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1 prior testimony in context. For example, could you skew
2 those monthly attribution reports by putting a well -- a
3 fund that preformed very well into the account at the end
4 of the month?

5 A Absolutely.

6 Q Okay. And it would be an easy way to skew the
7 results to the high side?

8 A Easy.

9 Q Did you see any evidence of that actually
10 happening?

11 A I didn't. I didn't, but then again, you know,
12 in my defense, it was a jigsaw puzzle trying to put all
13 the pieces together as to -- and -- and things became
14 more clear to me as I -- as I went over time. And, you
15 know, like I said earlier, my -- in my testimony is I got
16 to the point where I wasn't getting good, reliable
17 information out of that group, so I stopped going to them
18 for information and I started creating it or going to
19 other sources to get information.

20 So, you know, maybe I took the easy way
21 out and -- and didn't analyze their -- or scrutinize what
22 they were giving me more, you know, with the thinking
23 maybe there was some intent there. But what I did was if
24 I got bad information, I just went in another direction.

25 Q okay. okay. I just want to talk to you a

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5 would blame it on the president, and --

6 Q President of the bank?

7 A President of the bank, Juan I think is his
8 name.

9 Q Juan Rodriguez Tilentino, does that ring a
10 bell?

11 A Yes, that's the gentleman's name. He would
12 blame it on him and -- and Mark's typical protocol to me
13 was he would try to get Zack Parrish to knock that wall
14 down and -- and, you know, work on something else.

15 Q okay. And then nothing ever came of those
16 efforts?

17 A Well, I think Rob Baker eventually got some
18 success with integrating the bank into the Odessy
19 platform, you know, towards the end of my reign there.
20 And he would be able to, I think, give a better
21 description of where things went when sort of we gave up
22 on Advent integration, and he started to get some
23 transaction with Odessy integration.

24 which was, you know, marching orders from
25 Mr. Stanford to, you know, have this Odessy platform be,

1 you know, state of the art, best platform in the world,
2 you know, and -- and be able to report on all assets any
3 time, any where.

4 So, you know, I think -- I think Rob and
5 the people that worked on Odessy had a lot of more, you
6 know, clout and also success in getting data out of the
7 bank.

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1 little bit about the bank on few issues. We talked
2 earlier today about your attempts to get information
3 related to the CD program from the bank.

4 A Right.

5 Q okay. And it's fair to say you were
6 stonewalled?

7 A It's fair to say that I was not granted access.
8 I did ask for a user I.D. and password so I could dig in,
9 and I never got that. So did -- So did my associate, Rob
10 Baker. I never, you know, saw any data from the bank.
11 I'm trying to think if Rob Baker did though or not.

12 It was -- It was a black box. I would --
13 I would describe my experience with the bank as a black
14 box to me.

15 Q Okay. I think from, you know, recent media
16 portrayals I know what you mean. But what do you mean by
17 a "black box"?

18 A Meaning that, you know, I wasn't going to get
19 any visibility to it and that -- it was -- it was
20 described to me the -- the bank CD, I had discussions
21 with some people at the bank, but I still never really
22 understood any more probably than you do about it.

23 It was -- It was like I might as well have
24 never even tried to learn anything, because I still know
25 nothing.

1 Q okay. When you ran into the brick wall and
2 couldn't get information, did you go to Stys and talk to
3 him about it?

4 A I did. I did. We would talk about it, and he
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8 Q Okay. When you say data from the bank, were
9 asking for anything, you know, secret, anything regarding
10 the investments of the bank, anything like that?

11 A Oh, I will give you an example of what I was
12 looking for. I'm trying integrate data valuations
13 transaction, such -- most importantly cash flow, deposits
14 and withdrawals, trying to integrate that into an Advent
15 system. Advent has a certain way they need the data to
16 be to successfully upload or integrate.

17 So all I wanted to see was what a file
18 looked like, a transaction file, and a -- you know, a
19 month end valuation file, holdings appraisal, whatever
20 you want to call it. So that my guys at Advent could
21 look at that and -- and give me an estimate of what it
22 would take to translate the data from one system to the
23 next and make it compatible with Advent.

24 So you could take the account number off,
25 you could take the account name off. I was just looking

1 for data. I wasn't trying to get any client's sensitive
2 information.

3 Q Yeah.

4 A But I think that was always the wall. That was
5 part of the wall was this is very sensitive. We have
6 contracts with our clients. We can't disclose any of
7 this information or -- or we jeopardize the
8 confidentiality of our customers. That was pretty much
9 the protocol wall that I got.

10 Q I know we had some conversations in Boston just
11 briefly as we were wrapping up about suspicions that you
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12 and Mr. Stys may have talked about regarding the bank.
 13 A Well, I mean, we joked about it. I mean,
 14 post-Madoff we joked that maybe the CD was -- was a Ponzi
 15 scheme because, you know, the solid returns, the fact --
 16 some other factors where I think Stanford has control
 17 over a lot of the different elements around the reporting
 18 of it, and so on, you know, in a similar fashion.
 19 So, you know, I would call it playful
 20 bantering between himself and I. Not really a -- we
 21 never really sat down and sharpened our pencils and tried
 22 to do a Mark Perry/Marcopolo type of investigation.
 23 Q Right.
 24 A We -- we joked about it, but -- and -- and we
 25 joked about it because it was like, you know, he's no

1 longer there any more, I'm sort of barely there I guess,
 2 and, you know, it's amazing -- it was just kind of
 3 amazing to us to work some place so long and -- and not
 4 know.

5 Q And not know what?

6 A Not know anything. Just not even know what
 7 this thing was and how it worked and, you know, how to
 8 report on it and how to calculate returns and just do
 9 what I do.

10 Q okay. So for all your time and all Mr. Stys'
 11 time, the bank essentially remained a black box?

12 A Mystery.

13 Q okay. So -- And the things that you joked
 14 about, were they the guaranteed high returns?

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19 Q okay.
 20 A Give or take.
 21 Q If you were saying Madoff-like returns but you
 22 weren't allowed to see any of the underlying data, would
 23 you have advised the client to invest?
 24 A No, I would not.
 25 Q okay. Why not?

1 A Well, before I personally put my money into
 2 anything, and as a CFA, you know, I'm all about ethics
 3 and fair representation and full disclosure. I mean, the
 4 spirit of everything I stand for with my professional
 5 credentials as CFA and CIPM I sign an oath every year,
 6 and so if you can't do that or are unwilling, then that's
 7 a red flag and go somewhere else.

8 Q Okay.

9 A That said, I'm also not well versed in the --
 10 in the rules of engagement of these, you know, Cayman
 11 type banks and Swiss banks because I unfortunately don't
 12 have enough money to hide any over there. But, you know,
 13 that was part of the mystic for me is that I just don't
 14 know what the rules and regs are with those types of
 15 banks, so, you know, with a general working assumption
 16 that people aren't breaking laws and that people are
 17 doing the right thing, I assume that most of the
 18 stonewalling was in part due to those types of, you know,
 19 rules and regs of -- of a Cayman type bank.

20 Q But again, would you put your money with a
 21 Cayman type bank like that where there is no transparency

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15 A Yeah.
 16 Q Okay.
 17 A Yeah.
 18 Q Was it the consistency of the high returns?
 19 A You know, I've never seen a single return.
 20 Everything I know from bank CD returns has been through
 21 hearsay.
 22 Q Okay. Speaking of joking, you and I joked
 23 about a little bit over the break earlier today about how
 24 if the SEC had more, you know, people like yourself, more
 25 analytical, numbers based folks things like Madoff may

1 not have gone undetected?

2 A Right.

3 Q So in that context, you know, what types of
 4 things would you have been looking for as red flags for
 5 Madoff?

6 A Well, I would be looking for, you know, custody
 7 statements with actual value valuations and actual
 8 transactions. A good performance person can, you know,
 9 look at a return and, you know, start a process of
 10 analysis, that's why you call it a performance analyst.
 11 Those are the people that are in my business, that's --
 12 that's what they're good at, so you can dissect a
 13 portfolio, and as long as you can cross-reference
 14 evaluations, you know, it is impossible to come up with
 15 a -- with a return that isn't justifiable.

16 So if I was seeing Madoff-type returns and
 17 was given access to the underlying data, I would be able
 18 to disprove that return and, you know, within an hour.

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22 and, you know, 15 years of market beating returns?
 23 A Well, I mean, no. Personally, no.
 24 Q Okay. And you wouldn't be comfortable because
 25 of lack of transparency?

1 A Exactly.

2 Q Okay. Just real briefly since you said you
 3 hadn't seen bank return, I thought I would show you some.
 4 If you look at Exhibit 8, I will represent to you that we
 5 have been told that that is the track record of the bank,
 6 their investment portfolio?

7 A This is the investment portfolio not the -- not
 8 the actual investor guarantee, right?

9 Q Right. That's not the CD return rate, that is
 10 the returns of the bank. Those are the returns of the
 11 banks.

12 A Okay.

13 Q And I will represent to you that the numbers
 14 stay fairly consistent from '05 forward. The returns on
 15 the portfolio are in the 12, 13, 14 percent range.

16 A Okay.

17 Q Okay. So you've got a track record there from,
 18 what, '94, is that the first year on the page?

19 A Yes. 1994.

20 Q Okay. All the way through the present day in
 21 no year did they fail to hit their target rate around 12
 22 percent. So would you characterize those returns as
 23 consistent?

24 A They're definitely consistent, consistent
 25 double digit return.

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1 Q Okay. Given your experience in the industry,
2 are you aware of any assets class that has performed that
3 well since 1994 on a consistent year in and year out
4 basis?

5 A I am not aware of any.

6 Q Okay. If you saw that type of track record
7 from another client, would it raise any concerns?

8 A I would -- I would definitely be, you know, at
9 least have an intellectual curiosity to -- to see some
10 evidence of -- of -- supporting evidence of a stellar
11 track record such as that.

12 Q Okay. Have you read, you know, the press
13 accounts on Madoff?

14 A Have I read press accounts on Madoff?

15 Q Uh-huh.

16 A No. The only thing I know about Madoff is what
17 I see on CNBC every day. I watch CNBC every day.

18 Q Okay.

19 A Just about.

20 Q What can you tell me that's, you know,
21 different between Madoff's track record and the track
22 record portrayed in Exhibit 8?

23 A I can't say, because I've -- I've never seen
24 the Madoff track record.

25 Q Okay. Are these types of consistent year in

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5 consistent track record. I will say that. I mean, gosh,
6 we've got from '97 through '01 -- actually, '02, 14
7 percent and change every single year. So one, two,
8 three, four, five, six years straight of 14 percent.
9 That's -- That is -- That strikes me as not possible.
10 Almost statistically impossible.

11 Q That's what -- That was going to be my next
12 question. What is the statistical likelihood based on
13 your expertise?

14 A I mean, I have no idea. I have no idea what's
15 going into these numbers, but someone actually achieving
16 that and that's not hindsight -- hindsight produced, the
17 odds seem -- seem like they would be minimal.

18 Q Okay. Minimal you mean less than 5 percent?

19 A Yeah. I mean, six years -- and I'm putting
20 this in my notes -- six years in a row from '97 through
21 '02 of give or take a hundred bips 14 percent straight
22 up. And '99 and 2000 and '01 were horrible years for
23 most of the world.

24 Q Yeah. I mean, that's -- a large piece of that
25 is the tech bubble, right?

1 A Yeah. Exactly. I know I lost about 90 percent
2 of my portfolio in -- in 2000.

3 Q Okay. And more recently they have claimed
4 precisely the same types of returns through '07. I guess
5 another question. 2008 they claimed to have lost roughly
6 one percent. Based on what you have seen from other
7 clients and the market generally, is that also highly

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1 and year out returns typical?

2 A Well, I don't -- I would be able to, I think,
3 give a better assessment if I knew what the underlying
4 assets were. I mean, this, again, this is another reason
5 for a black -- why it's called, quote, unquote, a black
6 box is I have heard about the double digit returns. I
7 have heard about the consistent returns, but I have never
8 heard of a single investment in this portfolio.

9 So I have no idea what type of assets
10 they're buying, how it's being managed. I know nothing
11 about what's generating those returns.

12 Q Okay. And is it fair to say that no single
13 asset class consistently over those years could have --
14 could have obtained numbers like that?

15 A I would say that's probably an accurate
16 statement.

17 Q Okay. Is it likely that you would have had
18 to -- for a lack of a better term -- been in the right
19 place at the right time numerous times in order to
20 maintain this track record?

21 A Pretty much, yeah. I mean, it's -- it's -- it
22 would -- it says genius to me. I think I've used that
23 term in previous conversations. It's a track record of
24 a -- a calculation of geniuses.

25 Q I mean, do you see that kind of track record

1 even from the best hedge funds in terms of year in and
2 year out? You may see that on an average basis, but
3 don't they typically go up and down?

4 A Yeah. I mean, I've never seen such a
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8 unlikely?

9 A In 2008 -- well, you know, I have seen some
10 good hedge fund performance, but most of my clients and
11 people I'm talking to are -- are down, you know, around
12 30 percent for the year.

13 Q Okay. I think the market returns as I
14 understand were about that 30, 40 percent?

15 A Yeah. I mean, anyone that's long only and --
16 and in equities and even in balance, you know, with fixed
17 income are still down double digits for '08.

18 Q I would like to highlight one more thing on
19 Exhibit 8. If you look at the returns from 1995 and 1996
20 comparing those two years together, does anything stand
21 out?

22 A It's exactly the same return.

23 Q How difficult is it -- How difficult is it to
24 manage a 6, \$700 million portfolio or portfolio of any
25 size to precisely the same return to the hundredth

1 decimal point?

2 A Well, it doesn't matter the size of the
3 portfolio. I could give you a thousand bucks, and you
4 couldn't do it.

5 Q In back to back years?

6 A Yeah. I mean, it's just statistic -- the odds
7 of -- I mean, I have seen it happen. I've -- I've look
8 at numbers every working day of my life for the last 16
9 years, so I have seen it happen. It happens. It's a
10 coincidence more than a management still.

11 Q Okay.

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12 A That's just odd. I mean, it almost looks like
13 a typo.
14 Q More like perhaps they --
15 A I mean, this -- this is -- I mean, this is a
16 PowerPoint so these numbers are typed in. So someone
17 could have typed it in wrong. I've -- It's just a
18 reality of what happens.
19 Q Right.
20 A You have these numbers presumably generated on
21 a bona fide system somewhere with all the relevant
22 details that back up the return, and then you put it into
23 a PowerPoint and some, you know, marketing little hottie,
24 you know, types it in for you.
25 Q Okay.

1 A So that's possible.
2 Q If they were -- If those same identical returns
3 showed up in 20 different documents and various different
4 formats, would you still think that's a likely
5 explanation?
6 A Well, someone should have caught it. Yeah. I
7 mean, someone should have picked on it I think.
8 Q Okay. If, for example, we were told that the
9 justification for that is that the firm has a practice of
10 targeted returns or -- I forget what the correct --
11 A Goal --
12 Q Yeah. Goal based.
13 A Goals based. Yeah. Ben Finklestein's theory.
14 Yeah, he and I went around and around on that.

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19 bonds?
20 A Exactly.
21 Q Okay. But if you have a diversified portfolio
22 of equity, commodities --
23 A Well, throw one equity and throw one commodity
24 in there and that's all bets are off. Have one bond
25 default, and everything changes.

1 Q okay. So diversified portfolio across multiple
2 asset classes it would be very difficult to target a
3 return to the hundredth decimal point?
4 A Yeah. I mean, I can't believe that someone is
5 telling you that that's what they were trying to do.
6 Q Okay. So what I'm get at is that -- is that a
7 that total implausible explanation?
8 A Yes.
9 Q okay.
10 A I mean, I did get my CFA back in 2000, and I
11 did study hundreds of hours on investments and I missed
12 that part of the test.
13 Q okay. Just a few other things. When I was
14 going back through my notes about your discussions with
15 Rob Baker, you told me that generally you had similar
16 discussions with Rob Baker joking about it being a Ponzi
17 scheme, the bank?
18 A Yes.
19 Q Was it you or Mr. Baker who said Madoff made me
20 think of the bank CD?
21 A I think it was me. I said that. Forget it.

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15 Q Well, absolute return was the word I was
16 looking for.
17 A Okay.
18 Q But, you know, a philosophy of target returns
19 essentially.
20 A Yep.
21 Q We have been given the explanation that perhaps
22 the target each year was 15.71 percent, or whatever the
23 number there is, and at some point in the middle of the
24 year they hit that target so they just shut off their
25 investments. How difficult would it be to shut off a

1 portfolio, you know, in the third quarter and then
2 maintain a precise return number through year end?
3 A Well, I mean, if you knew -- if you were going
4 to put it in a money market until, you know, all the
5 recent troubles with money markets and the markets in
6 general, you could target a return pretty -- pretty
7 solidly, I think.
8 Q But you would have to factor in whatever your
9 return would be for the remainder of the year, so --
10 A Well, I'm seeing you would have to -- put it
11 this way, my understanding of this whole goal based
12 return was, you know, holding fixed income securities to
13 maturity under the assumption that no one would ever
14 default. That was my understanding of this goals based
15 strategy, so if everything gets held to maturity and
16 nobody defaults, you can project your -- you return,
17 because it's the coupon on the bond.
18 Q Right. Assuming you're in a hundred percent
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22 Q What were you going to say?
23 A I was going to ask you if my answers were
24 syncing up with our last meeting for the most part.
25 Q We did talk several times today about -- or at
1 least on the context of the March, 2007 meeting about
2 being careful about things getting to the SEC or careful
3 about putting things in e-mail?
4 A Yes.
5 Q I think when we talked last time may be not in
6 that context, but you told me that at some point you were
7 told to be cautious about what you put in e-mail.
8 A Yes.
9 Q Okay. And who told you that?
10 A That came from at least Mark Stys and possibly
11 Zack as well.
12 Q Okay. What -- what -- what did you take that
13 mean? What types of things should you be careful about?
14 A Well, if -- if I was -- you know, if I was
15 calling anyone out on -- on not doing a good job, for
16 example, or speculating that there was funny busy
17 business going on with the numbers, you know, the gist I
18 got from Mark is that people at Stanford, you know,
19 are -- are reading e-mails, or the powers that be at
20 Stanford are reading e-mails.
21 So my take on not putting anything in
22 e-mail wasn't for, you know, the SEC, that was never
23 named specifically or any other external organization.
24 But it was more to keep things close to the vest
25 internal.

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1 Q No general statements about we need to be
2 careful from a litigation perspective, you know, we don't
3 want evidence of our track record being inflated,
4 floating around, anything like that?

5 A No, that was never said. My -- My -- The best
6 of my recollection is, you know, some words of wisdom
7 and/or advice from Mark, which was be careful what you
8 put in e-mail, people read your e-mails here.

9 Q Okay.

10 A Because I was on the Stanford e-mail.

11 Q Okay. Was any of that in the context of
12 performance reporting issues?

13 A No. Well, I mean, other than if I was calling
14 somebody out for being a dimwit or, you know, not knowing
15 anything about performance or -- I mean, that was the
16 gist of it. I mean, to be perfectly honest maybe naively
17 so in hindsight, but, you know, I'm a new -- this is a
18 new business for me, I'm thrilled that I get to do
19 something I'm good at and make a lot more money than I
20 was making before.

21 And, you know, I naively just assumed
22 that -- that these guys were boneheads and that these
23 were honest mistakes, and it was because of the lack of
24 knowledge and experience. And, you know, I guess I was
25 stereotyping Texans, you know, being a Boston guy.

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5 really like to -- I would love the chance to do it.

6 Q What? A chance to look at pre-'06?

7 A Yeah. Yeah. And do a -- I never did a compare
8 of '05 composite versus model, because I didn't bother
9 calculating models in '05, because I didn't have any of
10 the data. It didn't make any sense to me, so I just
11 didn't composites for '05. But if I could try to
12 reconstruct what Ken did from models in '05, that would
13 be very interesting.

14 Q To try to figure out how he got to his numbers?

15 A Exactly.

16 Q Did you at some point compare just at a high
17 level, you know, your growth number was 881, his growth
18 number was 1,081 or 1,083?

19 A No. You know, interestingly enough when I
20 delivered the three-year track record at the same time I
21 got a heads up from Stanford that, you know, they were
22 going to really be cutting me back, and they sort of
23 asked me nicely. I was under contract through June 30th
24 of '08.

25 Q Okay.

1 A And they sort of just said, you know, take it
2 down a notch, you know, go from 40 hours to significantly
3 less, or -- so I looked at as really an opportunity to
4 just take some time off, and I did. And, you know -- so
5 by the time I had '05 numbers I was on the way out the,
6 and I certainly wasn't curious enough to do it for free.

7 Q Right.

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1 Q Being simpleminded?

2 A Chalked it up to -- to the part of country that
3 we were in. So, you know, and like I said, maybe naively
4 so, but that's -- I didn't really ever think of any --
5 any maliciousness. It wasn't until the day my phone rang
6 from the SEC, I had never thought of any malicious
7 activity.

8 Q Except that earlier today you testified that
9 you told Mr. Stys that you thought the numbers were
10 fishy.

11 A Well, I did. I did. But I didn't think it was
12 blatantly intentional, I guess.

13 Q Okay. You thought it was fishy that the
14 numbers were on the high side, but you saw it -- you
15 didn't have clear evidence that it was intentionally
16 fraudulent?

17 A Exactly. That's -- That's better said than I
18 said it.

19 Q Okay. So suspicious, but you didn't know that
20 it was intentionally fraudulent?

21 A Right. And if you meet the guys and my -- my
22 personal impression of the guys, and I feel like I'm
23 contradicting myself now, but they seem pretty simple --
24 simple guys, so I thought they were being straight. I
25 thought they were playing it straight with me.

1 And -- And to be honest, I'm really
2 curious to see how this all works out. And, you know, if
3 I was given the chance to go back in and -- and do some
4 analysis on these -- these historical numbers, I would
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8 A Although, now I'm getting there.

9 Q Your curiosity has been raised?

10 A It's -- It's getting there -- to the point
11 where I would do it for free.

12 Q For example, would you be curious to see how
13 they generated 16 percent in '04, you know, when they
14 were showing an index of one percent or '05 1,083 an
15 index of three? That kind of thing?

16 A Well, I think the bottom line is -- is any
17 significant out-performance of -- of the markets when
18 you're buying mutual funds that are tracking the markets
19 would be a red flag, and I would want to dig in.

20 Q Okay. And so I think we talked about this when
21 we were in Boston. You know, and in the early years '99,
22 2000, 2001 they were showing numbers that outperformed
23 the market, you know they would quote 18 and the market
24 would be down 9, or they would quote they lost 3 when the
25 market lost, you know, 20 or 30. Those types of numbers

1 would be significant red flags?

2 A Yeah. I mean, you know, and -- if you're in
3 mutual funds it's really hard to outperform, I think,
4 by -- by that much unless you're always in the best
5 funds.

6 Q Just because mutual fund are so broadly
7 diversified?

8 A Well, depends up on the fund --

9 Q Sure.

10 A -- but, I mean, they are by definition help you
11 to diversify with one -- one asset. Right?

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12 Q Right.

13 A You can buy one mutual fund and hold 500

14 companies. I mean, have -- have you interviewed the guy

15 that was responsible for these returns, and has he been

16 able to justify the -- how it was done? I don't know who

17 was managing these portfolios in, you know, the early

18 '99, 2000, '01, 02.

19 Q Right. Yeah. I can't really comment on that.

20 A That would be an interesting conversation.

21 Q Just, for example, I think we talked earlier

22 today '99, 2000, 2001 were really bad years for the

23 market, correct?

24 A Right.

25 Q Okay. So, for example, 2000 the growth stated

1 return is 18 percent and the S&P was down 9.11. 2001 the

2 growth stated return was 4.32 and the market was done

3 roughly 12 percent. 2002 the stated return was a loss of

4 3.33 and the market down 22 percent.

5 So again, for a mutual fund product, those

6 types of returns would be a huge red flag?

7 A Yes, I would say so.

8 Q Is it fair to say those numbers would be hard

9 to generate without the benefit of hindsight?

10 A You know, I try not to play in the land of make

11 believe, so I wouldn't even know.

12 Q Okay. But is it unlikely to generate those

13 types of numbers in a single year let alone three

14 consecutive years?

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19 A I really felt like I every hour, every minute

20 that I was on the clock and I was charging by the hour

21 that I should be doing exactly what they wanted me to do.

22 I think if I was, you know, a full-time employee, I think

23 I would have had a different pair of glasses on.

24 Q So generally speaking you didn't look at

25 pre-2005 because they didn't ask you to?

1 A Yes.

2 Q Okay. With the benefit of hindsight, you know,

3 did you wish you had, you know, looked at the materials

4 and seen what they were presenting pre-'05?

5 A Absolutely. You know, I mean, especially just,

6 you know, for the benefit of -- of friends and colleagues

7 that -- that, you know, I worked with that, you know, I

8 could have helped with -- with my expertise. And

9 that's -- that's the way I always looked at myself to

10 these guys as an -- as an assistant, a helper, an asset

11 that could help them get to a better place, because my

12 working assumption was, hey, they have got something

13 pretty good going on here, let's get the story out. And

14 let's just make sure that it's an accurate story.

15 So, yeah, in hindsight I wish that I had

16 spent time on the historical numbers and done whatever I

17 could to help them, you know, get to an accurate number.

18 Q Okay. Real quickly. I have been reading from

19 Exhibit 4, if you can pull it out again, and just flip to

20 that page entitled Historical Performance.

21 A Okay.

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15 A I'd say it's -- it is unlikely, yes. But I'm

16 sure if you did your homework you could find evidence of

17 it somebody is probably legitimately done it, or maybe

18 multiple people. I don't know, but I would say it would

19 be rare.

20 Q Okay. But certainly that type of

21 out-performance is the type of thing that anybody in the

22 industry would recognize as being a red flag?

23 A Well, it depends upon how you're looking at it.

24 If you're -- If you're looking at it as, you know, do you

25 want to put your money in here and should I do a little

1 more due diligence red flag. Absolutely.

2 Q Okay. If you're coming in day one as the

3 compliance -- as the disclosure -- or the performance

4 expert, and that's the track record that they present to

5 you, is your radar going to be up a little bit?

6 A Well, you know, no. Now I feel like I didn't

7 do my job. It's hard to believe how focused I was on the

8 task at hand. Not to, you know, have taken a step back

9 and questioned those numbers. With the benefit of

10 hindsight, yeah, I should have taken a better, harder,

11 closer look at -- at those numbers. You know, it just

12 wasn't in my -- it wasn't one of my duties that I was

13 charged with.

14 Q Okay.

15 A And to be honest with you, Tom, I really felt,

16 you know, this was a new -- being a consultant was new to

17 me.

18 Q Sure.

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22 Q Okay. You see the title at the time top,

23 Historical Performance?

24 A Yes.

25 Q And on the right-hand side you've got the

1 charts with SAS growth. Looking at this chart, does this

2 appear to be the historical track record of the SAS

3 growth program, is that what it's --

4 A The table or the chart?

5 Q I think they're both the same thing just in

6 different formats, but --

7 A Okay. Looking at the table -- well, again, you

8 know, I don't -- I don't memorize the numbers.

9 Q Yes. But is this -- does it -- does it appear

10 to you that that's what they're representing this to be

11 the historical track record of the SAS growth program?

12 A Yeah. Yeah, because there is nothing on here

13 that says otherwise.

14 Q Okay. And if an investor were to look at this,

15 it would be reasonable for that investor to assume this

16 was the actual track record of the SAS growth program?

17 A I think this would be a reasonable assumption,

18 yes.

19 Q Okay. And if, in fact, the '04 numbers back in

20 time were generated with the benefit of hindsight, would

21 it be misleading to call that performance historical? In

22 other words, if it's a model calculated January 1, '05,

23 and then prior year returns are -- are calculated with

24 the benefit of hindsight?

25 A Yeah. I mean, in -- from my experience if

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1 you're mixing model with actual or composite, you --
 2 you -- it should be -- you should say so on this page,
 3 but that's -- I don't know that's my opinion.
 4 Q Right.
 5 A And my experience. You know, with that said,
 6 who -- I don't know many people that even read the fine
 7 print. You know, I get credit card -- we have changed
 8 your credit card agreement, and I don't even read it.
 9 But that to me -- you really -- it's -- it's not a --
 10 it's not in the spirit of the business that we're in.
 11 Q Okay. So you would want to accurately disclose
 12 to the investor that if a portion of this is model
 13 performance with hindsight, you would want to make that
 14 clear?
 15 A Absolutely.
 16 Q Okay. And so you wouldn't call it historical
 17 performance?
 18 A Well, I mean, I think that's semantics.
 19 Q How would you --
 20 A How they -- How they -- How they chose to title
 21 the page I don't think is as misleading as just seeing a
 22 stream of numbers side by side by side that are apples
 23 and oranges.
 24 Q Okay.
 25 A That part I think is misleading. I don't

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5 Q You know, one of the typical questions I would
 6 ask you as we're wrapping is, is there anything else that
 7 you would like to tell us or anything that we failed to
 8 ask. One thing you mentioned that you had -- had -- had
 9 remembered during the break was something about a
 10 conversation that you and Mr. Stys had regarding the
 11 pre-2005 performance numbers?
 12 A Correct.
 13 Q Okay. Just generally what were the nature of
 14 your conversations and what happened?
 15 A Well, the nature of it was this is, is -- is
 16 Mark would ask me, you know, Steve, I want a longer track
 17 record, you know, you know, may have even mentioned
 18 something along the lines of, you know, these guys have
 19 been shooting the lights out, you know, how can I get you
 20 to validate, verify, you know, previous years, you know.
 21 And at this point I think we had only maybe had '06 under
 22 our belts.
 23 And I said, well, I need -- you know, I
 24 need the data. And so we tried the -- the route of the
 25 investment advisory group to at least get model level,
 1 because that's the easiest. I mean, rather than try to
 2 dig through hundreds or maybe even thousands of account
 3 level data, the easiest way to reconstruct performance
 4 sort of validate it would be the least to get a look at
 5 the model, and -- and do it -- if they were able to
 6 provide me with model records, I could at least be able
 7 to say, yeah, based upon these holdings and these weights

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1 think -- I think what -- what they call the page is
 2 whatever you want to call it.
 3 Q Okay. If they -- so in your mind, setting your
 4 audited track record side by side with numbers generated
 5 with the benefit of hindsight, that in no way represent
 6 actual client performance, that's misleading?
 7 A Exactly.
 8 Q Okay.
 9 A Yeah. I mean, call the page whatever you want
 10 to call the page. I mean, it's historical performance of
 11 something. The question is what.
 12 Q If --
 13 A That's what is not clear. It's historical
 14 performance, because it's performance and it's history.
 15 But is it a model? A model of hindsight or a composite.
 16 Q If it's a model with hindsight, how is it
 17 historical?
 18 A Well, it's just, you know, what the model would
 19 have done at that particular point in time.
 20 Q Right.
 21 A I think it's just semantics thing. That's my
 22 opinion.
 23 Q Okay. Okay.
 24 MR. KELTNER: Let's take two minutes. And
 25 we will go off the record.

(A brief recess was taken.)

2 MR. KELTNER: Go ahead and go back on the
 3 record for a few more minutes. It's 4:01.
 4 BY MR. KELTNER:
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8 and these time periods, these returns are, you know --
 9 are good, bad, incorrect, or otherwise.
 10 Just like I did for '06. But the -- the
 11 message I got from IAG is we have -- we have nothing. I
 12 mean, if -- if that transaction journal of Exhibit 36 is
 13 any indication of their recordkeeping, I believed them.
 14 And so then the other path, which would
 15 have been more arduous and more -- more consulting
 16 dollars and hours, would have been the account level data
 17 and from what I was told is that, you know, the
 18 account -- there was account data on this system or that
 19 system or a hodgepodge of different systems and/or it's
 20 on Bear Stearns and, you know, we just converted off Bear
 21 Stearns and it wasn't, you know, a happy parting.
 22 And, you know, it's going to be -- you
 23 know -- excuse me -- an extraordinary challenge to get
 24 account level data, you know, for those pre-Advent years
 25 or, you know, pre-'05.

1 So, you know, I'm glad that I remembered
 2 that. It was -- It was one or two at most very quick
 3 conversations. Mark wanted a longer track record that
 4 was stamped by Riordan Consulting. No one could produce
 5 any data, any supporting data of any kind, any way,
 6 shape, or form.
 7 Q Okay. And when you say no one, the people who
 8 you talked to from IAG to request this information were?
 9 A Were Ken Johnson and Jason D'Amto. The same
 10 two guys I went to for everything.
 11 Q Okay.

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12 A I never went to anyone else other than Ken and
13 Jason for -- for data.

14 Q Okay. Can you ballpark for me when those
15 conversations took place?

16 A You know, I would say, you know, I think
17 after -- after Mark was sort of starting to gain
18 confidence in me and, you know, confidence in -- in my
19 ability to -- to calculate the stuff the, quote, unquote,
20 right way, you know, however it was done in the past. I
21 think the thought started to, you know, occur to him,
22 so -- I have no idea.

23 I mean, I would say some point -- excuse
24 me -- mid '07, you know, and that makes sense, too,
25 because I think at that point I talked him into settling

1 for the three-year track record '07, '06, and '05,
2 because we had the data.

3 And he said, well, I can't give you a ten
4 year or a five year, but I can give you a three year.
5 And I have all the data, so that's the path we went down.

6 Q Okay. So there was -- Stys wanted a longer
7 track record, you went and spoke with the IAG team,
8 D'Amto and Johnson, and essentially were told the data is
9 not there for you to create the track record pre-2005?

10 A Exactly.

11 Q Okay.

12 A So again, in my defense, I feel like I need to
13 say this. It didn't really do me any good to analyze
14 those numbers. I mean, I wasn't hired as a, you know,

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19 know, just to clarify, a performance person's sort of --
20 a good and career minded type performance person, like
21 myself, you instinctually think that an investor manager
22 is overstating.

23 That's just -- you come into the game
24 where that if they're -- they give themselves the benefit
25 of the doubt wherever there is a doubt. I think that is

1 a just human nature, and the human nature of the
2 performance guy, a good one anyway, is -- is all about
3 accuracy and no subjectivity at all. It's just
4 objectively, you know, the number is what it should be
5 based upon these facts.

6 And so you try make it into a science. So
7 any ways, I just to clarify, you know, I never really
8 thought anyone was maliciously misstating numbers. My --
9 My thoughts and my words to Mark were, you know, it is a
10 bit odd that it's always in their favor, and I think that
11 was the extent that I -- you know, pointed my finger at
12 anyone.

13 Q Okay. And I assume part of that was the
14 function of the fact this was your first major client,
15 your only source of income, you didn't want to raise a
16 stink?

17 A Exactly.

18 Q Okay. That's fair enough. Anything else?

19 A That's it.

20 MR. KELTNER: Okay. Again, we appreciate it.
21 we don't have any further questions at

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15 legal counsel or otherwise to protect them from putting
16 bad numbers in their marketing materials. I pretty much
17 had a nice distance between myself and anything in the
18 marketing materials.

19 And if -- if I can't perform any analysis
20 on the numbers, they were just a number to me.

21 Q Okay. Okay. Anything else along those lines?
22 Anything else you would like to say today before we go
23 off the record?

24 A No. I mean, if -- if there's any work that
25 needs to be done historical from the SEC's perspective or

1 Stanford's perspective, I would be happy to do it.

2 Q Okay. You mean in terms of analyzing pre-2005
3 type data?

4 A Exactly, yeah. Yeah. I mean, that where I
5 think I could add some value having done it. I think,
6 you know, no matter what the outcome of this
7 investigation, I think if anyone kicks the tires on my
8 work, I still, you know, hold 100 percent confidence in
9 the numbers I put out.

10 Q Okay. Well, we appreciate your time today. We
11 appreciate you flying in from Boston. If anything else
12 comes to mind, let us know.

13 I guess, a final question I usually ask,
14 you know, is there anything you want to correct or
15 clarify from earlier today?

16 A You know, I think I got a little wishy-washy on
17 my thoughts of the -- the numbers in '06 and Q4 '05 when
18 I first came on the scene as -- as being fishy. You
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22 this time, we might down the road even informally just
23 about documents you've produced. You know, we might talk
24 to you about analysis of particular issues if -- if we
25 need to do that, we'll -- we'll reach out to you. We

1 obviously have your contact information.

2 Likewise if, you know, there is anything
3 that comes to mind that you want to talk to us about,
4 feel free to give me a call.

5 Again, the final opportunity anything else
6 you want to discuss?

7 THE WITNESS: I can't think of anything else.

8 MR. KELTNER: Okay. Again, thank you for coming in
9 and taking the time to fly in Boston and we thank you.

10 And we are now off the record.

11 (whereupon, at 4:10 p.m., the examination was
12 adjourned.)

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PROOFREADER'S CERTIFICATE

1
2
3 In the Matter of: STANFORD GROUP COMPANY
4 Witness: Steve Riordan
5 File Number: FW-02973-A
6 Date: Wednesday, February 11, 2009
7 Location: Fort Worth, Texas
8
9

10 This is to certify that I, Donna Raya, (the
11 undersigned), do hereby swear and affirm that the attached
12 proceedings before the U.S. Securities and Exchange
13 Commission were held according to the record and that this is
14 the original, complete, true and accurate transcript that has
15 been compared to the reporting or recording accomplished at
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REPORTER'S CERTIFICATE

3 I, Carolyn H. Gayaldo, reporter, hereby certify that the
4 foregoing transcript consisting of 216 pages is a
5 complete, true, and accurate transcript of the testimony
6 indicated, held on February 11, 2008, at the SEC office,
7 801 Cherry Street, Fort Worth, Texas, in the matter of
8 Stanford Group Company.

9 I further certify that this proceeding was recorded
10 by me, and that the foregoing transcript has been
11 prepared under my direction.

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