a trackable model?

A Well, I think you would to need disclaim that, too. If -- If it's one or the other. You know, I'm not an expert on -- on disclaimers and disclosures, but I have seen a lot of them and I would think that you -- it -- it just makes common sense to me that you would differentiate between a model done with hindsight versus a model that actually existed, you know, without the benefit of hindsight.

Q Okay. And is the net of that that you would want it to be clear to the client which model you were presenting to the client? Is that the result?

A Sorry. Could you repeat?

Q Sure. You know, you were talking about being clear as to whether you were using hindsight or not.

A Right.

Q I mean, I guess the goal of that would be to make that clear to the client or the prospective client?

A Absolutely.

Q Okay. Did you advise them on whether or not they should disclose that, you know, on the same page with the performance results or whether they could put it in a footnote?

A We never really got to that level of detail I think, you know -- I think that ended up in compliance's

court, and I think that at one time or another I may have been asked to review what was going to be the list of all the disclaimers and disclosures or whatever, and I think I gave some feedback on it.

Q Okay.

A Bus that is the -- that's the greatest extent I would have been involved in that.

Q Okay. Are you a disclosure expert?

A No.

Q Did you tell SGC or SCM or any of their employees that you were?

A I don't think so.

Q Okay. Did you convey that message in any way?

A I mean, I think it -- it can easily be assumed that as a performance person I have should be familiar with performance, you know, disclaimers and disclosures, but the reality is that every body's were different. So I don't spend -- I don't spend a lot of time on that. I mean, what their interpretation of my level of expertise would have been implied, not explicit.

Q Okay. Did you -- So you never affirmatively represented yourself as an expert on disclosure?

A No.

Q Okay. In your practice, do you read the SEC rules and regulations on that issue?

A No.

Q Okay. Do you keep up with the no action letters?

A No.

Q Do you follow the enforcement cases?

A No.

Q Okay. Do you know one way or the other what's permissible and what's prohibited in terms of how you present your track record?

A The only thing I know pertinent to track record is the GIPS standards. As a CFA and a CIPM I need to know the GIPS standards inside and out, and I keep a copy on my desk as a reference. But as far as the SEC goes, no.

Q Okay. More generally, if you were presenting model performance with the benefit of hindsight, would you be comfortable with putting that -- putting that performance underneath the title that says historical performance?

A You know, first of all, my opinion on models with hindsight I think they're completely useless and ridiculous and should be at best supplemental information and clearly identified as such.

Q Okay.

A So I have no use for historical models with hindsight.

Q Okay.

A Because I could -- I could create a portfolio by the end of the day today that shoots lights out, you know, for the last ten years.

Q Uh-huh. The key thing being hindsight?

A Exactly.

Q You just pick the top five filings over the last five years and --

A Yeah.

Q Okay.

A Pretty -- Pretty easy to do really.

Q Right. And is the obvious danger that if you do that and then don't tell the client that's what they've done -- that's what you've done the client may assume that that is your real track record?

A If it's not adequately disclosed or disclaimed, then, yeah, I would think that that would be very misleading.

Q Okay. Do you know whether or not the model numbers pre-'05 that were being presented were prepared with the benefit of hindsight?

A I do not know, no.

Q Were there any discussions about that issue?

A No.

Q Was management, Parrish or Stys, at all upset with the FAs for raising the issue?

A Which issue?

Q The -- I should be more clear.

The issue regarding differences between composite -- or the model performance and actual client performance?

A No. I mean, I think that they were pretty frustrated with -- with, you know, general squawking. You know, the FAs were pretty squeaky wheel, that was the sense that I got. They -- They wanted the world, but had no appreciation for what it took to get there, you know, operationally speaking.

You know, if, for example, that was one of my original marching orders is that -- is -- was FA driven is they wanted the total wealth picture in the client's statement and they wanted performance for the total wealth pictures, because frankly the FAs wanted the benefit of this shoot the lights out performance of the bank's CD. So the bank CD is doing double digit returns every year and, you know, that could buoy their accounts upwards if you're able to include that positive performance, especially in -- you know, the majority of the Stanford accounts which were FA managed accounts that weren't in SAS or SAM or any of the other professionally managed, you know, strategies.

If it was just managed by the FA on a consultative basis with the client and a CD is a component of that and maybe in some cases as significant component of that and you're down 10 percent and the CD is up 10 percent, you're at least about to break even.

So that -- you know, that was one of the things that the FA were very vocal about is they wanted to include everything, and that's -- that's a bullet on the last page of the presentation. We have a strategy in place to get to a consolidated reporting capability that is inclusive of all assets classes.

I think Mark felt that it was important enough at this meeting to continue to stress that point

that we're addressing yet another one of their complaints, which is the lack of all assets in the -- in reporting and performance. So, you know, the gist of it is this: Is I think Mark and Zack were trying to build the business, yet they were myriad in, you know, complaints about the past from the FAs and, you know, all the wants and needs of the FAs to have, you know, this type of reporting, this type of access. They wanted more online, you know, Internet based type of access to reporting. They wanted, you know, their marketing in the pitch books to match what the client actually got at the end of the day. I mean, they had some demands.

Q Okay. So that thing about the marketing matching the pitch book, was there concern raised at the meeting that the marketing materials were inaccurate?

A Absolutely, yeah. I mean, I think that was -- was a general issue at the firm is that, you know, a really savvy person could -- could -- if they saved their pitch book could say, hey, this doesn't match, and call the FA out on it.

Q Right. So a savvy client?

A Exactly. A savvy client could have -- could have been like, hey, this doesn't -- this doesn't -- doesn't jive.

Q For --

A Like, for example, let's say they were already in one strategy and they're being pitched another one, so that type of scenario.

Q Okay. So let's say somebody hypothetically

like a CPA is in SAS for all of '06, he gets the '07 pitch book and he sees the SAS performance number of 15.55 and he looks back at his account and he sees that he only got 12 --

A Uh-huh.

Q -- is that the type of thing you're talking about, or is that --

A Exactly, yes. That's the exact thing I'm talking about.

Q Okay. Did anything -- Did anything like that come up at the March meeting?

A No. I don't think anyone went to a specific example. You know, the examples were already given, you know, Mark had passed along to me the 25, 30 some-odd accounts, you know, handful from, you know, this half a dozen FAs that had issue. They picked -- each FA picked a handful of accounts and they all made it, you know, their way to my desk to do my analysis.

Q Okay.

A Of which I selectively chose a few to look at.

Q Okay. So looking at this from two different angles the FAs were concerned, one, about whether or not the actual clients reports are accurate?

A Right.

Q And is they were also concerned about whether or not the marketing materials presented an inflated track record?

A Well, I don't know what their exact concern is,

it's just that, you know, I think from my perspective is every one in the room wanted the numbers to jive, and how are we going to get to that point where the number are in line.

Q Wanted the marketing materials to align with the actual client?

A Pitch books, marketing materials, client reporting, everything should be in line.

Q Okay.

A I think that if we're all on the same team that's what we were all looking to do.

Q Okay. Were any of the FAs expressing concern about potential liability? Like, I'm using this pitch book and the numbers are high, anything like that?

A Not to my recollection. You know, had I known now how important that meeting was going to be maybe I would have paid closer attention to some of the details that didn't concern me.

Q Okay.

A So that would have been a detail that I wouldn't have cared much about I don't think.

Q You wouldn't have cared if the FAs were worried about potential liability?

A Well, I mean, not so much as it just -- it -- it didn't pertain to the job that I was -- that I was working on. I mean, again, I was -- I was very focused on my work versus anything that was done before my time, so to put it in the proper context, I cared a heck of lot less than anything that didn't have to do specifically with me and my brand new consulting firm.

Q Was there any sensitivity around the materials that were presented? Were the FAs told keep this stuff in-house, or, you know, we prefer you didn't take this with you, anything like that?

A Not to my knowledge.

Q Okay. Was there any discussion that in any way implied should be careful that this doesn't fall into the hands of the SEC?

A Not to my knowledge.

Q Okay. Was there any discussion about not putting performance reporting related issues in e-mail?

A Not to my recollection.

Q But you can't say that it didn't happen?

A I can't say for sure.

Q Making notes for Mr. Stys?

A And myself.

Q That's a yes?

A I need to remember what -- what the touchy issues were.

Q For yourself and Mr. Stys?

A Yes.

Q Okay. So this March, 2007 meeting is over, the next thing you did is that -- as far as big picture issues, is that completing your '06 composites?

A I'm sorry. One more time.

Q Sure. So this meeting is over, the next kind of milestone is -- is that you completing the 2006 composites in mid '07?

A Well, we -- we had a steppingstone before that. I mean, I think if you go back to Exhibit 33 the very last bullet of the presentation is we will consider restating 2006 for all model portfolios.

Q Uh-huh.

A We -- You know, so before I could even get to composite construction I was still focused on model returns.

Q So making sure the model for '06 was accurate?

A Correct, across all strategies.

Q Okay. And then once you got that number nailed down then you moved onto the composite?

A Correct.

Q Okay. Do you know whether or not they restated '06?

A Well, you know, this meeting happened in March -- March of '07, and from our session this morning you recall Shenna George and marketing were anxiously anticipating my work being done at the end of April of '07 --

Q Uh-huh.

A -- which was for all intents and purposes a complete restatement of every model for all of '06. That's what I gave -- I spread that out via e-mail end of April to compliance, marketing, Jason D'Amto, Zack

Parrish, Mark Stys, you know, that whole dispersion list of here is the best numbers, the best of my abilities based upon all the data that I had to -- to give an accurate model performance for 2006.

Q Okay. One last thing on the March 28th, 2007 meeting, were you there for the entire meeting?

A Yes.

Q Okay.

A As far as I know.

Q To the best of your recollection?

A Well, unless there was a meeting before or after me, I was there for, you know, this entire presentation at least.

Q Okay.

A I can't -- I can't say what people were doing when I wasn't in the room.

Q Sure. Okay. So just to kind of put in one place in the transcript when you did what, so you got there, you did some of your preliminary work, you're -- in '07, are you doing the '07 composites on a go-forward basis as -- as the quarters end essentially?

A I believe that is how things went down, yes.

Q Okay.

A In '07, I was actually up to date at least with the current quarter composites. It was the march backwards in time that was going to take longer.

Q Okay. So you did 2007 kind of on a going forward basis, like, end of first quarter '07 you would

take a month or so, or however long it took, do -- and deliver the numbers for the first quarter. And then you did -- you did your review for each quarter of '07, you know, sometime shortly after the end of the quarter?

A Yes. I mean, we got better as the year progressed, but '07 was done in a pretty close to how you would in normal production environment.

Q Okay. And then you also completed '06 around mid '07, somewhere in that ballpark?

A Composites? Probably closer to late '07 or maybe even early '08.

Q Okay. Okay. And then early 2008, is that when you prepared the three-year composites for each of the strategies?

A Yes. I -- I started working on '06 -- or probably '05 we -- they added a few strategies to the mix, too, that I had to do, so we were up to ten strategies. And for four of those strategies I had to do all three years at the same time. Although, some of them didn't have a full three years of existence.

But we added the ETF. I mean, these -- these -- the original six strategies were mutual fund strategies, and then they added four ETF strategies that I did as far as back as they would go -- or that they existed, so this was all happening in Q1 of '08.

Q Okay. Just to kind of nail down this timeframe I'm going to hand you a document that I'm marking as Exhibit 34. It appears to be an e-mail from Steve Riordan to Mark Stys copying Jason D'Amto, Robert Baker, Christopher Thuku, and Zack Parrish entitled subject SAS composite history update, if I didn't say it, it's dated January 31, 2008.

(SEC Exhibit No. 34 was marked for identification.)

BY MR. KELTNER:

Q It starts out, I know SAS composite history has been behind the black curtain for sometime, so I wanted to show you-all some progress. Most of the time has been spent building the tools and creating the process to get 'er done not to the mention the time required for maintenance of 2007 numbers, which has recently been handed over to PMRG team for 2008.

I now feel good about the process and the capability of the tools so the remaining SAS and then SAM should move much more expeditiously.

And then skipping down a little bit it says, Please find attached the three-year composite track records for SAS EQ ALT, balanced income and income, also attached are the GIPS compliant required distribution reports.

And then skipping forward, I expect to have the next three growth, balanced growth, and balance done in the next few days. Let me know what you think.

So Exhibit 4 (sic) this an e-mail where you're distributing some of your early work on the -- or early completions of the three-year composites?

A Yeah. This -- This would have -- Exhibit 34

would have been the first time that anyone besides myself would have seen composite -- three-year composite numbers through '07 for any of the strategies.

Q Okay. And so is this also the first time that there would have been composites for 2005?

A Correct.

Q Okay. So you already had '06 in the can, and you were doing '07 on a rolling basis, correct?

A No, no. '06 was -- was only model performance until this e-mail.

Q Okay. So you didn't -- this is your first 2006 composite about performance?

A Correct. I was -- I was staying caught up with '07 and then I had to walk backwards in time to do '06 and '05, because we had -- we had to no recordkeeping to tell me which account was what. We had to -- in some cases, especially for '05, we didn't even know what the model was. We didn't even have good recordkeeping for what the model was.

So I used the account level data to establish the model, so it was essentially a walk backwards through time so we had good information currently in '07. We had models and we had composites. And then I walked backwards in time testing every single account for every single month to make sure that we were grouping like with like for every time period all the way back to '05.

So by the time you get to -- you know, you could maybe have a thousand accounts as of '07, as you

walk backwards in time there may be only be a handful that -- that survive all the way back to the beginning of the strategy.

Q Okay.

A So it was -- it was iterative process and -- and it took -- it took a long time because we did test every single account.

Q When you do the testing that way if there were accounts, let's say in growth for example, where IAG screwed up, they were growth accounts but they failed to track the model. Are all those accounts getting kicked out?

A It -- You know, it's -- it's a little bit more of an art than a science, and I had to use, you know, my discretion, my experience essentially to make some determinations in certain -- you know, for certain accounts and for certain months. You know, the -- the general rule of thumb, though, that we had was -- is that -- this is a managed account program, these accounts should hold the exact same securities as each other that are in the same program.

We gave a tolerance of three and a half percent on either side of weighting, so if the weight target was five an account could be as little as 1.5 and as high as 8.5 from a percentage allocation perspective. If it had some very, very small, like, rights or warrants or legacy type holdings that were insignificant, I would let those pass through.

The goal was to include more accounts -- as many as accounts as possible, because from my perspective I'm trying to get these guys on the road to towards -- towards GIPS compliance and knowing that every account is going to have to be included in a composite, so the more accounts I was able to include the better.

So, you know, I errored on the side of -- of having a little bit more wiggle room and including versus kicking everything out that didn't match to the letter of the law.

Q Okay. But if an account differed in a significant manner from, you know, other accounts in the same strategy, it probably got kicked out?

A Yes.

Q Okay.

A And -- And we have relatively decent spreadsheets that would sort of, you know, illustrate which accounts were included and excluded as of given point in time.

Q Yeah. And I think I've seen some of those showing that, you know, for some strategies we have 5 percent of accounts were kicked out up to maybe have a high of maybe 10, 11 percent for some of the others, does that sound ballpark?

A Yeah. I would -- I would try to quantify it for them and -- and, you know, for me it was useful feedback to IAG to say, you know, a lot of these kick outs, you know, are because the accounts not following the strategy, so this is basically an assessment of how you're doing from a trading perspective.

But at the same time they also had accounts that were restricted and, you know, had a dollar cost averaging requirements and do not trade requirements that I was not aware.

Q Sure. But were there certain accounts that just, you know, clearly IAG had just messed up on the allocation or messed up on the weighting?

A I mean -- yeah, I would say so. I think I saw significant improvement, you know, as the years progressed even though I sort of did it backwards. But things were much cleaner in '07 than they were in '06 and they were cleaner and tighter in '06 than they were in '05.

And so I really chalked up the inconsistencies I found to lack of experience, lack of process. I know SAS grew very, very rapidly, so I pretty much chalked up the inconsistencies to that.

Q How did the changes in the model go into effect for a given investor? In other words, if you change the mold, is there automatic flow through to the client where their holdings should change?

A Well, automated is -- is subjective, I think. They had a process, I don't know how automated it was, but from all the data that I have seen, and I have seen a

good amount of it, you know, they were roughly in the ballpark of 80 to 90 percent, you know, of rebal on the same date.

And then a lot of times they would catch their remaining -- their remaining 10 percent the next day, or maybe in some cases a couple of weeks later, or in some cases, which caused me pain, not until the following month or months thereafter. So there was -- there was definitely some inconsistencies in -- in the rebals.

(SEC Exhibit No. 35 was marked for identification.)

BY MR. KELTNER:

Q Okay. I'm going to go ahead and hand you a document that I'm marking as Exhibit -- what are we up to now -- 35 I think?

A 35.

Q And Exhibit 35 is a collection of documents, six pages, the, first page is entitled composite dispersion gross of fees, SAS growth January 1, 2005 through December 31, 2007.

Can you tell me generally what the documents are in -- that comprise Exhibit 35?

A Yes. These are produced from the Advent and AXYS platform. It's -- It's the only composite report

that the Advent AXYS platform has. It's a summery of -- you know, it's one strategy per page and it looks like we've got gross in net of fees for three of the strategies, growth, balance growth, and balanced.

Q Okay. And when you say net of -- gross in net of fees, which fees are we talking about? Are these the fees from Stanford or are these the fees from underlying mutual funds?

A These would be Stanford fees.

Q Okay. So the management fee that Stanford charges?

A Yeah.

Q Okay. To calculate the net of fees number -- excuse me -- do you use actual cash flows?

A Yes.

Q Okay. So you show the fee coming out when?

A Exactly as it occurs. It's a cash -- cash method.

Q Okay. So it's not as simple as subtracting 1.25 or whatever the fee is?

A Right. But it should be a good approximation. If -- If you, you know, if the Stanford stated fee for growth, for example, was one percent annually, then approximately your difference in return should be in that neighborhood.

Q Okay. So, for example, on the SAS growth model you see the 2005 composite gross in net of fees?

A Yep.

Q Gross appears to be 8.8 and net is 7.3?

A Right.

Q So roughly is the fee 150 basis points?

A Exactly, yep.

Q Okay. So generally the documents in Exhibit 35 these are the three-year composites you compared -- prepared?

A Right.

Q Okay. And are these the, quote, unquote, audited numbers that -- that -- that Stanford was going to use in their -- for their disclosure purposes?

A It -- It would depend, I would have to see the source, because, you know, these things go through iterations and fine tuning, so I can't say for sure that Exhibit 35 is the final, final unless I knew where it came from.

Q Okay. This is the version that you delivered to Stanford Group -- or Stanford Capital Management, so assuming that fact to be true, do you think it's the final version?

A Yeah. If -- If it was sent to me via e-mail that said, you know, final package attached, then yes.

Q Okay. Did you give preliminary drafts to Stanford Capital Management or did you just give them final draft?

A I -- I may have -- well, if you recall in Exhibit 34 I had only had three done and I sent those. And I don't know if I may have tweaked those after the fact or not. But most likely I tried to keep my e-mail communications to final numbers.

Q Okay.

A For the most part.

Q So if we -- if we got these from Stanford

Capital Management, the odds are that this is your final version?
A Yes.
Q Okay. So just real quickly let's go through the first page of Exhibit 35 just, you know, so we can kind of talk about, you know, what each column represents.
A Okay.
Q Obviously you've year in the first column, composite TWR, that's the total weighted return. Is that what that is?
A TWR stands for time weighted return.
Q Okay.
A And this particular one was calculated using a weighted average of all the accounts within the composite.
Q Okay. And the next three columns do those represent benchmarks?
A Correct.
Q And then it looks like there is some combination of, what? The first one is a combination of, what, S70L30?
A 70 percent S&P 500, 30 percent LUM aggregate.
Q Okay. And the second one is, what, just the S&P or --
A 100 percent S&P.
Q Okay. And what is the LUM aggregate?
A Collection of fixed income securities. It's --

It's probably the most -- It's the S&P 500 for bonds, I guess, would be the best way to put that. It's one of the most widely used bond comparisons.
Q Okay. So it's kind of a good fixed income --
A Exactly.
Q -- benchmark?
A Exactly.
Q Okay. So what's these four columns underneath portfolio average TWR, median TWR, highest TWR, lowest TWR, are these like straight averages so that they average TWR?
A Yes.
Q Okay. And the median is obviously the median and then the high and low are the range?
A Yeah. It's -- It's essentially looking at the universe of accounts that were in for the entire period. For line one you would have to be in for the entire period to be included in those calculations, which is why for 2005 those numbers are same all the way across the board. It's kind of little -- it's not really an Advent glitch, but it is what it is.
They -- The -- The long and the short of it is only one account was in this composite for the entirety of '05, and that's why those numbers are all the same.
Q Okay. So for --
A And the standard deviation is zero.
Q Okay. So for '05 you had accounts rotating in and out in a given month because they may not have held

the model, for example?
A Well, I just think that I couldn't trace any, you know, two accounts that looked alike all the way back to, you know, January, '05, so, you know, I made some -- made some educated guesses on what the membership was. And as you can see in '05, it's -- it's very weak membership compared to '07, right.
We're looking at 80 accounts versus 1,300 accounts, so there was very -- the universe was very, very small in '05, which is why we -- we only had one account in there for the whole year.
Q Is that a function of the fact that the strategy grew quickly?
A I think so, yes.
Q Okay. And less so that you kicked a bunch of accounts out in '05?
A I think it's a function of both, more -- more than that -- I mean, they're just -- I mean, if you look at the SAS program, which to the best of my memory is that final column end of year total firm assets what that number really represented was total SAS assets and because that was the only number I could get my -- my arms around.
Q Uh-huh.
A You know, I couldn't get my arms around the rest of the firm assets, so I supplanted SAS assets there so program that went from 86 million to 787 million over, you know, the course of two years.

Q Okay.
A So that's rapid growth from my -- my perspective.
Q Sure. From 86 million to 787 million in three years?
A Two years. Because those are end of year.
Q Okay.
A It's ridiculous growth.
Q And why do you say it's ridiculous growth?
A Well, it's just -- it's impressive. It's very impressive growth.
Q They have an impressive track record, true?
A I didn't spend a lot of time focused on the track record prior to '05, but from what I have seen since, yes, it looks pretty good.
Q Okay. So beating the market by 27 percent would be an impressive track record?
A I would say I would like to put my money in that.
Q Okay. So -- So just stepping back, I think when we talked in Boston, you know, you said you were highly confident in the accuracy of your composite numbers?
A Yes.
Q Okay. You said you sign the reputation -- your reputation and the reputation of your firm, you would put behind these composite numbers?
A Absolutely.
Q Okay.

A I spent literally hundreds of hours making these numbers, so for anyone to prove these numbers to be inaccurate, they would have to spend hundreds of more hours than I spent to make them wrong.

Q And if they spent those hundreds of hours, you're confident that they might find a basis point here or there?

A Exactly. One -- One or two blips.

Q Okay. If -- If there were a weakness -- or a difference that is someone else might come up, would that likely in the inclusion of accounts analysis?

A Absolutely. I mean, I think -- I think that if two people were to do this, even, you know, at the same experience level that I have, they could make different determinations of inclusion, exclusion for certain accounts, certain time periods. But once the composite got big enough a handful, even five, ten, twenty accounts here or there in or out is not going to change that number.

Q Okay. So a few outliers shouldn't significantly change the average.

A Exactly. Especially when you're talking about 1,300 accounts. You could -- You could take 300 at random out of here and you would still be in, you know, for 2007 for SAS growth 1,300 accounts, take 300 out,

pick any one you want, like a card trick, and you would still be in the 12.4 neighborhood.

Q Okay. But obviously that becomes less the case as you have fewer and fewer accounts?

A Exactly.

Q So 2005 might be more sensitive to the issue of which accounts you selected and kicked out?

A It would be without a doubt. That said, I spent a ton of time on it trying to make sure that the accounts that were included, anybody could back and audit that and say I can see why he did what he did.

Q Okay. So I'm going to -- a question that I kind of need to ask to test what you did. I mean, was there any bias on your part toward kicking out underperforming accounts?

A No, absolutely not.

Q Okay. A minute ago you touched on the fact that to do 2005 and, I guess, to a degree '06, you had to reconstruct the model?

A Yes.

Q And you also had to determine for yourself which accounts fell within which strategy?

A Correct.

Q Okay. Did you make any attempt before you undertook to do those things to ask the company for records?

A I did.

Q Okay. And what were you told?

A They didn't have them.

Q Okay. Who did you ask?

A I went to probably Mark Stys and Ken Johnson and Jason D'Amto all at one time or another.

Q Okay. And what was the reaction when you asked?

A Well, Mark was, like, I'll try to get it for you or have the guys deliver it if -- if they have it, they have it, if they don't, they don't. You know, I think he tried to clear the runway for me, and then I contacted Ken Johnson directly because he was the guy that I had always gone to for this type of information.

And he presumably worked on it and pretty much never got back to me, or if he did it was I don't have it, can't help you.

Q Okay. But the net effect of it was that --

A Some of this stuff preceded him, I guess, as well.

Q Okay. But the net effect was that you generally had to recreate the wheel for 2005?

A Yes. '05 I did completely in the dark.

Q Okay. Is it fair to say that Stanford Capital Management was not able to provide you with any information that would have made you comfortable with their 2005 model numbers?

A That's fair. I mean, if -- just out of curiosity, I would -- I would love to see the composite -- you know, now that composites exist, you can run a report that shows the composite holdings as of each

month. You could also run a composite transaction summary to see when the composite was rebalanced.

And if you really wanted to know how bad their '05 was, you could compare that to Ken Johnson's '05 models so that -- you -- you could do a lot of work on '05. You could -- You could find out a lot of stuff if you did an analysis of '05. If you look at what Ken's models are versus my composites.

Q Okay. Okay. Just real quickly, I'm going to hand you a copy of a document that's been previously marked as Exhibit 4. I will represent to you that it is a Stanford allocation strategies proposal, it says it was prepared for Jane Foster and presented by Tom Wollsey W-o-l-l-s-e-y, it was produced to us by Stanford Group Company or Stanford Capital Management. If you flip to the growth performance page it's entitled historical performance at the top?

A Historical performance?

Q Yeah. Do you see that?

A Okay. Yep.

Q Okay. You see the SAS growth table on the right-hand side?

A Yes.

Q Okay. You see the 2005 number there?

A Yes.

Q Is that -- Is that 8.82?

A Correct.

Q Okay. And the composite return in Exhibit 35, gross of fees is that 8.81?

A Yes.

Q Okay. So does it appear to you that they're substantially using your 2005 number in the Exhibit 4 performance for growth?

A Yeah. I would just wonder why there was any difference at all unless the number -- I will say this: Numbers in Advent never get locked down, so...

Q Might move by a basis point?

A It -- It -- They do. They do.

Q Okay. But if you look at '06, are the numbers -- numbers are identical between your work in Exhibit 35 and Exhibit 4?

A Right.

Q 14.68?

A Right.

Q Okay. And 2007 it's a little off, 12.43 for your product and 12.4 from the growth --

A Right.

Q Okay. But it generally appears that in 2007 and '06 and '05 Exhibit 4 is using your audited numbers?

A Agreed.

Q Okay. I think if you flip to the -- let's find it. Okay. If you flip to the disclosure page at the back of the document?

A Yes.

Q There is a reference to the performance results for SAS income, SAS balanced, goes through the list of strategies. Said it includes accounts managed by SCM

that have been audited and verified Riordan Consulting, L.L.C., from the first quarter of 2006. Do you see that?

A Yes.

Q Okay. And -- And you authorized them do to that, to use your audited work in their marketing materials?

A I don't recall explicitly saying that, but I don't have a problem with it.

Q Okay. It was your understanding that that's how they were going to use it?

A It doesn't surprise me, but I don't remember explicitly giving permission.

Q Okay. You didn't sign a consent letter, like a typical U.S. accounting firm does?

A No, I didn't.

Q Okay. But -- But you understood that they wanted an audited track record?

A Yes.

Q And you knew the reason they wanted it was to present it to clients?

A Absolutely.

Q Okay. The next sentence says previous performance figures have not been audited and SCM does not represent that the -- this information is accurate, current, or complete and it should not be relied upon as such. Do you see that sentence?

A Yes.

Q Okay. So it appears to be relating to any periods pre-2006?

A Okay.

Q Okay. Did you advise Stanford on that disclosure?

A No.

Q Did you advise them at all that they could disclaim away their pre-2005 track record?

A No.

Q Okay. Just being an expert in this field, you know, are you -- is this industry practice to include a track record pre-'06 and then say, you know, we can't tell you if it's accurate, current, or complete or -- and we tell you that it shouldn't be relied upon?

A Well, to be honest most of my experience is with firms that are GIPS complaint or on the path to being GIPS compliant. I'm not as familiar with the rules of engagement for noncompliant firms such as Stanford. I mean, just from a personal opinion perspective, I think it's a pretty weak disclosure.

Q In terms of disclaiming what -- at the back of a document any reliance on the historical track record at the front of the document?

A Well, I just think that, you know -- okay. Previous performance figures have not been audited, but that -- that's really all it says is that they just haven't been checked by anybody independently. It doesn't say any -- give any other details as to how they were calculated, whereas the sentence before it says that performance results are from actual accounts and that's

been checked by someone. This just say previously nothing has been checked.

Q Okay.

A That's what I mean by it appears to be weak.

Q Okay. Can you tell from this disclosure whether or not it's model performance?

A No.

Q Can you tell whether or not it's model performance with the benefit of hindsight?

A No.

Q Can you tell whether or not actual clients may have experienced performance that vastly differed from the performance presented?

A It would not surprise me.

Q Okay. But you can't tell that from the disclosure?

A No.

I'm also curious as to why they didn't include '05, which was checked by me.

Q Good point.

So you're noting that in the disclosure they say that Riordan -- that you audited '06 forward, but there is no mention of 2005?

A I did '05.

Q Okay. And when you look in that table, I think there is a date. I will just tell you where it was. It says as of June, 2008, and so you would have completed your audit for 2005 prior to June of 2008?

A Absolutely. At that point I was done with

anything other than current quarterly work for Stanford.
Q Okay.
A I wrapped up everything for them pretty much by April of '08, and at that point I was just doing current quarter work.
MR. KELTNER: Let's go off the record.
(A brief recess was taken.)
(SEC Exhibit No. 36 was marked for identification.)
BY MR. KELTNER:
Q Okay. While we are on the break you identified a couple of documents that may be relevant to prior discussions we've had. I'm going to go ahead and mark as Exhibit 36 a document that is entitled SAS replacement journal. Can you tell me what Exhibit 36 is?
A Yep. Exhibit 36 is the rebalancing activity that I received from Ken Johnson, which was supposed to tell me what -- which models were rebalanced and when, but it ended up really being was it just told you the month and the year that the rebalancing occurred and the name of the security and -- and lacked really the necessary information to calculate true model performance.
Q Okay. So from Exhibit 36 can you tell which strategies are impacted by any of the rebalances

indicated?
A No, you can't.
Q Okay. And what would you -- what would you have needed in order for Exhibit 36 to be useful?
A Basically, the journal that I created from scratch on my own with the actual activity that I observed when I drilled into the detailed analysis of these models. I was able to determine the actual rebalance date and the percentage of the rebalance and which model it was -- impacted.
Q Okay. Can you put his document in a timeframe for me? I mean, when did you get this document?
A I would say -- well, based upon the date of the last rebal here is April, '07, so I most likely got it sometime after April, '07, or maybe even in April of '07. I had seen a previous version that was very similar that's in my records somewhere that had pre -- you know, only dated through '06 on it.
Q Okay.
A So this is a -- this journal goes from December of '03 through April of '07.
Q Okay. So that single piece of paper was reported to you to be all rebalances during that timeframe?
A Yes.

Q Okay. And --
A The only record that I could get of five years worth of rebalances for six strategies.
Q Okay. And I think when you described this

document off the record I think you said it was laughable?
A It is not something that you could really use in a bona fide investment management shop as, you know, recordkeeping.
Q Okay. Because clearly there was -- there was significantly more activity than is represented in Exhibit 36?
A Exactly.
Q Okay. So using Exhibit 36 there would have been no way to re-correct the model?
A Correct.
Q Okay.
A This ended up being a useless piece of paper to me.
Q Okay. Who gave you Exhibit 36?
A Ken Johnson.
Q Did he explain in any way you to the problems with Exhibit 36?
A You know, the gist I got from Ken, who is a really nice guy, is that we just -- I just don't have the

details, and he apologized.
Q Did he blame anybody for that, or did he say, you know, the guys -- it was done before I got here, anything like that?
A No. He just -- He just said this is all I have, and that was typical Ken. This is best I can do. This is all I have. That was the same old story I would

get regularly.
Q Okay. So he represented -- Ken Johnson represented that you Exhibit 36 was the only record he had of the rebalancing the transactions within the SAS model?
A Yeah. That's correct. Up -- Up though point of April of '07. I do recall that we did have a subsequent meeting once I had 2006 buttoned up and maybe even the first quarter of '07 with what a real transaction journal should look like, and I handed that over to them and I said, okay. You know, try to maintain this on a go forward and it would be useful for the performance group if you do. And so my understanding is that they do that now.
Q Okay. And would you need to do that -- a separate one for each strategy?
A Yes.
Q Okay. So you certainly wouldn't have rolled

them all into one piece of paper?
A Right.
Q Okay. Aside from your work to construct a journal, are you aware was there any of attempt by Stanford Capital Management or its employees to do that work before you became involved?
A No. I think -- I think I was the one that called attention to it.
Q Okay. So we have heard rumors of a project to reconstruct the transactions, reconstruct the rebalancing. As far as you know, that didn't happen

until you got involved in mid -- sometime in 2007?

A Well, as soon as I started trying to calculate model performance I knew that I needed the actual dates and amounts of the rebalances or else I was going to produce equally inaccurate numbers. So I started asking for this type of information very early on in the game.

Q Okay.

A I was not actually able to reconstruct my version of the rebalancing record until I had composites built, then I used the composites so the account level actual real world transactions to back my way into a model, quote, unquote, model trade journal.

Q Okay.

A So I used a real world activity to create model rebalances.

Q Okay. Is that somewhat backwards?

A Well, it's all -- that's all I could do, and is probably more accurate than any records they didn't keep.

Q Right. So until you had prepared your composites, there was no way for you to prepare an accurate model?

A Well, to the utmost of accuracy, yes. I would -- I probably did some especially in '06, which is all we had. I probably used another method to figure out rebals, which would -- would be very similar to what I did after composites were constructed. And that is just run transaction journals for accounts that I knew were in a strategy, and then I picked up the rebals off of those

accounts. So I probably did '06 off of a subset too. Again, backed my way into rebals.

(SEC Exhibit No. 37 was marked for identification.)

BY MR. KELTNER:

Q One other document you identified when we were off the record, I'm handing you a document marked as Exhibit 37 it says Zephyr Style Adviser top periodic returns. It has a list of growth strategies down the left-hand side and then dates across the top. And it appears to layout performance numbers for 2002 through 2006.

Can you identify Exhibit 37?

A Sure. Exhibit 37 is the traditional six SAS strategies, the mutual fund strategies and their returns monthly and quarterly and annually for the periods of 2002 through 2006. And it appears that the report was concrete by Zephyr Style Adviser.

Q Okay. And when say returns, you mean model returns?

A Yes. Although, at some point there is no saying that they couldn't have switched over and put in composite returns, because Zephyr just takes whatever return you tell it to. It's not a return calculator. What Zephyr does is it takes return data and then provides other types of analysis such as risk returns and that type of thing. So you can -- you can feed it any return stream you want.

Q Right. But when did you get Exhibit 37?

A Well, I thought I got it -- I thought I got it almost immediately when I arrived on the scene at the end of '06, and this is only through '06, so that's probably accurate. Probably early '07 I would guess.

Q Okay. And what was Exhibit 37 represented to you -- what were you told it represented?

A I would imagine, and I'm -- I'm -- it's I'm a little fuzzy on the details, but I'm guessing it was given to me as -- you know, again from Ken Johnson saying that we don't have a lot of details as to how we calculated the returns or -- or the basis for these historical returns. But this document, Exhibit 37, at least tells you what we know them to be.

Q Okay.

A So here is something for you to start with.

Q Okay. Is it fair to say that exhibit --- you were given Exhibit 37 and essentially told it represented the track record for the SAS program?

A Yes.

Q Okay. And -- And specifically the model numbers prepared by the investment advisory group?

A Most likely, yes. Well, I mean, there were -- they were the only people responsible at the time for -- for producing these numbers is the IAG group.

Q Okay. And just to put it in context in this early January -- early 2007 timeframe, who would that be?

A Ken Johnson.

Q And he reported to?

A Jason and -- Ken and Jason D'Amto.

Q I understand that you also received attribution reports from Ken Johnson?

A Yes.

Q Okay. Briefly tell me what those attribution reports are.

A They were called -- I believe, I'm not a hundred percent sure, but I believe that the monthly attribution reports were created by Ken Johnson. He -- They're misnamed because they're really contribution reports and what it is a month end snapshot of the strategy level holdings, the weights of each holding within the strategy, the return of each name within the strategy for that month, and then a weighted average return of the strategy giving a total of return for the strategy.

So each -- it's called a contribution to return because each member of the strategy contributes to total return based upon its weight and its return. If that is all that was being done to calculate the strategy return, it's inherently flawed because it's a month-end snapshot and it wouldn't necessarily hold true for the entire month, only in the months where they had no rebalance activity, which did -- I did see that to happen from time to time where the model stayed true for the whole month.

But if there was one rebal in the period then, you know -- the return is going to be flawed.

Q Okay. I'm just trying to put some of your