com.
2092 Q Do you when that change took place?
2093 A No.
2094 Q Do you recall the year?
2095 A 2004.
2096 Q It's your testimony that the
2097 account--that the Mercury Fund started trading in
2098 approximately January of 2004?

2099 A If I'm not mistaken, yes.
2100 Q Do you recall when in 2004 approximately
2101 the daily account statements were sent via E-mail
2102 rather than postal mail?
2103 A I don't believe that postal mail
2104 stopped. I believe it was both.
2105 Q And who had access to the E-mail account
2106 Info@CastleTrading.com?
2107 A Yuri Plyam and Natasha Plyam.
2108 Q Who had access to the E-mail account
2109 Info@Acceleration Capital.com?
2110 A I believe both of those them as well,

2111 Yuri Plyam and Natasha Plyam.
2112 Q Was that the correct address,
2113 Info@CastleTrading.com?
2114 A Yes.
2115 Q Did you have access to either of those
2116 E-mail accounts?
2117 A On my computer, no.
2118 Q Did you have access in any way to either
2119 of those E-mail accounts?
2120 A Yes.

2121 Q How did you have access?
2122 A I had keys to the building and access to
2123 Mr. Plyam's computer. It wasn't in a locked office.
2124 Q Did Mr. Plyam ever grant you access to
2125 those E-mail addresses officially?
2126 A Yes.
2127 Q Okay. For what purpose?
2128 A If he was running errands to monitor his
2129 E-mail; if he was on vacation, to monitor his
2130 E-mail; to transfer these particular E-mails from
2131 Info@CastleTrading to Toby@Castle Trading so that I
2132 could do the accounting. The monthly statements
2133 were done that way.
2134 Q Did the monthly accounts statements also
2135 arrive via E-mail?
2136 A Yes.
2137 Q Do you recall what address they arrived
2138 to via E-mail?
2139 A Either of those, Info@Castle or
2140 Info@Acceleration. I believe it was
2141 Info@CastleTrading. I don't believe it was
2142 Info@Acceleration.

2143 Q Did the monthly account statements
2144 continue to arrive via postal mail after they were
2145 available via E-mail?
2146 A I believe that they did. I take that
2147 back. I don't think that they did. I think they
2148 stopped.
2149 Q So the monthly account statements
2150 stopped arriving via postal mail once they were
2151 available via E-mail?
2152 A I believe so.
2153 Q What about the daily account statements;
2154 were there two statements mailed, both an electronic
2155 mail and postal mail?
2156 A I believe at one time, yes. At some

2157 particular time after that, I don't believe that
2158 they were. I think everything was E-mail. So let
2159 me clarify my statement from before. I believe the
2160 postal mail did stop and the E-mails--it was the
2161 Gauss Fund where they did not.

2162 Q Where the postal mail did not stop?

2163 A Right.

2164 Q Whose responsibility was it to review

2165 the Rosenthal Collins daily account statements for
2166 accuracy?

2167 A Mine.

2168 Q And how--

2169 A With Mrs. Plyam's assistance.

2170 Q What do you mean by "with her
2171 assistance"?

2172 A She looked for margin calls and stuff
2173 like that on both Revco and Rosenthal Collins
2174 statements, and she had done that work as well.

2175 Q So what was the procedure once the
2176 account statement arrived at the office whether it
2177 was via postal mail or electronic mail?

2178 A The procedure was just to file it, to
2179 review it for accuracy and to file it, match it
2180 against a ticket.

2181 Q If it came via E-mail, would someone
2182 print it or forward it to another person?

2183 A I believe it was automatically forwarded
2184 to me through a rule in Outlook.

2185 Q What was your E-mail address?

2186 A Toby@CastleTrading.com.

2187 Q And what was the procedure if the
2188 statement arrived via postal mail?

2189 A All mail, all postal mail, went to
2190 Natasha Plyam. She would open the envelope and then
2191 review it and then give it to me if it had anything
2192 to do with my work.

2193 Q What would you do with the daily account
2194 statements once you received them?

2195 A I put them in a file.

2196 Q Did you do anything else?

2197 A Besides checking them for accuracy, I
2198 would put them in a file.

2199 Q Was anyone else responsible for checking
2200 the account statements for accuracy?

2201 A No.

2202 Q With respect to the monthly account

2203 statements, was the procedure the same?

2204 A Yes.

2205 Q So you would review the monthly account
2206 statements for accuracy?

2207 A Yes.

2208 Q And then you would place the monthly

2209 account statements in a file?

2210 A Yes. With the monthly account

2211 statements, we did the accounting based on the
2212 monthly account statements.

2213 Q Who is we?

2214 A I did the accounting for the fund based
2215 on the monthly account statements.

2216 Q Do you know if Mr. Plyam ever reviewed
2217 the Rosenthal Collins monthly and/or daily account
2218 statements?

2219 A I would believe yes. I couldn't tell
2220 you for a fact, but yes.

2221 Q Why do you have that belief?

2222 A Because, you know, he sat at his desk.
2223 His computer didn't face mine. He didn't tell me
2224 everything he was doing all hours of the day. He
2225 did things that--

2226 Q But if you didn't know what he was doing
2227 at all times, why do you believe that he reviewed
2228 Rosenthal Collins daily or monthly account
2229 statements? What is your basis for that belief?

2230 A Just because of his wanting to know, his

2231 wanting to know the performance, where the fund
2232 stood at all times.

2233 Q But regardless of whether or not he
2234 reviewed them, he had access to those account
2235 statements?

2236 A He did.

2237 Q Where are the proceeds from the sale of
2238 Acceleration Mercury Fund pool subscriptions
2239 deposited?

2240 A Wells Fargo Bank.

2241 Q What was the name on that account?

2242 A Acceleration Mercury Fund.

2243 Q Do you know if Acceleration Mercury Fund
2244 ever maintained a bank account other than that Wells
2245 Fargo account?

2246 A I don't believe so. I think Wells Fargo
2247 was the only account.

2248 Q How many accounts did Acceleration

2249 Mercury Fund have with Wells Fargo?
2250 A One.
2251 Q Do you recall the account number?
2252 A I don't.

2253 [Denniston Exhibit No. 6 was
2254 marked for identification.]
2255 BY MR. DOWD:
2256 Q Mr. Denniston, do you recognize the
2257 document marked as six?
2258 A I do.
2259 Q Can you tell else what that document is?
2260 A It's a Wells Fargo Bank statement for
2261 Acceleration Mercury Fund.
2262 Q What's the account number?
2263 A 535-7180347.
2264 Q Are you aware of any Wells Fargo account
2265 that Acceleration Mercury Fund had other than the
2266 one with the accounted number 535-7180347?
2267 A I'm sorry. Who?
2268 Q Acceleration Mercury Fund.
2269 A The fund, no. I believe this is the
2270 only account.
2271 Q Do you know who opened this account?
2272 A Yuri Plyam and Curtis Faith.
2273 Q Were you a signatory on this account?
2274 A I was not.

2275 Q Do you know who was the signatory on
2276 this account?
2277 A Yuri Plyam.
2278 Q Anyone else?
2279 A I don't believe so.
2280 Q And were the account statements
2281 reflected in Exhibit No. 6 mailed to the
2282 Acceleration Capital office?
2283 A Were they mailed? Yes.
2284 Q Where were they mailed to?
2285 A The only address that they were mailed
2286 to was 8949 Reseda Boulevard.
2287 Q Were they ever mailed to the other
2288 office at Acceleration Capital?
2289 A 86 19? They were forwarded from 8949.
2290 They were never mailed directly to them.
2291 Q Do you know what period of time the
2292 account statements for this Wells Fargo account were
2293 mailed to Acceleration Capital?
2294 A From the very beginning.

2295 Q From the inception of the account?
2296 A Yes.

2297 Q Okay. Did that stop at any point in
2298 time?
2299 A Yes.
2300 Q When was that?
2301 A December of 2004.
2302 Q Okay. Why did that stop; do you know?
2303 A I believe that the post office's
2304 forwarding expired.
2305 Q So when the account was opened, the 8949
2306 Reseda Boulevard address was the address for the
2307 account?
2308 A It was.
2309 Q At some point in time, Acceleration
2310 Capital and Acceleration Mercury Fund moved to
2311 another address on Reseda Boulevard?
2312 A They did.
2313 Q And that address was what?
2314 A 8619 Reseda Boulevard.
2315 Q For a period of time thereafter, the
2316 Acceleration Mercury Fund Wells Fargo Bank account
2317 statements were forwarded to the 8619 address?
2318 A They were.

2319 Q And then the account statements stopped
2320 arriving at 8619 in approximately December 2004?
2321 A It may have been January 2005, but yes.
2322 Q In the December 2004-January 2005
2323 timeframe?
2324 A Yes. That is true.
2325 Q It's your testimony that the account
2326 statements stopped arriving via mail because
2327 Acceleration Capital and/or Acceleration Mercury
2328 Fund didn't update its address with Wells Fargo?
2329 A I personally updated the address with
2330 Wells Fargo, but it never changed for some reason.
2331 In November of 2004, I called Wells Fargo to change
2332 the address, and they took that information, but for
2333 some reason--I don't know why--it never changed; but
2334 as far as Wells Fargo, the statements we received
2335 from Wells Fargo, that is correct. The 8949 was the
2336 only address that they were mailed to.
2337 Q Who at Acceleration Capital had the
2338 authority to request an address change for the
2339 account in Exhibit No. 6?
2340 A Just Mr. Plyam.

2341 Q Did he ever instruct you to change the
2342 address for this Wells Fargo account in Exhibit 6?
2343 A He did.
2344 Q And what did he say?
2345 A Change the address.
2346 Q And is it your testimony that that
2347 address change wasn't effective; it didn't work?
2348 A For some reason, yes.
2349 Q Did Mr. Plyam ever ask you why the
2350 account statements weren't coming to the 8619
2351 address?
2352 A No.
2353 Q It's your testimony that the account
2354 statements stopped arriving in December 2004 to
2355 January 2005?
2356 A Yes.
2357 Q And you left Acceleration Capital in
2358 August of 2005?
2359 A Yes.
2360 Q At any point between December
2361 2004-January 2005 and the time you left Acceleration
2362 Capital, did Mr. Plyam ask you why the Wells Fargo
2363 account statements weren't being mailed to the
2364 company?
2365 A I left Castle Trading, and he did not.
2366 He didn't review postal mail. That was Mrs. Plyam's
2367 responsibility.
2368 Q Did Mrs. Plyam ever ask you why the
2369 Wells Fargo account statements weren't being mailed
2370 to Acceleration Mercury Fund or Acceleration
2371 Capital?
2372 A No.
2373 Q Were the account statements for the
2374 Wells Fargo account in Exhibit No. 6 ever E-mailed
2375 to Acceleration Mercury Fund or Acceleration
2376 Capital?
2377 A Yes.
2378 Q Okay. Who were they E-mailed to?
2379 A Info@CastleTrading.com. They were
2380 E-mailed in one lump sum. They weren't continually
2381 E-mailed.
2382 Q What do you mean by one lump sum?
2383 A In getting prepared for the year-end
2384 audit, we didn't have several of the bank statements
2385 in our possession. A couple of months were missing

2386 for some reason, and we asked Wells Fargo Bank--at
2387 the time that I told them to change the address, we
2388 asked them to E-mail us those statements.

2389 Q When was that?

2390 A In November of 2004.

2391 Q So in November 2004, Wells Fargo
2392 E-mailed account statements for the account in
2393 Exhibit No. 6 to Info@CastleTrading.com?

2394 A Yes.

2395 Q What account statements were encompassed
2396 in that E-mail?

2397 A From the beginning of January until
2398 November of 2004. It might have been December of
2399 2004 when all that took place. We were getting
2400 ready for the audit that had to take place for the
2401 year-end, and so it might have been December just
2402 because that was the year-end of the fund.

2403 Q And if I understand you correctly, Wells
2404 Fargo did periodically mail the account statements
2405 for the account in six during the period of January
2406 2004 to November 2004?

2407 A They mailed them every month.

2408 Q Did they E-mail them?

2409 A No, they did not.

2410 Q Did Wells Fargo ever E-mail account
2411 statements for Wells Fargo Account 535-7180347 to
2412 Acceleration Mercury Fund or Acceleration Capital?

2413 A Via E-mail, I don't believe so.

2414 Q Do you know if Acceleration Capital or
2415 Acceleration Mercury Fund ever received an E-mail
2416 with the Wells Fargo account statements other than
2417 the group E-mail that was sent in anticipation of
2418 the audit?

2419 A I am almost certain it did not. It did
2420 not receive other than the lump.

2421 Q So after the postal mail stopped
2422 arriving with the Wells Fargo account statements,
2423 did Acceleration Capital or the fund ever regularly
2424 receive account statements for the Wells Fargo
2425 account?

2426 A Never.

2427 Q Okay. Identify for me each instance
2428 from November 2004 forward that Acceleration Mercury

2429 Fund or Acceleration Capital received an account
2430 statement for the Wells Fargo account regardless of
2431 manner of delivery.

2432 A It did not.
2433 Q It did not? So after--
2434 A After the lump sum and I believe the
2435 December statement in the postal mail, it never once
2436 received from Wells Fargo a statement for the
2437 account.
2438 Q So from December 2004 through August of
2439 2005 when you left Castle Trading, to your
2440 knowledge, the Acceleration Mercury Fund or
2441 Acceleration Capital never received a Wells Fargo
2442 bank account statement?
2443 A I believe that is the best of my
2444 knowledge, yes.
2445 BY MR. SOLINSKY:
2446 Q How did you or others determine what the
2447 status of the Wells Fargo account was if you didn't
2448 receive statements?
2449 A Based on my accounting of the cash on
2450 Quickbooks.

2451 BY MR. DOWD:
2452 Q Did you have internet access to the
2453 Wells Fargo Bank account?
2454 A I did not.
2455 BY MR. SOLINSKY:
2456 Q Did you have any other way to call in by
2457 telephone to get the balance of the account?
2458 A I did not.
2459 Q Was there any other way that you used to
2460 determine the status of the account?
2461 A No.
2462 BY MR. DOWD:
2463 Q Did Mr. Plyam have access to the Wells
2464 Fargo bank account in any manner?
2465 A I don't know. Would you like me to
2466 expand now?
2467 Q Please.
2468 A Okay. This is beginning my testimony
2469 with Agent Heingst, Secret Service Agent Heingst in
2470 the beginning of November of 2004. I wrote a check
2471 in which I forged Mr. Plyam's name to myself. I
2472 deposited it into--I believe I deposited it into my

2473 checking account at Wilshire State Bank. I might
2474 have cashed it at Wells Fargo. I don't recall.
2475 When the statements stopped coming, I had access to
2476 the E-mails. Because of the audit, I had all of
2477 those statements in an E-mail from Wells Fargo. So

2478 what I did was I changed the date and--I changed the
2479 date and I changed the numbers to reflect the
2480 monthly statements, and I posed those as the
2481 statements that we were receiving from Wells Fargo.

2482 BY MR. SOLINSKY:

2483 Q And who did you give those statements
2484 to?

2485 A I did not give them to anybody. I kept
2486 them for my records for the fund. I was responsible
2487 for all the files of the fund.

2488 BY MR. DOWD:

2489 Q So Mr. Plyam never came to you and said,
2490 Hey, we're not getting any statements from Wells
2491 Fargo?

2492 A That's correct.

2493 Q Did Mrs. Plyam ever come to you and say,
2494 Hey, where are the Wells Fargo statements?

2495 A They did not.

2496 Q Did anyone at Acceleration Capital or
2497 Acceleration Mercury Fund?

2498 A No.

2499 BY MR. SOLINSKY:

2500 Q What was your purpose, then, in creating
2501 these statements?

2502 A To hide the fact that I was cashing
2503 checks in my name.

2504 Q Could you explain? Since you said that
2505 no one had looked at these statements, how was it
2506 hiding them?

2507 A For anybody that wanted to look at them,
2508 just in case. What I did, if I can get personal,
2509 I'm very ashamed of. I destroyed my life. I was--I
2510 had a lot of promise at Castle Trading. Castle
2511 Trading had a lot of promise for everyone. I
2512 deeply, deeply regret what I did by stealing money
2513 from the fund. I deeply regret putting the Plyams
2514 through what I'm them through, and my family. If I
2515 could take it back, I would. I took money. I hid
2516 it based on changing the statements. I changed

2517 RCG's statements to reflect the money that I was
2518 taking and was hiding it without Mr. Plyam's
2519 knowledge, but not that he wasn't supervising, that
2520 I had access to his computer to be able to change
2521 it. Does that make sense?

2522 I had a key to the office. I had access
2523 to his computer. I was there very early in the

2524 morning, and I changed the documents. So if he saw
2525 them, they looked legitimate.

2526 BY MR. DOWD:

2527 Q Did Acceleration Capital have a bank
2528 account?

2529 A Acceleration Capital did, yes.

2530 Q Was that bank account located at Wells
2531 Fargo?

2532 A It was.

2533 Q How many Wells Fargo Bank accounts did
2534 Acceleration Capital have?

2535 A The company itself, one.

2536 Q Did you ever steal money from that
2537 account?

2538 A Once.

2539 Q When was that?

2540 A Gosh. Spring of 2004. I don't recall
2541 the exact month. 2005. Excuse me. Spring of 2005.

2542 Q How many money did you take from the
2543 Acceleration Capital Bank account?

2544 A Over a thousand, under two thousand. I
2545 don't recall the exact amount.

2546 Q And did you take any steps to conceal
2547 that theft?

2548 A I did.

2549 Q What steps?

2550 A The same steps. I changed the--we were
2551 receiving both RCG statements and the statement that
2552 I got in a lump sum from Wells Fargo in a Word
2553 document. It wasn't a PDF file that I couldn't
2554 change. I didn't have--I don't have the ability or
2555 the know-how to change a PDF file. I did have the
2556 ability and the know-how to change a Word file, and
2557 I changed them.

2558 Q So the Wells Fargo Mercury Fund account
2559 statements that you had access to were in Word
2560 format?

2561 A Yes.

2562 Q And were the Acceleration Capital, LLC
2563 statements also in Word format?

2564 A They were. You know what? We never
2565 received Acceleration Capital Bank statements via
2566 E-mail from Wells Fargo Bank. I created that based
2567 on Acceleration Mercury Fund, just changing the
2568 name.

2569 Q How often were the Acceleration Capital

2570 account statements mailed to the company?

2571 A It was a ditto story with Acceleration
2572 Capital and the Mercury Fund. They stopped coming.

2573 Q Were you a signatory on the Wells Fargo
2574 Acceleration Capital account?

2575 A I was not.

2576 Q Do you know who was a signatory on that
2577 account?

2578 A Mr. Plyam.

2579 Q Do you know if anybody else was?

2580 A Nobody was.

2581 Q During what period of time did you steal
2582 from the Mercury Fund account?

2583 A From November of 2004 through July of
2584 2005, I believe was the last time.

2585 Q Who was supervising you during that
2586 period of time?

2587 A Yuri Plyam.

2588 Q And how much money did you steal from
2589 the Mercury Fund account?

2590 A It was later told me to by Agent Heingst
2591 \$179,000 plus change.

2592 Q When did Agent Heingst tell you that?

2593 A In October of 2005.

2594 Q Describe in detail for us how you stole
2595 the money.

2596 A I wrote checks. I had access to the
2597 checks.

2598 Q How did you have access to the checks?

2599 A They were at my desk. They were in a
2600 filing cabinet in the office, in that back office,
2601 and I knew where they were.

2602 Q So they weren't on your desk?

2603 A No. I took them. I wrote the check
2604 out. I signed Yuri Plyam's name.

2605 BY MR. SOLINSKY:

2606 Q As part of your duties, did you
2607 ever--prior to this incident of taking funds for the
2608 account, did you ever have duties that would require
2609 you to prepare checks for Mr. Plyam's signature?

2610 A Not at all.

2611 Q How did you know where the checks were?

2612 A My access to all the filing cabinets in
2613 the office. I was the office manager at the time.
2614 I had access to all of it.

2615 Q Did anyone ever request that you go get

2616 the checkbook so Mr. Plyam could use it?

2617 A No.

2618 Q So you simply saw the checks by going
2619 through the drawers?

2620 A Yes. A lot of times--a lot of times, I
2621 could have been stopped. If we received the
2622 statements from Wells Fargo, I would have been
2623 stopped if they were reviewed. I took the checkbook
2624 and I cut the checkbook up. I'd take three or four
2625 checks and I'd cut the rest of them up so nobody
2626 would see that there were three or four checks

2627 missing from the book. So, again, not that Mr.
2628 Plyam or Mrs. Plyam wasn't trying to supervise me.
2629 I had the ability based on my access to do what I
2630 did without their knowledge.

2631 BY MR. DOWD:

2632 Q Was the filing cabinet locked?

2633 A No.

2634 Q Was there a lock on the filing cabinet?

2635 A I don't recall.

2636 Q What was the source of the money in the
2637 Mercury Fund account?

2638 A Customer funds.

2639 Q How did you know how much was in the
2640 account?

2641 A I lost track keeping--just keeping track
2642 of how much I took and then how much I would
2643 replace.

2644 Q Did you know how much was in the account
2645 when you initially--the first time you stole from
2646 the account?

2647 A Yes, based on the account statement.

2648 Q Do you recall what that number was?

2649 A I don't. I think about--I think between
2650 30 and 40 thousand.

2651 Q Were the deposits made to that account
2652 regularly?

2653 A Regularly, no; but, yes, deposits were
2654 made.

2655 Q And if a deposit was made, would you
2656 have knowledge of that deposit?

2657 A I made that deposit.

2658 Q You made that deposit with customer
2659 money?

2660 A Yes.

2661 Q In other words, someone bought a

2662 subscription for the Mercury Fund pool, and that
2663 money went into the Mercury Fund Wells Fargo
2664 account?
2665 A Yes.
2666 Q And you had knowledge of that deposit?
2667 A Yes.
2668 Q Did you ever transfer money from the
2669 Rosenthal Collins account to the Wells Fargo Mercury
2670 Fund account for the purpose of stealing that money?

2671 A Yes.
2672 Q When did you do that?
2673 A Ongoing between November and July
2674 of--November of '04 to July of '05.
2675 Q How many times did you transfer money
2676 from Rosenthal Collins to steal it?
2677 A I don't know.
2678 Q Approximately?
2679 A The only number that I do know is how
2680 many checks were written to me, and that was 55.
2681 How many checks were written from Rosenthal Collins
2682 back into the fund, I don't know that number. I
2683 couldn't even venture to guess. I don't know.
2684 Q Can you approximate how much money you
2685 transferred from Rosenthal Collins for the purpose
2686 of stealing it?
2687 A 180,000 less 50,000, so 120,000 [sic], I
2688 believe.
2689 MR. VARGAS: Thirty.
2690 BY MR. DOWD:
2691 Q And you did that periodically?
2692 A Yes.

2693 Q That is you transferred money from
2694 Rosenthal Collins to Wells Fargo periodically?
2695 A Yes.
2696 Q For the purpose of writing a check for
2697 that money to yourself?
2698 A Yes.
2699 Q To steal it?
2700 A Yes.
2701 Q Is there any typical time of day that
2702 you would take the checks?
2703 A Late afternoon. I would come in on
2704 weekends occasionally. No specific time, no.
2705 Q Did you ever order checks for the Wells
2706 Fargo Mercury Fund account?
2707 A I don't recall. I don't believe so.

2708 Q Were you ever authorized to order checks
2709 for the Wells Fargo Mercury Fund account?
2710 A No.
2711 Q How many checks are we talking about at
2712 the filing cabinet? Was it several books?
2713 A Yes.
2714 Q Can you approximate how many checks were

2715 there when you started the theft?
2716 A I'm not sure how many checks are in a
2717 book, but I would guess about maybe 10 books, 15
2718 books. Very rarely was a check written from the
2719 fund out anywhere. I mean, it stayed in either
2720 Wells Fargo or Rosenthal Collins. So Mrs. Plyam had
2721 access to one checkbook that she used when she would
2722 draft a check for Mr. Plyam's signature, but all the
2723 other checkbooks were put away and were never used
2724 besides for me.
2725 Q Do you know if the Mercury Fund ever
2726 bounced a check during the period of your theft?
2727 A Yes.
2728 Q Yes, you know?
2729 A Yes, I do know.
2730 Q And did it ever bounce a check?
2731 A We're talking about Mercury Fund or
2732 Acceleration Capital?
2733 Q Mercury Fund.
2734 A I believe once, yes.
2735 Q When did that happen?
2736 A In the spring of 2005.

2737 Q Who had knowledge of that bounced check?
2738 A Me.
2739 Q Anyone else?
2740 A No.
2741 Q How did you have knowledge of that
2742 bounced check?
2743 A I believe the check was returned to my
2744 bank as unpaid.
2745 Q Do you recall the amount of that check?
2746 A I don't.
2747 Q Your theft continued during the summer
2748 of 2005; is that correct?
2749 A Through July, yes.
2750 Q So after that check bounced, did you
2751 deposit more money into the Mercury Fund account?
2752 A I did, and I continued to steal.
2753 Q And where did that money come from?

2754 A From the Rosenthal Collins.
2755 [Denniston Exhibit No. 7 was
2756 marked for identification.]
2757 BY MR. DOWD:
2758 Q Mr. Denniston, you've just been handed

2759 what's been marked Exhibit No. 7, and if I could
2760 direct you to the page which is Bates numbered Plyam
2761 00004. Do you recognize that document?
2762 A Yes. The document, no; the check, yes.
2763 Q There's a check captured on that page;
2764 is that correct?
2765 A Yes.
2766 Q And you recognize that check?
2767 A I do.
2768 Q The signature on that check--
2769 A Mr. Plyam's signature was mine.
2770 Q So you forged Mr. Plyam's signature on
2771 that check?
2772 A I did.
2773 Q And you drafted the check to yourself?
2774 A I did.
2775 Q What about the following one, the page
2776 Bates numbered ending in a five; did you forge that
2777 check as well?
2778 A I did.
2779 Q And the subsequent page ending in six,
2780 you forged that check?

2781 A I did.
2782 Q And the following page ending in seven,
2783 did you forge that check?
2784 A I did.
2785 Q Page 8, did you forge that check?
2786 A I did.
2787 Q Page 9, did you forge that check?
2788 A I did.
2789 Q And page 10, Check 1077, did you forge
2790 that check?
2791 A Yes.
2792 Q Page 11, Check 1078, did you forge that
2793 check?
2794 A Yes.
2795 Q By forging that check, I'm referring
2796 to--
2797 A My signature of signing Yuri Plyam's
2798 name.
2799 Q You signed Mr. Plyam's name?

2800 A I did.
2801 Q And you drafted the check to yourself?
2802 A I did.

2803 Q Page 12, Check No. 1117, did you forge
2804 Mr. Plyam's signature on that check?
2805 A I did.
2806 Q Page 13, Check 1118, did you forge Mr.
2807 Plyam's signature on that page?
2808 A I did.
2809 Q Do you see on that particular check,
2810 there appears to be a thumb print to the left of Mr.
2811 Plyam's signature?
2812 A Yes.
2813 Q Is that your thumb print?
2814 A I believe it is, yes.
2815 Q Do you recall that the bank required you
2816 to put a thumb print on a check you cashed?
2817 A Sometimes I would deposit the checks
2818 into my own checking account at Wilshire State Bank.
2819 Sometimes I would take them to Wells Fargo to cash
2820 them. When I did that, they required a thumb print,
2821 yes.
2822 Q What was the breakdown of checks
2823 deposited versus checks cashed?
2824 A I don't know. All of them were cashed,
2825 but in regards to Wilshire State Bank versus Wells
2826 Fargo, I don't know.
2827 Q The checks that went to Wilshire State
2828 Bank, did you deposit those in your account first?
2829 A Yes.
2830 Q Then did you withdraw the money?
2831 A Yes.
2832 Q Okay. How soon after you deposited the
2833 checks did you withdraw the money?
2834 A Most of the time, immediately.
2835 Q And page 14, Check 1113, did you forge
2836 Mr. Plyam's signature on that check?
2837 A I did.
2838 Q And page 15, Check 1114, did you forge
2839 Mr. Plyam's signature on that check?
2840 A I did.
2841 Q Page 16, Check 1115, did you forge that
2842 check?
2843 A I did.
2844 Q And the next page does not appear to be
2845 Bates numbered, but the check number is 1116. Do

2846 you see that?

2847 A Yes.

2848 Q And did you forge this check? Did you
2849 forge Mr. Plyam's signature on this check?

2850 A I did.

2851 Q Moving one page forward to 17, Check
2852 1124, did you forge Mr. Plyam's signature on that
2853 check?

2854 A I did.

2855 Q And page 18, Check 10789, did you forge
2856 Mr. Plyam's signature on that check?

2857 A I did.

2858 Q Page 19, Check 1008, did you forge Mr.
2859 Plyam's signature on that check?

2860 A I did.

2861 Q Page 20, Check 1110, did you forge Mr.
2862 Plyam's signature on that check?

2863 A I did.

2864 Q Page 21, Check 1111, did you forge Mr.
2865 Plyam's signature on that check?

2866 A I did.

2867 Q Page 22, Check 1112, did you forge Mr.
2868 Plyam's signature on that check?

2869 A Can we just say that I forged them on
2870 all of them?

2871 Q Why don't you take an opportunity to
2872 look through the remainder of this document--

2873 A I just did.

2874 Q --which is Bates number Plyam 00023
2875 through Plyam 00059. Take as much time as you need
2876 and let me know if there are any checks from that
2877 point forward that you did not forge Mr. Plyam's
2878 signature on.

2879 A I reviewed them. There's not one that I
2880 did not forge Mr. Plyam's signature.

2881 Q If I could back you up to the front of
2882 this document and the first very first check which
2883 is on the page Bates number Plyam 00003, did you
2884 forge that check?

2885 A Yes.

2886 Q And you can see on that document what
2887 appears to be the back of the check and the
2888 endorsement. It says: "Pay to the order of Wells
2889 Fargo Bank for deposit only, Acceleration Capital,
2890 LLC." Do you see that?

2891 A Yes.
2892 Q Did you deposit this check into the
2893 Acceleration Capital account?
2894 A I don't know.
2895 Q Do you know why that endorsement is on
2896 the back of this particular check?
2897 A Well, you know, because I put it there.
2898 I'm sure that it was deposited into Acceleration
2899 Capital.
2900 Q Okay. And this particular check, who is
2901 it made out to?
2902 A Acceleration Capital.
2903 Q Is it your recollection--and what's the
2904 amount of this check?
2905 A \$2,127.10.
2906 Q And is it your recollection that you
2907 used this particular check to steal money from the
2908 Mercury Fund?
2909 A Yes.
2910 Q Okay.
2911 A By paying Acceleration Capital back the
2912 money that I stole previously from the Acceleration
2913 Capital.
2914 Q So you stole money from the Acceleration
2915 Capital Wells Fargo Bank account?
2916 A One time, yes.
2917 Q And to conceal that theft, you deposited
2918 money from the Acceleration Mercury Fund into the
2919 Acceleration Capital account?
2920 A I did.
2921 Q So is it your testimony that all of the
2922 checks encompassed in Exhibit No. 7 were forged by
2923 you?
2924 A That is my testimony, yes.
2925 Q You forged Mr. Plyam's signature on each
2926 of those checks?
2927 A That's true.
2928 Q And each of those checks were used by
2929 you to steal money from Acceleration Mercury Fund or
2930 Acceleration Capital--
2931 A Yes.
2932 Q --for the very first check appearing in
2933 this exhibit?
2934 A Yes.

2935 Q Do you recall writing any checks from
2936 the Acceleration Mercury Fund that are not

2937 encompassed within Exhibit No. 7?

2938 A No.

2939 Q So to the best of your knowledge, all of
2940 the checks that you used to steal from Mercury Fund
2941 are covered in Exhibit No. 7?

2942 A I believe so, yes. I don't have--I
2943 didn't keep a record or have knowledge of the
2944 amounts or the dates or any of that. I don't know,
2945 but from what has been told to me by Agent Heingst,
2946 I believe that this is correct.

2947 Q What did Agent Heingst say to you?

2948 A Just that, that there were checks--we
2949 went through the same process that you and I just
2950 went through, forge, forge, forge, forge, and I
2951 signed them all and dated them.

2952 Q What do you mean you signed and dated
2953 them all?

2954 A I signed and dated every copy of his
2955 file.

2956 Q And by signing and dating them, you were

2957 acknowledging that they were forged checks?

2958 A I believe that, yeah.

2959 Q Okay. And I believe it was your
2960 testimony earlier that the period of theft was
2961 November 2004 through July of 2005. Is that
2962 correct?

2963 A That was my testimony, but I see that it
2964 went through August of 2005.

2965 Q So--

2966 A I'm changing the testimony to August of
2967 2005.

2968 Q Having reviewed Exhibit No. 7, it's now
2969 your--

2970 A My recollection.

2971 Q --testimony, recollection, that you
2972 stole money in August of 2005 as well?

2973 A That is true.

2974 [Denniston Exhibit No. 8 was
2975 marked for identification.]

2976 BY MR. DOWD:

2977 Q Mr. Denniston, do you recognize the
2978 document marked as Exhibit 8?

2979 A Yes.

2980 Q Can you tell us what this document is?

2981 A It's a check to Hilon Tsigonias for
2982 \$74.22.

2983 Q What Bates number are you referring to?
2984 A 00100279.
2985 Q All right. And Exhibit No. 8 contains a
2986 series of checks; is that correct?
2987 A Yes.
2988 Q Ranging in Bates Nos. 00100279 through
2989 287; is that correct?
2990 A Yes.
2991 Q And reviewing these checks, are you able
2992 to say if any of these checks were used by you for
2993 the purpose of stealing money from Acceleration
2994 Capital? In other words, did you forge any of the
2995 checks in Exhibit No. 8?
2996 A Yes.
2997 Q Which check or checks?
2998 A Bates No. 00100285, Check No. 1015 for
2999 \$2,528.69.
3000 Q Any other checks in this exhibit?
3001 A That were forged and stolen by me, no.
3002 Q So it's your testimony that the only
3003 check in Exhibit No. 8 that you forged is that
3004 referenced on page 00100285?
3005 A Yes.
3006 Q Which is Check 0115?
3007 A 1015.
3008 Q I'm sorry. 1015.
3009 A Yes.
3010 Q Dated April 22, 2005?
3011 A Yes.
3012 Q Did you ever deposit money that you
3013 stole either from Mercury Fund or Acceleration
3014 Capital into any account other than the Wilshire
3015 Bank account?
3016 A My recollection is and my intention was
3017 no. If I did, it was unintentional, but I don't
3018 believe that I did. I don't believe that I did
3019 other than cash that Wells Fargo or deposit it into
3020 Wilshire State Bank. If I did deposit it into my
3021 Wells Fargo account, it was unintentional, and I
3022 don't recall whether or not I did.
3023 Q So you had a checking account at
3024 Wilshire Bank and you also had a checking account at
3025 Wells Fargo?
3026 A That's right.
3027 Q And the money you stole from the Mercury
3028 Fund, Acceleration Capital was either cashed or

3029 deposited into the Wilshire Bank account, to the
3030 best of your knowledge?

3031 A To the best of my knowledge, yes.

3032 Q Do you have any recollection of ever
3033 depositing money into the Wells Fargo account that
3034 was the product for your theft?

3035 A My recollection is no, strictly
3036 recollection. If I did it, I don't remember. I
3037 might have, but I don't remember.

3038 Q Do you recall ever depositing money that
3039 you stole from either Mercury Fund or Acceleration
3040 Capital into any bank account other than the
3041 Wilshire Bank account regardless of whether or not
3042 the account was in your name?

3043 A My recollection is that the only checks
3044 that were ever cashed, forged checks that were

3045 cashed by me, were cashed at Wells Fargo or
3046 deposited into Wilshire State Bank only.

3047 Q So you never deposited the checks into
3048 anyone else's account?

3049 A No. That was not done.

3050 Q From November 2004 forward, had you
3051 given money to anyone?

3052 A Have I given money? Yes.

3053 Q Who have you given money to?

3054 A Gosh. Several people. I wrote checks
3055 from my Wilshire State Bank to myself and deposited
3056 into my Wells Fargo Bank. I wrote checks--I mean, I
3057 used it like it was my money. I mean, I used it.

3058 Q Who did you give money to from November
3059 2004 forward to?

3060 A Gosh. I couldn't tell you. I don't
3061 know. I mean, I--

3062 Q Did you give--

3063 A It was a broad, broad, broad base of
3064 people and organizations and companies and bills.

3065 Q Let's start with people.

3066 A Okay.

3067 Q From November 2004, did you give money
3068 to any individuals as opposed to a company, an
3069 entity, opposed to paying your phone bill, things
3070 like that?

3071 A Okay. Leonardo Martinez, Gabriella
3072 Martinez, Benjamin Alvarez. Other than that, no. I
3073 don't recall.

3074 Q Okay.

3075 A People-wise.
3076 Q How much money did you give to Leonardo
3077 Martinez from November 2004 forward?
3078 A I don't know.
3079 Q Approximately?
3080 A I don't know.
3081 Q More than a thousand dollars?
3082 A Yes.
3083 Q More than \$5,000?
3084 A I don't know.
3085 Q How many checks did you write him?
3086 A I don't know.
3087 Q Do you know what he did with the money?
3088 A Paid bills.

3089 Q Did you ever give him any cash?
3090 A Probably.
3091 Q How much cash?
3092 A I don't know.
3093 Q Is it your testimony that you gave Mr.
3094 Martinez over a thousand dollars?
3095 A That could be correct, yes.
3096 Q Is it correct?
3097 A Yes. He was my partner. I gave him
3098 money when he needed it, and he used it the way that
3099 he used it.

3100 Q Did you give him more than \$10,000?
3101 A I don't know.
3102 Q Is it possible?
3103 A It might be.
3104 Q Is it consistent with your recollection
3105 that you gave Mr. Martinez over \$10,000?
3106 A I have no recollection, sir. Honest to
3107 God, I don't know.
3108 Q Do you know where Mr. Martinez has a
3109 bank account?
3110 A It was a joint account with me at Wells
3111 Fargo.

3112 Q Other than that joint account, do you
3113 know where Mr. Martinez maintains any bank accounts?
3114 A He does not. Like that account is
3115 closed, and he does not have a bank account as of
3116 now.
3117 Q At any point during November 2004
3118 through today, did Mr. Martinez have a bank account
3119 other than the Wells Fargo joint account he shared
3120 with you?

3121 A I believe he might have had a Washington
3122 Mutual. No, no, no, no. I take that back. He did
3123 not. He had a Washington Mutual prior to November
3124 2004. So, no, he did not.

3125 Q Prior to November of 2004?

3126 A That's right.

3127 Q Do you know when he closed that account?

3128 A I don't know.

3129 Q Was that account closed as of November
3130 2004?

3131 A It was.

3132 Q How much money did you give Gabriella

3133 Martinez?

3134 A One or two hundred dollars a month for
3135 that period of time, between November of 2004 and
3136 August of 2005.

3137 Q What did you give her one to two hundred
3138 dollars a month for?

3139 A She cleaned our apartment.

3140 Q How much total would you say you gave
3141 Ms. Martinez from November 2004 forward?

3142 A More than a thousand, under five
3143 thousand, I would guess.

3144 Q Is it closer to a thousand or five
3145 thousand?

3146 A Probably closer to five.

3147 Q And if she's cleaning your apartment
3148 for, say, \$200 a month over the course of--

3149 A Eight or nine months.

3150 Q --eight or nine months--

3151 A 1800, 2,000. So probably closer to a
3152 thousand.

3153 Q Okay. And my question is did you give
3154 her money for anything other than cleaning your

3155 apartment?

3156 A I gave her cash to help with her kids's
3157 stuff. Her and her husband were going through a
3158 separation, and I would help give her cash whenever
3159 she needed it.

3160 Q So in addition to giving her money for
3161 cleaning your apartment, you gave her money?

3162 A Yes.

3163 Q You gave her cash?

3164 A Yes.

3165 Q So for cleaning your apartment, you gave
3166 her roughly \$1800?

3167 A Yes.
3168 Q And then on top of that, how much money
3169 did you give her?
3170 A Another thousand or maybe two.
3171 Q So you gave her, to your recollection,
3172 between 2800 and \$3800?
3173 A Yes.
3174 Q Who is Mr. Benjamin Alvarez?
3175 A He is Leonardo's nephew.
3176 Q Let me back up to Gabriella Martinez.

3177 Do you know where she maintains any bank accounts?
3178 A I don't know.
3179 Q Have you ever known?
3180 A No.
3181 Q Has she ever written you a check?
3182 A I don't think so.
3183 Q Do you know what she did with the money
3184 you gave her?
3185 A Took care of her kids.
3186 Q And Benjamin Alvarez is Leonardo
3187 Martinez's nephew?
3188 A Yes. Gabriella's brother.
3189 Q How much money did you give Mr. Alvarez
3190 from November 2004 forward?
3191 A Three thousand, I believe it was.
3192 Q Was that over a period of time or one
3193 lump sum?
3194 A Two sums, I believe.
3195 Q Okay. When did you give him each of
3196 those sums?
3197 A The first time was in the winter of
3198 2005. The second time was probably the summer of

3199 2005.
3200 Q How much did you give him in the winter
3201 of 2005?
3202 A I think it was around 1500.
3203 Q And in the summer of 2005, how much
3204 money did you give him?
3205 A Same amount.
3206 Q Why did you give Mr. Alvarez \$3,000?
3207 A He had--he wanted to get eye surgery,
3208 laser eye surgery, and his father was going to give
3209 him money and his father fell through. So I offered
3210 it to him.
3211 Q That was for both the winter of '05 and
3212 summer of '05?

3213 A Yes.
3214 Q Was that each eye?
3215 A No. I believe--I gave him the money for
3216 that purpose. What he used the money for was
3217 to--the first time was--let's do this: The first
3218 time was a loan. It was a loan. Leonardo and him
3219 made the arrangement that it would be a loan.
3220 Benjamin never paid back the loan. So I gave him

3221 the money again to pay back Leonardo so that there
3222 wouldn't be family strife. Leonardo took it very
3223 hard that Benjy didn't pay him back.
3224 Q So you and Leonardo jointly loaned
3225 Benjamin Alvarez roughly \$1500 in the winter of
3226 2005?
3227 A It was Benjy and Leonardo's arrangement,
3228 but it was the money--I provided the money.
3229 Q Did it come out of the Wells Fargo joint
3230 account?
3231 A No, I don't believe so. I believe it
3232 was the Wilshire State Bank account.
3233 Q And subsequent to that, you gave Mr.
3234 Alvarez another \$1500?
3235 A Right.
3236 Q For the purpose of repaying a loan you
3237 gave him?
3238 A Right. Just so that it would--it was
3239 causing family strife. Benjy wasn't paying it back.
3240 Leonardo didn't want to have anything to do with
3241 him. I wanted to keep the family on good terms. So
3242 I gave the money to Benjy to give it back to us so

3243 it looked like he was paying us back.
3244 Q Were there two separate surgeries?
3245 A I don't think so.
3246 Q Do you know where Mr. Alvarez maintains
3247 any bank accounts?
3248 A I don't know.
3249 Q Other than the loan you made to Mr.
3250 Alvarez, have you ever loaned money to anyone from
3251 November 2004 forward?
3252 A No.
3253 Q Have you ever owned any real estate from
3254 November 2004 through today?
3255 A No.
3256 Q Have you owned an automobile at any
3257 point in time from November 2004 through today?
3258 A I financed an automobile. I never owned

3259 one.

3260 Q You leased one?

3261 A Yes.

3262 Q When did you acquire the automobile?

3263 A I had a car prior to November 2004. In
3264 February of 2005, I think it was, I acquired--I got

3265 rid of the first automobile and got another

3266 automobile.

3267 Q Okay. What type of automobile did you
3268 have prior to February '05?

3269 A The Chrysler 2002 P.T. Cruiser.

3270 Q And was that a lease or did you own that
3271 car?

3272 A It was lease. It was a buy. It wasn't
3273 a lease. I financed it.

3274 Q Okay. And how much did you owe on that
3275 car as of October 31, 2004?

3276 A I don't know.

3277 Q Approximately?

3278 A I couldn't tell you. I don't know.

3279 Q More than \$5,000?

3280 A Probably.

3281 Q More than \$10,000?

3282 A I don't know.

3283 Q Did you ever pay off the balance on the
3284 loan for the Chrysler P.T. Cruiser?

3285 A Yes.

3286 Q When did you do that?

3287 A In February of 2005. As part of the
3288 deal to buy the other vehicle, the loan company paid
3289 off the P.T. Cruiser.

3290 Q What was the other vehicle?

3291 A A 1999 BMW 323.

3292 Q Did you lease that BMW or did you buy
3293 it?

3294 A I leased it--financed it.

3295 Q Financed as in you had a payment on it?

3296 A I put a down payment and I made monthly
3297 payments.

3298 Q But the title was in your name?

3299 A Right.

3300 Q Okay. And you weren't required to
3301 return that car the to dealership at any point in
3302 time?

3303 A That is correct. As long as I
3304 maintained the payments, yes.

3305 Q So you owned the car?
3306 A Yes.
3307 Q You had a loan on the car, but it was
3308 your car?

3309 A Exactly. That's the same with the P.T.
3310 Cruiser. It was the exact same arrangement.
3311 Q How much did you pay for the BMW?
3312 A I paid down \$4,000.
3313 Q What was the purchase price?
3314 A A little under 20, I believe. It might
3315 have been a little under 25. Between 20 and 25.
3316 Q So you had a loan of between \$16,000 and
3317 \$20,000 on the 1999 BMW?
3318 A That's right.
3319 Q At any point in time, did you pay off
3320 that loan?
3321 A I did not.
3322 Q Do you still have that car?
3323 A I do not.
3324 Q What happened to that car?
3325 A It was repossessed.
3326 Q When?
3327 A January, I believe, of this year.
3328 Q Do you recall what the balance was at
3329 the time of repossession, balance on the loan, that
3330 is?

3331 A Maybe 15,000.
3332 Q Okay. Excluding the car, identify for
3333 us every item you purchased during the period of
3334 November 2004 that cost more than a thousand
3335 dollars?
3336 A My teeth.
3337 Q How much did that cost you?
3338 A About 9,000.
3339 Q What did you have done to your teeth?
3340 A Two bridges and one crown, cosmetic.
3341 Q What else? When did you make that
3342 purchase for your teeth?
3343 A June of 2005, I believe it was.
3344 Q Okay. What else?
3345 A Let's see here. I had about \$5,000 in
3346 hospital bills related to my gastric bypass surgery.
3347 Q When did you have that surgery?
3348 A January 2005.
3349 Q What else?
3350 A Let's see. Gosh. We took vacations to

3351 San Diego, to San Francisco, I think maybe four or
3352 five thousand dollars apiece on those.

3353 Q When did you take the San Diego
3354 vacation?

3355 A It was February of 2005, I believe it
3356 was.

3357 Q What about the San Francisco vacation;
3358 when did you take that?

3359 A December of 2004, I think.

3360 Q Did you take any other vacation from
3361 November 2004 forward?

3362 A San Diego, San Francisco. Two trips to
3363 San Diego, actually.

3364 Q When was the second trip?

3365 A January 1st, the holiday.

3366 Q January 1st of?

3367 A 2005.

3368 Q Remind me when the other trip was.

3369 A February, maybe March, 2005.

3370 Q And on the January trip, how much did
3371 you spend?

3372 A All three trips were between four and
3373 five thousand dollars.

3374 BY MR. SOLINSKY:

3375 Q Each or in total?

3376 A Yes. Each.

3377 BY MR. DOWD:

3378 Q And that was the San Diego trip and two
3379 San Francisco trips?

3380 A No. One San Francisco trip, two San
3381 Diego trips. Let me think. Other things I spent
3382 on, Christmas gifts, maybe \$10,000 in Christmas
3383 gifts of 2005.

3384 Q Who did you give those gifts to?

3385 A Gosh. Everybody.

3386 Q Who is everybody?

3387 A My entire family: My mom, my brother,
3388 his fiance, Leonardo. Let me think. I don't recall
3389 any others.

3390 Q What gifts did you give that ran up to
3391 \$10,000?

3392 A A Sharper Image air purifier.

3393 Q Who did you give that to?

3394 A To my mom. That was like \$500. Maybe
3395 it wasn't \$10,000. Maybe it was like--gosh. If you
3396 have my bank statements from Wilshire State Bank and

3397 I could recollect my memory that way, maybe I could
3398 give you list of where I spent the money, but off
3399 the top of my head, I've been thinking about it for
3400 a long time and I don't know. A lot of it was
3401 through ebay, purchased stuff myself.

3402 Q What did you buy on ebay?

3403 A Barbie dolls for a collection that I
3404 wanted to start.

3405 Q How much money did you spend on ebay?

3406 A Several thousand dollars. Several
3407 thousand dollars.

3408 BY MR. SOLINSKY:

3409 Q What did you buy?

3410 A All kinds of stuff ranging from like the
3411 Barbie dolls to Ipods.

3412 Q How many Ipods did you buy?

3413 A Two.

3414 Q What else?

3415 A What else? I don't recall. It was so
3416 much stuff. I mean, it was just a lot of stuff.

3417 Q Do you still have the stuff?

3418 A No.

3419 Q What happened to it?

3420 A Well, when I left Camarillo, I gave a
3421 lot of it away to miscellaneous people, people I
3422 don't remember. I mean, I don't have a list of I
3423 gave this to this person, this to this person. I
3424 don't know. I don't have any of it in my possession
3425 anymore.

3426 BY MR. DOWD:

3427 Q The IRA account that you had, did you
3428 put any money that you stole into that account?

3429 A Yes. All the money that was in that
3430 account was stolen money.

3431 Q How much was in that account?

3432 A Under five, over three.

3433 Q And you closed that account out at some
3434 point in time?

3435 A Yes.

3436 Q What did you do with the money when you
3437 closed out that account?

3438 A Used it to pay bills, used it to live
3439 on. I wasn't employed from August of 2004 until
3440 recently.

3441 BY MR. SOLINSKY:

3442 Q You mean 2005?
3443 A Excuse me. Yes. When I left Castle
3444 Trading until I started Empire Lakes, I wasn't
3445 employed. I used anything and everything that I
3446 could get, selling stuff, selling a lot of the stuff
3447 that I had to the money that was still in the
3448 accounts.

3449 BY MR. DOWD:
3450 Q And having looked at the checks that you
3451 forged and relying on your recollection, remind us
3452 how much money you stole in total.

3453 A Agent Heingst told me was it was
3454 179,000, but I see on Exhibit 7, this totalled
3455 185,000. He told, also, it was 55 checks. This
3456 says 57 checks. So Agent Heingst didn't know about,
3457 I guess, two checks at the time that I talked with
3458 him.

3459 Q So it's consistent with your
3460 recollection that you stole \$185,000 roughly?

3461 A My recollection is nothing. If I knew
3462 it was that much, I would have stopped a long time
3463 ago myself. I didn't know it was that much until
3464 Agent Heingst told me. I didn't keep a record. I
3465 didn't know how out of control I was. I mean, you
3466 see toward the end how big, how much bigger the
3467 checks got.

3468 Q Of the money that you stole from Mercury
3469 Fund and Acceleration Capital, do you currently have
3470 any of that money in a bank account?

3471 A I do not.

3472 Q In a brokerage account?

3473 A No money whatsoever.

3474 Q At any financial institution?

3475 A Or in my possession.

3476 Q Do you know if any person that you gave
3477 the money to currently has that money in a bank
3478 account or at a financial institution?

3479 A They do not. Like I said, the only
3480 money that I--

3481 Q Do you know if--

3482 A No. I'm almost positive they don't.

3483 Q Why are you positive?

3484 A Because the money that I gave to people
3485 was used for specific reasons. Like if Gabriella
3486 needed help to pay Taekwondo lessons for the kids, I
3487 would give her the money; for Benjy, the eye

3488 surgery; for Leonardo, to pay bills.

3489 Q And the items that bought with the
3490 stolen money, do you have any of those?

3491 A I have nothing in my possession at all.
3492 I don't have--the only thing I have is the air
3493 mattress that I'm sleeping on in my bedroom.

3494 Q What happened to all the money? How did
3495 you spend \$185,000?

3496 A Like I told you, I don't know. I was
3497 out of control. I've been trying to reconstruct the
3498 ideas, reconstruct how the money was spent. After
3499 Agent Heingst told me in October how much money it
3500 was, I've been wracking my brain to try to figure
3501 how and why I did what I did and where it went to.
3502 I don't know. Food, vacations, paying bills, living
3503 high, living--going and eat sushi every night. I
3504 was spending cash-wise three or four hundred dollars
3505 a day on different things, fixing up the car, and I
3506 spent \$3,000 after I bought the BMW to fix the BMW.

3507 I paid so much money in advance for rent at one
3508 apartment that I lived at.

3509 Q How much money?

3510 A Gosh. \$800 times like four months, so
3511 \$3200.

3512 Q When were you living in that apartment?

3513 A Prior to living to Toluca Lake, so in
3514 late of '04.

3515 Q Where else did the money go?

3516 A Gosh. Paying rent, going on vacations,
3517 spending it, making purchases. Like I said, I went
3518 on ebay and bought all kinds of stuff, and I'm sure
3519 that you can go to ebay--I'm not sure how that
3520 works--to find out exactly what I spent the money
3521 on, but it was a lot on ebay.

3522 Q It's your testimony sitting here today
3523 under oath that you don't have any of the money that
3524 you stole left?

3525 A That is true.

3526 Q And it's your testimony sitting here
3527 under oath that you don't have any of the items that
3528 you purchased with the money you stole?

3529 A That is true.

3530 Q And you don't have any knowledge of
3531 individuals holding money on your behalf?

3532 A I have knowledge and there is nobody
3533 holding money on my behalf. I was homeless for two

3534 months. If someone had money, I would have used it
3535 to live.

3536 Q How much money does Leonardo currently
3537 have?

3538 A Nothing.

3539 BY MR. SOLINSKY:

3540 Q What was your account name or sign on at
3541 ebay?

3542 A TWDII8629.

3543 Q How would you pay for items through
3544 ebay?

3545 A Pay Pal, same log-on I.D.

3546 Q And does Pay Pal require you to give a
3547 credit card?

3548 A No. It's taken from the bank account,
3549 from Wilshire State Bank. I eventually transferred
3550 the Pay Pal account from Wilshire State Bank to my

3551 Wells Fargo account. I also did have one credit
3552 card that was linked--two credit cards that were
3553 linked to Pay Pal that were used as well.

3554 Q And what credit cards were those that
3555 were linked to Pay Pal?

3556 A One was a debit card from Wilshire State
3557 Bank and the other one was a credit card from
3558 Orchard in Leonardo's name.

3559 Q What is the full name of the institution
3560 known as Orchard?

3561 A Household HSBC, Orchard Bank, I believe.

3562 Q How long was the ebay account open?

3563 A Since Christmas of '04.

3564 Q How did you access the account?

3565 A Via the internet.

3566 Q Did you have a computer?

3567 A Did I have? Yes.

3568 Q Was that computer purchased from money
3569 you took from Acceleration Capital?

3570 A Yes.

3571 Q Or, rather, Acceleration Mercury Fund?

3572 A It was a laptop computer, yes, sir.

3573 Q Where is that laptop today?

3574 A It was destroyed by Coke spilling on it.

3575 Q Do you still have it?

3576 A I don't. There were three or four
3577 electronic pieces of equipment that I bought. I
3578 bought a TV for, like, four grand.

3579 BY MR. DOWD:

3580 Q Do you have that TV?
3581 A I sold it.
3582 Q What happened to it?
3583 A I sold it.
3584 Q Who did you sell it to?
3585 A I don't recall the name of the person.
3586 I sold it when I left Camarillo to get money to live
3587 on.
3588 Q How much did you sell it for?
3589 A 1500.
3590 Q What did you do with that \$1500?
3591 A Used it to live.
3592 MR. DOWD: Let's go off the record.
3593 [Recess.]
3594 BY MR. DOWD:

3595 Q Mr. Denniston, I understand that you
3596 have recalled the name of the brokerage firm where
3597 you had your IRA?
3598 A Yes. It was Scott Trade.
3599 Q And the name on that account was what?
3600 A Toby Denniston.
3601 Q Toby Denniston, II?
3602 A No. I don't recall that. Most of my
3603 legal documents is Toby Wayne Denniston, II. So if
3604 that was required, then yes.
3605 Q And if I could back you up to the time
3606 when you started at Castle Trading--
3607 A Sure.
3608 Q --at that point in time, what did you
3609 represent your credentials or background to be to
3610 Mr. Plyam?
3611 A Administrative. When I was
3612 interviewing, my only background was in purchasing,
3613 mostly.
3614 Q And when you interviewed for the
3615 position or when you submitted an application, did
3616 you make any representation that you had experience
3617 in the futures industry?
3618 A No. He asked me the question and I
3619 said--I told him that other than watching TV and
3620 seeing the stock market, I didn't.
3621 Q And at some point in time during your
3622 employment with Castle Trading, you started to do
3623 accounting work on behalf of the Gauss Fund; is that
3624 correct?
3625 A That's right.

3626 Q What representations did you make to Mr.
3627 Plyam with respect to your accounting background?

3628 A That I had gone to Waterson College and
3629 had accounting training.

3630 Q And at some point in your employment
3631 with Castle Trading, you did compliance work on
3632 behalf of Acceleration Mercury Fund; is that
3633 correct?

3634 A For all three entities, I did the
3635 compliance work for, yes.

3636 Q What three entities are you referring
3637 to?

3638 A CHP Asset Management for the Gauss Fund,
3639 Castle Trading and Acceleration Capital for the
3640 Acceleration Mercury Fund.

3641 Q Who authorized you to do that compliance
3642 work?

3643 A Mr. Plyam.

3644 Q And did you make any representation at
3645 any point in time to Mr. Plyam concerning your
3646 qualifications for doing compliance work?

3647 A No. No. A lot of it was just my
3648 ability to organize. He recognized that I could
3649 organize an office well, and he just--when the NFA
3650 audit came down, he just put me in charge of it with
3651 Mrs. Plyam's assistance at the beginning.

3652 Q Okay. I'd like you to look at Exhibit
3653 No. 7 again.

3654 A Sure.

3655 Q Can you tell us what is in Exhibit No.
3656 7?

3657 A These are the checks that I forged from
3658 Acceleration Mercury Fund, copy of checks that I
3659 forged.

3660 Q And you forged the checks by forging Mr.
3661 Plyam's signature on the checks?

3662 A That's right.

3663 Q And then upon forging Mr. Plyam's
3664 signature, did you cash those checks?

3665 A I did.

3666 Q Did you also deposit some of those
3667 checks?

3668 A I did.

3669 Q And by cash or depositing those checks,
3670 did you steal money from Acceleration Mercury Fund?

3671 A I did.

3672 Q As well as Acceleration Capital?
3673 A Yes.
3674 Q How often was the Acceleration Mercury
3675 Fund audited?
3676 A The Mercury Fund was audited twice.
3677 Q When was the first audit?
3678 A In January of 2005.
3679 Q Who performed that audit?
3680 A The auditor, his first name is Dick. I
3681 don't recall his last name, the auditor that Castle
3682 Trading hired. They performed the year-end audits

3683 for both Acceleration Mercury and the Gauss Fund.
3684 He also did the NFA paperwork for Castle Trading,
3685 you know, how much money you're supposed to have in
3686 the account, the \$30,000 or whatever it was. He did
3687 all that work too. He also did the audits for
3688 Castle and Gauss Fund for the four audits that were
3689 required by the NFA, BCC.
3690 Q And when was the second audit of Mercury
3691 Fund?
3692 A That was done by the NFA in August of
3693 2005.
3694 BY MR. SOLINSKY:
3695 Q When this fellow you identified only as
3696 Dick did the year-end audit of Acceleration Mercury
3697 Fund, what documents did he review?
3698 A He reviewed the balance sheet created by
3699 me, the income statements created by me, the Wells
3700 Fargo Bank statements, some of which were created by
3701 me, the Rosenthal Collins statements, some of which
3702 were amended by me.
3703 Q And which of those--when the auditor
3704 looked at the statements, which of those statements

3705 were statements that you had altered to reflect
3706 false amounts?
3707 A November of 2004 and December of 2004.
3708 Q What false statements was the auditor
3709 looking at in November 2004 related to the
3710 Acceleration Mercury Fund?
3711 A The month-end statement from Rosenthal
3712 Collins and the Wells Fargo Bank statement.
3713 Q And the same question for December 2004:
3714 What forged or altered statements by you was the
3715 auditor looking at in December 2004 relating to the
3716 Acceleration Mercury Fund?
3717 A The same two documents, the Wells Fargo

3718 and the Rosenthal Collins month-end statement.

3719 Q Did Mr.--I'm sorry. Did this fellow
3720 named Dick ever seek to look behind the statements
3721 to look at any checks from the statements?

3722 A I believe so, yes.

3723 Q And how did he get those checks?

3724 A I believe we had possession of them. I
3725 believe that we had copies of them. Not every
3726 check, but yeah, some checks, yes, both deposits and

3727 checks written out of the fund.

3728 [Denniston Exhibit No. 9 was
3729 marked for identification.]

3730 BY MR. DOWD:

3731 Q Mr. Denniston, do you recognize the
3732 document marked as Exhibit 9?

3733 A I believe so.

3734 Q What do you recognize this document to
3735 be?

3736 A A bank statement from Wells Fargo Bank.

3737 Q And for the record, Exhibit 9 contains
3738 pages Bates numbered 00100148 through 167. Mr.
3739 Denniston, anywhere in Exhibit 9, do you see any
3740 documents that you created? In other words, are any
3741 of these bank statements statements that you
3742 altered?

3743 A Yes.

3744 Q Okay. Can you identify by month each
3745 altered statement?

3746 A All of them were altered between
3747 November 2004 and August 22, 2005. All of them in
3748 Exhibit 9 were altered by me.

3749 Q And you altered these documents to
3750 conceal your theft of Acceleration Mercury Fund
3751 money?

3752 A That's right.

3753 Q These are the statements that referenced
3754 before that you created from a Word document?

3755 A Yes.

3756 [Denniston Exhibit No. 10 was
3757 marked for identification.]

3758 BY MR. DOWD:

3759 Q Mr. Denniston, do you recognize the
3760 document marked as Exhibit 10?

3761 A I believe so, yes.

3762 Q Can you tell us what this document is?

3763 A It is a month-end statement for

3764 Acceleration Mercury Fund.

3765 Q For what period of time?

3766 A If it's in chronological order, from
3767 January 31, 2005 through July 29, 2005.

3768 Q Looking at these documents contained in
3769 Exhibit No. 10, can you tell us if these are the
3770 actual account statements for the Rosenthal Collins

3771 Acceleration Mercury Fund, or are these account
3772 statements that you altered?

3773 A As far as I can see, they are ones that
3774 I altered.

3775 Q Okay. And which months are the altered
3776 statements? For reference, feel free to refer to
3777 Exhibit No. 5, if necessary.

3778 A I appreciate that.

3779 [Witness peruses exhibits.]

3780 THE WITNESS: Can you repeat the
3781 question?

3782 MR. DOWD: Can you read back my last
3783 question?

3784 [Whereupon, the pending question was
3785 read back by the court reporter.]

3786 THE WITNESS: All of them in Exhibit 10
3787 were altered by me.

3788 BY MR. DOWD:

3789 Q And why did you alter the statements in
3790 Exhibit No. 10?

3791 A To conceal my theft.

3792 Q Your theft of what?

3793 A Theft of monies from the fund.

3794 Q The Acceleration Mercury Fund?

3795 A Yes.

3796 Q Who did you provide the documents in
3797 Exhibit No. 10 to?

3798 A I believe that would have been the NFA.

3799 Q Anyone else?

3800 A No.

3801 Q If we could back up for a moment to
3802 Exhibit No. 9--

3803 A Yes, sir.

3804 Q --who did you provide the documents in
3805 Exhibit No. 9 to?

3806 A The auditor for the month-end, which was
3807 Dick somebody and the NFA.

3808 [Denniston Exhibit Nos. 11 and 12
3809 were marked for identification.]

3810 BY MR. DOWD:
3811 Q Mr. Denniston, I've just handed you
3812 documents marked Exhibits 11 and 12. Tell us what
3813 those documents are.
3814 A These are bank statements from Wells
3815 Fargo Bank for Acceleration Capital.
3816 Q Okay. And is that true for both 11 and
3817 12?
3818 A I believe so. One might be mine versus
3819 the bank's.
3820 Q So one is the actual account statements
3821 and the other is account statements that you created
3822 to conceal your theft?
3823 A Yes.
3824 Q Which one is which?
3825 A I believe 11, Exhibit 11, is mine and
3826 Exhibit 12 is the actual statement for Wells Fargo
3827 Bank.
3828 Q Okay. Are any of the account statements
3829 in Exhibit No. 11 accurate, or did you create all of
3830 them?
3831 A I believe I created all of them.
3832 Q By creating all of them, I'm referring
3833 to your practice of altering account statements to
3834 conceal your theft.
3835 A My practice, yes, sir.
3836 Q So Exhibit No. 11, all the account
3837 statements therein, were created by you to conceal
3838 your theft?
3839 A Yes.
3840 Q Who did you provide the documents in
3841 Exhibit No. 11 to?
3842 A The NFA.
3843 Q And for the record, Exhibit No. 11 is
3844 Bates numbered 00100259?
3845 A 289?
3846 Q I'm looking at 00100259 as 11. Exhibit
3847 No. 11 is Bates numbered 00100289 through 298; is
3848 that correct?
3849 A Yes.
3850 Q Is it your testimony that Exhibit No. 11
3851 encompasses the false account statements that you
3852 created?
3853 A I believe so, yes.
3854 Q To whom did you provide those false
3855 account statements?

3856 A The NFA.
3857 Q Anyone else?
3858 A To my recollection, no, sir.

3859 [Denniston Exhibit No. 13 was
3860 marked for identification.]

3861 BY MR. DOWD:

3862 Q Mr. Denniston, do you recognize the
3863 document marked as Exhibit No. 13?

3864 A I do.

3865 Q Tell us what this document is.

3866 A It is a month-end statement for each
3867 participant in the Mercury Fund.

3868 Q For the record, 13 is Bates numbered
3869 0010016 through 31, and, Mr. Denniston, if I could
3870 move you forward--

3871 A Excuse. Me it's not each client. It
3872 just looks like two clients.

3873 Q Which two clients?

3874 A Andrew Diener and Paul Maggio.

3875 Q If I could move you forward to the page
3876 Bates numbered 00100023--

3877 A Yes.

3878 Q --what is this document?

3879 A It is the month-end statement for Paul
3880 Maggio's shares of the Mercury Fund for November 30,

3881 2004.

3882 Q Do you know who created this document?

3883 A I did.

3884 Q Is this document accurate? Does it
3885 accurately reflect Mr. Maggio's interest in the
3886 Mercury Fund?

3887 A With my theft, yes.

3888 Q Does it accurately reflect the balance
3889 of the Acceleration Mercury Fund?

3890 A I'm going to try to answer this. I'm
3891 trying to be honest with you. You know that.

3892 Right? This was that what the RCG statement said at
3893 the end of November. It does not, however,

3894 reflect--no. There was an additional included in
3895 each of the statements from RCG to conceal my theft.

3896 So is it accurate as to the amount of
3897 money that was in RCG, yes. Is it accurate to what
3898 really was the loss or the profit for the fund? No.

3899 Q Okay. So the document at 23 contains
3900 inaccurate information?

3901 A I believe so, yes. Yeah.

3902 Q What information is inaccurate on the
3903 page Bates numbered 23?
3904 A The change in unrealized futures.
3905 Q And did you send the document Bates
3906 numbered 23 to Mr. Maggio?
3907 A I'm sure that I did, yes.
3908 Q Do you recognize the signature on the
3909 bottom of that page?
3910 A I do.
3911 Q Whose signature is that?
3912 A Yuri Plyam.
3913 Q If I could move you forward to the page
3914 Bates numbered 24--
3915 A Yes.
3916 Q --what is this document?
3917 A That is for--the month--end statement
3918 for Mr. Maggio for December 30, 2004.
3919 Q And does this document contain any
3920 inaccurate information?
3921 A I'm sure that it does, yes.
3922 Q What information on this document is
3923 inaccurate?
3924 A The unrealized futures.

3925 Q Anything else?
3926 A This looks like my forgery of Mr.
3927 Plyam's signature.
3928 Q Why did you forge Mr. Plyam's signature
3929 on this document?
3930 A I don't believe--let me take that back.
3931 I didn't forge his signature. I signed his name for
3932 him.
3933 Q Were you authorized to sign his name on
3934 this document?
3935 A Probably, yes.
3936 Q Who authorized you to sign his name on
3937 this document?
3938 A He probably did. He would have, yes.
3939 Q Why did he authorize you to sign his
3940 name on this document?
3941 A Just so that I can get the document out.
3942 Q How often did you do that?
3943 A I don't recall. A couple of times.
3944 Q Did you send this document to Mr.
3945 Maggio?
3946 A I'm sure that I did.

3947 Q Moving forward to page 25, can you tell
3948 us what this document is?
3949 A It is the month-end statement for
3950 January 31, 2005 for Mr. Maggio's shares of Mercury
3951 Fund.
3952 Q Does this document contain any
3953 inaccurate information?
3954 A I'm sure that it does.
3955 Q What inaccurate information is that?
3956 A The unrealized futures. I'm sorry. The
3957 realized futures. It would have been the realized
3958 futures.
3959 Q Okay. Explain that to us.
3960 A Realized are actual changes. Unrealized
3961 is open contracts that have not yet been closed out.
3962 This is a snapshot of what it contained at the end
3963 of January.
3964 Q Would that have been true for Documents
3965 23 and 24 as well?
3966 A That is right. I misspoke.
3967 Q The inaccurate information on 23 and 24
3968 is the realized, gross realized, futures
3969 information?
3970 A Not the change of unrealized futures,
3971 that is right. Also, can I add the commission
3972 charged would have been false as well.
3973 Q And moving forward, if you could look at
3974 Documents 26 through 31, do each of these documents
3975 contain inaccurate information?
3976 A Yes.
3977 Q And what inaccurate information is that?
3978 A The same as the previous, the gross
3979 realized futures.
3980 Q Are each of the documents Bates numbered
3981 26 through 31 account statements for the Mercury
3982 Fund?
3983 A Yes, sir, for Paul Maggio's share of the
3984 fund.
3985 Q Did you mail each of those account
3986 statements to Mr. Maggio?
3987 A I believe that I did.
3988 Q At the time you mailed these account
3989 statements to Mr. Maggio, were you aware that the
3990 account statements contained inaccurate information?
3991 A I do--they did.
3992 BY MR. SOLINSKY:

3993 Q Other than by mailing, did you transmit
3994 the account statements in this exhibit Bates
3995 numbered 0010016 through 0010031 in any other
3996 manner?

3997 A I don't recall.

3998 Q Did you ever fax statements to people?

3999 A No.

4000 Q Did you ever E-mail statements to
4001 people?

4002 A I did.

4003 Q Who did you E-mail statements to?

4004 A The people that lived in Europe. I
4005 don't recall their names. There were two clients, I
4006 believe, that lived in Europe that didn't get them
4007 quickly enough. So I mailed them in the postal mail
4008 and E-mailed them, I believe.

4009 BY MR. DOWD:

4010 Q How was your theft initially discovered?

4011 A Through the audit done by the NFA.

4012 Q What specifically happened?

4013 A My changes to the Acceleration Capital
4014 didn't reflect a deposit that was taken out of the
4015 Mercury Fund statement.

4016 Q Your changes to the Acceleration Capital
4017 Bank statements?

4018 A Yes. The Wells Fargo Bank statement.

4019 Q Did not reflect--

4020 A A deposit that should have been in.

4021 What happened was a check that was written from
4022 Acceleration Mercury to Acceleration Capital,
4023 Acceleration Mercury I showed as being withdrawn,
4024 but did not show the deposit into Acceleration
4025 Capital in my forged statements.

4026 Q Okay. And--

4027 A How they reflected--how they got to the
4028 Mercury Fund, I don't know. I left the building.

4029 Q What do you mean you left?

4030 A I walked out the door.

4031 Q Who was doing the audit for the NFA?

4032 A Michelle. I don't remember her last
4033 name. There were four people there, and I don't
4034 know their names. I don't recall their names.

4035 Q Do you recall if it was Michelle or
4036 someone else who asked you about this transaction in
4037 the Acceleration Capital account?

4038 A It was one of the NFA people, yes.

4039 Q Do you recall specifically who was?
4040 A The main person in charge, and I believe
4041 that was Michelle.
4042 Q And did Michelle come to you and ask you
4043 about this transaction?
4044 A She did.
4045 Q What was your response?
4046 A I would have to get back to her; I don't
4047 know.
4048 Q Did you get back to her?
4049 A I did not.
4050 Q What did you do?
4051 A I walked out of the building.
4052 Q Where did you go?
4053 A I went home.
4054 Q What did you do at that point?
4055 A I picked up my partner and we went to
4056 Ontario, to Gabriella's house.

4057 Q Why did you do that?
4058 A I was afraid.
4059 Q Afraid of what?
4060 A Being arrested.
4061 Q And at any point after you left, did you
4062 have a conversation with Yuri?
4063 A Yes.
4064 Q When did that happen?
4065 A I believe it was that afternoon.
4066 Q Do you recall the date?
4067 A The 24th of August.
4068 Q 2005?
4069 A Yes.
4070 Q What did Yuri say to you?
4071 A He says, Toby, when are you coming back?
4072 I said, I'm not coming back. He said, We have to do
4073 the audit; you have to come here; you have to
4074 participate in this. I said, Yuri, I'm not coming
4075 back. He said, What's going on? I said, Yuri, I
4076 took the money. And I hung up the phone.
4077 Q Did you have a conversation with him
4078 subsequent to that?

4079 A After that, I don't recall. I remember
4080 Mrs. Plyam, I had a conversation with her. She
4081 called Leonardo's cell phone and I talked to her.
4082 Q When did that conversation take place?
4083 A I believe it was the next day. And she
4084 wanted to know how far it had gone.

4085 Q What did you say to her?
4086 A I said I wasn't going to say anything.
4087 I had--that's another thing I spent money on. I had
4088 hired an attorney to take care of a matter in
4089 regards to a ticket, and I paid him \$4,000 to take
4090 care of that ticket. When I left that afternoon,
4091 the day that this was discovered, I called him and
4092 asked him what him what I should do. He told me to
4093 return, that maybe nobody would ever find out about
4094 the Acceleration Mercury, because that hadn't been
4095 found out yet. It was just Acceleration Capital,
4096 and I told him that they would find out because the
4097 money that was in the Wells Fargo Bank account was
4098 not what was reflected on the statement, that it was
4099 \$50,000 short and that we were getting ready to
4100 close the fund and that that would have been found

4101 out very soon.

4102 Q Did you say anything else to Natalie
4103 Plyam other than--

4104 A That I wasn't going to talk to her?

4105 Q That you weren't going to talk to her?

4106 A No. I don't think so.

4107 Q At any point subsequent to that
4108 conversation, did you have a conversation with
4109 Natalia Plyam?

4110 A I called them the day that I went and
4111 saw Agent Heingst. I didn't talk to them. I left
4112 them a message. They did not return the message.

4113 Q Is that the same message you described
4114 earlier?

4115 A No. I left them a message that I had
4116 seen Agent Heingst, that I gave him a full
4117 confession, and that I apologize. I felt bad for
4118 what I had done.

4119 Q When you say you gave Agent Heingst a
4120 full confession, what exactly do you mean?

4121 A Just exactly what I told you today, that
4122 I had taken money from the fund and how I did it.

4123 Q Did you sign a statement to that effect?

4124 A I did.

4125 Q Have you ever had a copy of that
4126 statement?

4127 A No.

4128 Q Have you ever spoken with any
4129 representative of the Acceleration Mercury Fund
4130 since the time you walked out of the building?

4131 A No, except for that afternoon.
4132 Q Expect what you've identified thus far?
4133 A Yeah. That afternoon, I talked to Yuri,
4134 and the next day I talked to Natasha. Since then,
4135 I've not spoken to either one. I've left them
4136 messages. They've not returned my call.
4137 Q Have you had any conversations with NFA
4138 since the time you walked out of the building?
4139 A No. Nobody as far as I know has tried
4140 to contact me. I've had the same phone number.
4141 Nobody has tried to contact me. Agent Heingst got a
4142 hold of me through my brother.
4143 Q When was that?
4144 A Late August. No. It was September.

4145 Q When in September?
4146 A Mid-September, looking for me.
4147 Q What did you say to him?
4148 A Who? My brother?
4149 Q When Agent Heingst called you in
4150 mid-September.
4151 A He didn't call me. He called my brother
4152 looking for me. I didn't talk to Agent Heingst
4153 until October 10th or 12th or whatever date that
4154 was.
4155 Q What did your brother say to you?
4156 A He was mad that all--because I guess
4157 Yuri--well, let's back up. This was found out that
4158 Wednesday or Thursday prior to the Labor Day
4159 weekend. Saturday and Sunday, I had heard from my
4160 mother who had heard from Yuri that I had done this.
4161 Yuri contacted my family, did not contact me, and my
4162 family urged me to talk to Agent Heingst. That's
4163 the process of how that happened.
4164 Q Okay. So at some point in time, you got
4165 in contact with Agent Heingst?
4166 A I did.

4167 Q You called him?
4168 A He never called me direct. He
4169 communicated through my brother. I called him and
4170 told him that I was ready to meet.
4171 Q When was that, roughly?
4172 A Late September.
4173 Q When did you actually meet with Agent
4174 Heingst?
4175 A October, I think it was 10th or 12th,
4176 something like that. Early October 2005.

4177 Q Where did you meet?
4178 A In his office at the Secret Service
4179 office in Los Angeles, downtown.
4180 Q Was it during that meeting that you gave
4181 Agent Heingst a confession?
4182 A I did.
4183 Q Have you had any meetings with Agent
4184 Heingst subsequent to that meeting?
4185 A Yes. I was processed in January where
4186 my picture was taken and my fingerprints taken, and
4187 I leave him a message and/or talk to him every
4188 Friday.

4189 Q Does he require that?
4190 A Yes.
4191 Q What do you discuss during those weekly
4192 conversations?
4193 A Just where I live, my phone number, and
4194 that I'm in town, what am I doing precisely. He
4195 just wants to keep tabs to make sure that I am
4196 available for whenever they decide to move forward
4197 with my case.
4198 Q Have you had any conversations with Bill
4199 Yu?
4200 A I have not.
4201 Q Have you had any conversations with
4202 anyone in the United States Attorney's Office?
4203 A No.
4204 Q Have you had any discussions with any
4205 police departments?
4206 A No. Agent Heingst told me that the Los
4207 Angeles Police Department was going to process the
4208 claim, but he said he would take care of it, and
4209 they dropped it so it would be a federal issue; I
4210 wouldn't have to deal with the State, as far as I
4211 know, right now; they weren't going to process
4212 anything. I did leave a message for Bill Yu after--
4213 Q Mr. Solinsky?
4214 A Solinsky gave me his number. I
4215 contacted him. I asked him to call me back. He
4216 never did.
4217 MR. SOLINSKY: Off the record.
4218 [Recess.]
4219 BY MR. DOWD:
4220 Q Mr. Denniston, if I could back you up to
4221 Exhibit No. 5, do you have that in your pile to your
4222 left?

4223 A Yes.
4224 Q Okay. These are the account statements
4225 for Acceleration Mercury Fund for Rosenthal Collins;
4226 is that correct?
4227 A Yes.
4228 Q Were these account statements mailed to
4229 Acceleration Capital?
4230 A Post mail, no, sir. E-mailed.
4231 Q Were they ever post mailed?
4232 A Maybe. I don't recall. I believe so.

4233 I believe I had both copies. No. I apologize.
4234 That was Revco. Revco, I had both copies.
4235 Acceleration Mercury was E-mail only.

4236 Q E-mail only from Rosenthal Collins
4237 Group?

4238 A Right.

4239 Q And those were sent to the
4240 Info@CastleTrading.com E-mail address?

4241 A I believe so, yes.

4242 Q Were they sent to any other E-mail
4243 address?

4244 A If they were, it would have been the
4245 Info@AccelerationCapital. I don't think so. I
4246 think they were Info@CastleTrading.

4247 Q And Mr. Plyam had access to both of
4248 those accounts?

4249 A Yes.

4250 Q Both of those E-mail accounts?

4251 A Yes.

4252 Q Were the account statements forwarded to
4253 you from the Info@AccelerationCapital address, or
4254 what was the other one?

4255 A Info@AccelerationCapital.

4256 Q Whatever address it went to of those
4257 two, it was subsequently forwarded to you?

4258 A Yes.

4259 Q Do you wish to add anything to clarify
4260 anything to the statements you made today?

4261 A Again, my humblest, deepest and
4262 sincerest apologies to everyone and everything that
4263 my theft cause. I expect that when and if--not
4264 if--when I'm brought up on charges that my
4265 cooperation with both you and Agent Heingst will
4266 subdue any of my liability, but I understand that
4267 and I expect that--I deserve to be punished, and Mr.
4268 Plyam's ability to manage the office, it's a

4269 very--he's very good at it. What I did was behind
4270 his back, was obviously behind his back, but I
4271 also--with the ability to change the documents, I
4272 was able to get in there early in the morning. So
4273 when he was looking at might have been actual and
4274 factual for what he thought would have been the
4275 case.

4276 Do you know what I mean? Does that make

4277 sense?

4278 Q Do you have anything else you want to
4279 say?

4280 A No. I'm sorry. Thank you.

4281 Q Have you answered all questions to the
4282 best of your ability based on your knowledge?

4283 A Yes.

4284 MR. DOWD: Okay. We have no further
4285 questions for you at this point in time. If we need
4286 to speak to you again, we will be in touch. On
4287 behalf of the CFTC, I'd like to thank you for coming
4288 in and testifying today, and we're off the record at
4289 approximately 1 p.m.

4290 [Whereupon, at 12:57 p.m., the
4291 deposition concluded.]

4292 [Signature waived.]

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