

EXHIBIT C

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
NO. 13-465 C
(FILED FEBRUARY 26, 2014)

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FAIRHOLME FUNDS, INC., ET AL

VS. RCFC 12(b); RCFC 12(b)(6);
RCFC 56(d)
THE UNITED STATES

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PROTECTED INFORMATION ONLY TO BE DISCLOSED

IN ACCORDANCE WITH PROTECTIVE ORDER

ORAL DEPOSITION OF MS. SUSAN MCFARLAND

HOUSTON, TEXAS

JULY 15TH, 2015

10:01 A.M.

Reported By:
SAMANTHA DOWNING, CSR
JOB NO. 39652

<p style="text-align: right;">38</p> <p>1 at the risk-free rate of debt, but then they would layer 2 on top of that some risk premium for credit risk? 3 MR. LAUFGRABEN: Objection; form, 4 foundation. 5 A. I would say my experience not just at 6 Fannie but over the course of career with financial 7 services, that's a normal construct for providers of 8 funds, to -- to come up with a price point -- 9 Q. (BY MR. THOMPSON) Yes. 10 A. -- that they would be willing to provide those 11 funds. 12 Q. Yeah. And I am trying to figure out how they 13 would come up with that price point. 14 They would look at interest rate risk, 15 among others things, right? 16 MR. LAUFGRABEN: Objection. 17 A. I can't sit here and tell you what each entity 18 specifically did. 19 But I think if you look academically at, 20 you know, the buildup of rates, you're looking at a 21 risk-free rate and then building something on for risk. 22 And then you can make your list of what risks you think 23 you need to build into the price and how much price you 24 think you need to build for each of those types of 25 risks.</p>	<p style="text-align: right;">40</p> <p>1 that crazy or volatile. In other words, you could kind 2 of almost trendline out the correlations that existed in 3 the recent past to continue to exist on a go-forward 4 basis. 5 Q. (BY MR. THOMPSON) Now, if you're -- we're 6 looking at the cost of funding for Fannie Mae, is one of 7 the variables -- is it true to say that all other things 8 being equal, if Fannie had more capital, it would pay 9 less in funding than if it had less capital? 10 MR. LAUFGRABEN: Objection; calls for 11 speculation, calls for an expert opinion. 12 A. Capital exists for unexpected losses. Your 13 expected losses should be reserved for and already 14 reflected in your financials. 15 If someone is building up a price point, 16 taking a risk-free rate and then building onto something 17 for risks, one would then assess what the capacity that 18 the entity has to absorb those risks. Capital could be 19 one place a company could absorb some of those risks. 20 So it would not -- it would make sense to 21 me that entities would look at capital levels in 22 consideration, as one factor in determining a company's 23 capacity to absorb risks, and that could influence their 24 pricing. 25 Q. (BY MR. THOMPSON) Okay. And in trying to</p>
<p style="text-align: right;">39</p> <p>1 But, you know, on an individual 2 entity-be-entity basis, you would have to ask them how 3 they built their rate structure. 4 Q. (BY MR. THOMPSON) And that's fair enough. 5 I was trying to get inside Fannie's head, 6 when they're doing projections into the future and 7 trying to think about, "What is our funding expense 8 going to be?" 9 Did you-all try to build that expense in 10 the same way where you made an estimate of, "Here's what 11 we think the risk-free rates will be, and here's what we 12 think our funding sources will require as a risk of 13 premium"? 14 MR. LAUFGRABEN: Object to the form of 15 the question. 16 MR. BARTOLOMUCCI: Objection; form. 17 A. We -- there's a lot of history that exists, and 18 so there was a lot of -- the more -- the funding 19 markets, by the time I was there, were performing fairly 20 effectively with one exception. When the debt ceiling 21 debates occurred, and there were challenges with the 22 debt ceilings, we saw some interesting things go on 23 within the debt markets for short periods of time around 24 those debates. 25 Outside of that, it -- the pricing wasn't</p>	<p style="text-align: right;">41</p> <p>1 operate Fannie's financials on a sound basis, do you 2 think it was desirable for Fannie to have capital? 3 MR. LAUFGRABEN: Objection; calls for 4 speculation. 5 A. I believe that if you're going to operate the 6 enterprise ongoing that it should have capacity to 7 absorb risks, and unexpected losses and capital is the 8 most -- would be the -- my preferred form of risk 9 absorption. Because really, quite -- you know, to me, 10 Fannie had two places: Either you build capital inside 11 the enterprise, and/or you continue to rely on the 12 U.S. Government as the full backstop for the 13 enterprise -- 14 Q. (BY MR. THOMPSON) Was there -- 15 A. -- to step in. 16 Q. Was there any discussion about going to the 17 private market once Fannie had returned to profitability 18 in 2012 and raising capital there? 19 MR. LAUFGRABEN: Object to the form of 20 the question. 21 A. There was no discussions about, you know, 22 raising capital in the marketplace at Fannie Mae in the 23 time that I was there, you know, like -- the theoretical 24 potential to do that in time, yes. But there was no 25 discussions of, "Gee. We're starting to make money.</p>

42	<p>1 Should we go and do a stock offering?"</p> <p>2 No.</p> <p>3 Q. Okay. And do you know why there weren't such</p> <p>4 discussions?</p> <p>5 A. I think two reasons in my opinion. This is</p> <p>6 strictly my opinion.</p> <p>7 One, it was probably premature. I think</p> <p>8 Fannie, in the -- would need to have returned to -- you</p> <p>9 know, they would have had to have more periods of</p> <p>10 profitability before the marketplace would probably have</p> <p>11 entertained -- before we could expect a stock offering</p> <p>12 to be successful.</p> <p>13 Two, we didn't legally have the ability</p> <p>14 to do that on our own. That would have to be the</p> <p>15 Treasury, and FHFA would have had to have agreed to</p> <p>16 that.</p> <p>17 Q. Yes.</p> <p>18 A. And it was pretty clear to me at that point in</p> <p>19 time that that was not going to be something they would</p> <p>20 have been receptive to.</p> <p>21 Q. Understood.</p> <p>22 Okay. So, Ms. McFarland, I am going to</p> <p>23 be showing you some documents today, and you're free to</p> <p>24 sort of flip through them. But I will be generally</p> <p>25 directing your attention to a specific passage.</p>	44	<p>1 December 2010. You weren't there.</p> <p>2 A. Correct.</p> <p>3 Q. But when you did arrive in the middle of 2011,</p> <p>4 did you see any manifestations of the administration's</p> <p>5 commitment to ensure existing common equity holders</p> <p>6 would not have access to any positive earnings from</p> <p>7 Fannie?</p> <p>8 MR. LAUFGRABEN: Object to the form of</p> <p>9 the question; lack of foundation.</p> <p>10 A. The only example that I -- that comes to mind</p> <p>11 of note is the Third Amendment.</p> <p>12 Q. (BY MR. THOMPSON) Yeah.</p> <p>13 And what was your reaction when you</p> <p>14 learned -- you learned of a Third Amendment a couple of</p> <p>15 days beforehand; is that right?</p> <p>16 A. Correct.</p> <p>17 Q. All right. And what was your reaction to it?</p> <p>18 MR. LAUFGRABEN: Objection; vague.</p> <p>19 Q. (BY MR. THOMPSON) Did you think it was the</p> <p>20 effective nationalization of the companies?</p> <p>21 MR. LAUFGRABEN: Objection; form.</p> <p>22 MR. BARTOLOMUCCI: Objection; form.</p> <p>23 A. No, I didn't view it as nationalizing. It</p> <p>24 borders on that; I can see.</p> <p>25 But I had, shortly before that, had</p>
43	<p>1 In this first one, I would like to have</p> <p>2 the court reporter mark as McFarland 1, and it has a</p> <p>3 Bates number of Treasury 0201.</p> <p>4 (McFarland Exhibit No. 1 was marked.)</p> <p>5 MR. LAUFGRABEN: We object to this</p> <p>6 document from December 20th, 2010. It's well before the</p> <p>7 beginning of the discovery time period set forth in the</p> <p>8 Court's order.</p> <p>9 MR. THOMPSON: Yes. And I understand</p> <p>10 that, and I am going to be asking questions about the</p> <p>11 time period that is within the Government's</p> <p>12 understanding of the Discovery Order.</p> <p>13 Q. (BY MR. THOMPSON) But I would -- this is, as</p> <p>14 Counsel quite rightly notes, a memo from</p> <p>15 December 20, 2010. It's from a Jeffrey Goldstein. The</p> <p>16 subject is, "Periodic Commitment Fee for GSE Preferred</p> <p>17 Stock Purchase Agreements."</p> <p>18 Ms. McFarland, I would like to direct</p> <p>19 your attention to the second page. And under the</p> <p>20 heading, "Reasons to Set the PCF," there's a bullet</p> <p>21 point that says, "Makes clear the administration's</p> <p>22 commitment to ensure existing common equity holders will</p> <p>23 not have access to any positive earnings from the GSEs</p> <p>24 in the future."</p> <p>25 Now, I am not asking you about</p>	45	<p>1 a meeting with Treasury whereby we reviewed our</p> <p>2 forecasts. I had expressed a view that I believed we</p> <p>3 were now in a sustainable profitability, that we would</p> <p>4 be able to deliver sustainable profits over time. I</p> <p>5 even mentioned the possibility that it could get to a</p> <p>6 point in the not-so-distant future where the factors</p> <p>7 might exist whereby the allowance on the</p> <p>8 deferred tax asset would be released. We were not there</p> <p>9 yet, but, you know, you could see positive things</p> <p>10 occurring.</p> <p>11 So when the amendment went into place,</p> <p>12 part of my reaction was they did that in response to my</p> <p>13 communication of our forecasts and the implication of</p> <p>14 those forecasts, that it was probably a desire not to</p> <p>15 allow capital to build up within the enterprises and not</p> <p>16 to allow the enterprises to recapitalize themselves.</p> <p>17 Q. (BY MR. THOMPSON) And with whom at Treasury do</p> <p>18 you have this meeting?</p> <p>19 A. So the -- which meeting?</p> <p>20 Q. The one you just referenced where --</p> <p>21 A. Where I had the discussion about the forecasts?</p> <p>22 Q. Yes.</p> <p>23 A. So it was a common practice for us to meet with</p> <p>24 Treasury on a quarterly basis to review our results from</p> <p>25 the past quarter and to update them on our forecasts;</p>

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1 you know, our updated forecast.
 2 And that meeting -- I don't remember
 3 every specific person in the meeting. I was there;
 4 Tim Mayopoulos, who was the CEO of Fannie Mae was there;
 5 Dave Benson I think would have been there. He -- he was
 6 the Treasurer of Fannie Mae at the time. That would
 7 have been normal for him to be in attendance. Mary
 8 Miller, the Secretary of the Treasury, was there.
 9 Tim --
 10 **Q. Bowler?**
 11 A. Thank you.
 12 I believe he was there. He was normally
 13 at those meetings.
 14 I believe there was a gentleman -- and I
 15 can't remember his name -- who used to work at Fannie
 16 that was now at Treasury that was, like, a
 17 Financial Analyst. I think he was there because they
 18 knew part of the topic we wanted to talk about was these
 19 projections.
 20 And then there were probably other
 21 members of -- excuse me -- FHFA, the U.S. Treasury, and
 22 Fannie Mae to talk about some other topics that were
 23 going to be covered in that meeting. Because normally
 24 we reviewed financials, but they were -- you know, there
 25 may be one, two, or three other topics that would be

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1 discussed.
 2 And both Fannie and Treasury would then
 3 make sure they had the -- the personnel around the table
 4 to facilitate those conversations. I don't remember in
 5 this particular meeting what those topics were and who
 6 those individuals were.
 7 **Q. Do you remember Jeff Foster being at the**
 8 **meeting?**
 9 A. He could have been.
 10 MR. LAUFGRABEN: Objection.
 11 A. He could have been. I can't confirm yes or
 12 not.
 13 **Q. (BY MR. THOMPSON) Yes.**
 14 A. It wouldn't surprise me if he was. That would
 15 have been reasonable.
 16 **Q. And Mario Ugoletti; was he at the meeting?**
 17 **Do you know?**
 18 A. No, I don't remember Mario being there, you
 19 know, again, because I don't have perfect recollection
 20 of all the attendees.
 21 If you said, "Here's this document.
 22 Mario was there," I would say, "Okay. He was there."
 23 I don't remember him being there, but he
 24 could have been there.
 25 **Q. Okay. And so would it be fair to say that**

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1 **there were at least five or six Treasury officials at**
 2 **this meeting?**
 3 A. Probably, yes.
 4 **Q. Okay. And did the meeting take place at**
 5 **Treasury?**
 6 A. Yes, it did.
 7 **Q. And was this within less than a month before**
 8 **the net worth sweep?**
 9 A. I believe it was the week before.
 10 **Q. Okay.**
 11 A. It was very -- it was within the week or two.
 12 It was very close to.
 13 **Q. Would it surprise you to know that there's an**
 14 **e-mail from Tim Bowler where he's saying, "We need to**
 15 **make a renewed push on the net worth sweep"?**
 16 MR. LAUFGRABEN: Objection; form, lack of
 17 foundation.
 18 MR. BARTOLOMUCCI: Objection.
 19 A. I don't have knowledge of that e-mail.
 20 **Q. (BY MR. THOMPSON) Okay. And was this**
 21 **meeting -- I am sorry if I asked this.**
 22 **Was it at Treasury?**
 23 A. Yes.
 24 **Q. And would this -- how would this have been set**
 25 **up?**

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1 A. Normally Dave Benson was our primary sort of
 2 liaison between the company and Treasury. And these
 3 meetings were generally scheduled the day -- you know,
 4 because they were -- we had the regular kind of
 5 quarterly meetings, and there might be some other
 6 meetings of; you know, specific topics that would occur
 7 in between those other meetings.
 8 I don't know -- I can't recollect
 9 exactly, you know, whether we would initiate setting it
 10 up, or Treasury would initiate setting it up. I don't
 11 know how the logistics all worked out.
 12 **Q. And when you were making your presentation, did**
 13 **you have a PowerPoint that you were using?**
 14 A. A few pages, yes, from a PowerPoint.
 15 MR. THOMPSON: Okay. I don't believe,
 16 Mr. Bartolomucci -- and I apologize if I am wrong about
 17 this, but I don't believe we have that PowerPoint
 18 presentation.
 19 So I would ask if you would be kind
 20 enough to go back and talk to your client and see if
 21 they did produce it? And if they didn't produce it,
 22 whether they have it, because it's our view that it's
 23 highly material to these depositions?
 24 MR. BARTOLOMUCCI: Request noted.
 25 MR. THOMPSON: Likewise, I would make the

<p style="text-align: right;">50</p> <p>1 same request to the Government, that to the extent the 2 Government has a copy of this document, I don't believe 3 it's been provided to us. Again, I apologize if I am 4 wrong, but I don't have knowledge of all the pages. But 5 it's not one that I have seen.</p> <p>6 I would just request if you could ask 7 your client, Treasury, whether they have the document, 8 whether it's been produced, whether privilege has been 9 asserted, which I can't imagine since Fannie was there.</p> <p>10 Will you take that back to your client? 11 MR. LAUFGREBEN: I will take it under 12 advisement.</p> <p>13 MR. THOMPSON: Thank you. I appreciate 14 that.</p> <p>15 Q. (BY MR. THOMPSON) Okay. And did you have 16 internal -- so you had a PowerPoint presentation you 17 used at the meeting.</p> <p>18 Did you have also have any internal 19 documentation that was provided to you in preparation of 20 the meeting?</p> <p>21 A. Well, in the sense that I was reviewing actual 22 results and forecasts, there's a lot of documentation 23 that I looked at on both of those to get comfortable and 24 ultimately sign off on the financials and sign off on 25 the 10-Q --</p>	<p style="text-align: right;">52</p> <p>1 The forecasts, in much the same fashion, 2 albeit not quite as formal, we had a process. My team 3 would meet with me to review the forecasts, they would 4 bring information, we would discuss. I, at times, would 5 challenge assumptions, and, you know, I could play 6 devil's advocate.</p> <p>7 We could look at a lot of different 8 things. We could look at sensitivity analyses, 9 comparisons of this forecast to prior forecasts to 10 things like that, a variety of mechanisms for me to get 11 comfortable that we finalized a forecast that we felt 12 comfortable with, that it was a baseline representation 13 of what our most current perspectives were on 14 expectations of future performance.</p> <p>15 So because that process already existed, 16 I was relying on that and the knowledge that I gained 17 through that process to inform me to have those 18 discussions with Treasury. I don't recollect 19 bringing -- I didn't bring, like, you know, a bunch of 20 supporting documentation with me.</p> <p>21 Q. Okay. 22 A. Okay. You know, it was the PowerPoint 23 presentation.</p> <p>24 You know, from time to time, I might 25 bring a page or two of notes that -- that I wanted to</p>
<p style="text-align: right;">51</p> <p>1 Q. Yes. 2 A. -- as well as approve the forecast. So -- and 3 that's just part of the standard process of preparing 4 actuals and preparing forecasts.</p> <p>5 Q. And sorry if I am not being clear. 6 But I am just asking, when you went into 7 this quarterly meeting with Treasury, would typically 8 someone on your staff provide you with either a briefing 9 book or some background materials that would be more 10 detailed than the PowerPoint you would hand out to 11 Treasury?</p> <p>12 A. Well, in the normal course of preparing our 13 actual results, there's a whole process for closing the 14 books, reviewing the results, and preparing the 10-Qs.</p> <p>15 And so the information contained in the 16 PowerPoint from the actual results are ultimately pulled 17 from -- they're basically summarizations, very 18 high-level summarizations of results that come from that 19 standard process that exists to, you know, approve our 20 actuals.</p> <p>21 So it wasn't like I needed a separate 22 briefing book for that. I already had that information 23 available to me in the normal course of my job and 24 responsibilities to, you know, close the books, and sign 25 off on the results and file our Q.</p>	<p style="text-align: right;">53</p> <p>1 make sure either -- you know, make sure I get these 2 points across, or here's a few, you know, additional 3 pieces of data that they may ask about that aren't 4 reflected on the documents, and I wanted to make sure I 5 had the correct information on hand.</p> <p>6 Most of those would take the form of kind 7 of personal notes on my part.</p> <p>8 Q. Okay. Did you take notes of this meeting? 9 A. No.</p> <p>10 I don't generally take notes in those 11 types of meetings.</p> <p>12 Q. Would there have been anyone on your team who 13 would typically take notes on those meetings?</p> <p>14 A. No one on my team was present. In other words, 15 nobody from the Finance Team was present at the meeting 16 other than me.</p> <p>17 Q. Okay. 18 A. I -- I don't recollect -- there wasn't -- as 19 far as I know, there was no official note-taking.</p> <p>20 That doesn't mean that people at the 21 table might be taking or jotting down personal notes.</p> <p>22 Q. Okay. And I just was -- wanted to know if you 23 had a recollection as to whether typically one 24 participant from Fannie would try to take notes down as 25 to what was said.</p>

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1 A. Not that I was aware of, no.

2 **Q. Okay. Was anyone from FHFA at this meeting?**

3 A. I don't recollect. I don't remember.

4 **Q. Okay. And you said there was an Analyst who**

5 **had been at FHFA and --**

6 A. No, had been at Fannie --

7 **Q. Sorry.**

8 A. -- and had gone to work for the U.S. Treasury.

9 **Q. Mr. Goldstein?**

10 A. Yes. Thank you.

11 **Q. Okay.**

12 A. Thank you. Yes.

13 **Q. Allen Goldstein?**

14 A. I said that if you refresh my memory on the

15 name, I could confirm it.

16 Yes, it was Allen.

17 **Q. And he was there at the meeting?**

18 A. I believe he was at the meeting.

19 **Q. Okay. Very good.**

20 **Did you ever have any similar type of**

21 **conversation with anyone at the FHFA about the**

22 **deferred tax asset prior to the Third Amendment?**

23 A. Yes.

24 **Q. Okay. And tell me about that meeting.**

25 A. Well --

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1 MR. LAUFGRABEN: Object to the form of

2 the question; vague.

3 A. I don't -- so just as we -- you know, we had a

4 formal quarterly sit-down with Treasury. We had more

5 regular interactions with individuals at FHFA. So one

6 either Jeff Spohn and/or Brad Martin would attend our

7 Executive Committee meetings.

8 And so generally anything I was going to

9 say at Treasury, I was already telling the

10 Executive Committee, and Brad or Jeff would have been

11 present at those meetings.

12 And as such, my reviews of actuals and

13 forecasts and even the -- the -- the raising of the

14 potential that that allowance might be reversed in the

15 not-so-distant future I would have mentioned at an

16 Executive Committee meeting, and Jeff and/or Brad would

17 have been present to hear that.

18 **Q. (BY MR. THOMPSON) And just to be clear on**

19 **that, that would have been within a month of the**

20 **Third Amendment?**

21 A. It would have been prior to that --

22 **Q. Yes.**

23 A. -- because it's all part of the discussions we

24 have through the quarter-end-close process and forecast

25 preparation and Board prep and all that kind of stuff

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1 that takes place in that cycle.

2 **Q. Just so the record is clear, when you say,**

3 **"prior to that," what period would that have been?**

4 A. Well, it would have been probably -- I would

5 suspect it was -- something that occurred in July would

6 be my -- because of the timing.

7 You know, you're closing the books for

8 the second quarter. We're prepping for the upcoming

9 Board meetings, getting the forecasts done, letting the

10 team know when the results are coming out for the

11 quarter, all of those kinds of conversations that would

12 happen internal at Fannie Mae before we would ever have

13 that conversation with Treasury.

14 **Q. Okay. And I am sorry I interrupted you.**

15 **You described these --**

16 A. And then with the -- we also provide -- so we

17 cannot file our Q unless DeMarco gave us permission to

18 file the Q.

19 So drafts of our filings were also

20 provided to FHFA first. They had the opportunity to

21 provide feedback, and then we could incorporate that

22 feedback and then got approval for the final filings.

23 We also had a press release that would go

24 along with -- when we filed a Q, we would go out with a

25 press release. There is where you might see a little

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1 more color.

2 There would normally be a quote for the

3 CEO like Tim and a quote from me, and we would also kind

4 of preclear that press release with FHFA before issuing

5 the press release.

6 As far as -- I believe during 2012, I

7 began to signal -- there began to be some public

8 communication as to our view that things were starting

9 to look good and starting to head in a positive

10 direction.

11 I would have to refresh my memory through

12 documents as to the timing of what I said and when. But

13 I know through the course of early 2012 and then

14 throughout that summer, the messaging was getting a bit

15 more and more positive that we were sending out. And

16 certainly FHFA was aware of our communications, our

17 external communications in that regard.

18 As far as the deferred tax asset, I -- I

19 don't recollect that we had some big formal meeting to

20 break the news to them, okay? I believe that it was

21 just something that we talked about in the normal course

22 of keeping them informed about kind of what we're

23 seeing.

24 And also, Jeff Spohn and/or Brad Martin

25 would attend our Board meetings, so they would also

<p style="text-align: right;">58</p> <p>1 hear that the same comments I was making to Treasury, I 2 was making to the Board.</p> <p>3 Q. Okay. In the same timetable?</p> <p>4 A. I don't remember exactly when the Board 5 meetings were within that window, but it would have been 6 Board meetings shortly before that that I would have 7 reviewed this very same information.</p> <p>8 Q. Okay. And when you say that you would have had 9 dialogue with people at FHFA about the deferred tax 10 assets, with who would you have had the dialogue? 11 Would that have been Mario Ugoletti?</p> <p>12 MR. LAUFGRABEN: Object to the form of 13 the question; vagueness as to time period.</p> <p>14 A. Yeah.</p> <p>15 So early on, it's probably through the 16 Chief Accountant's office of the FHFA, because it is a 17 technical accounting matter.</p> <p>18 Q. And do you happen to recall --</p> <p>19 A. I can pick him out of a lineup.</p> <p>20 Q. Okay. We'll show you some names later on.</p> <p>21 A. I tell you, I -- ask me a number, I can 22 probably give it to you. People's names...</p> <p>23 It would have started there. Eventually 24 there were conversations with Director DeMarco and key 25 direct reports of his, but that -- the -- those -- the</p>	<p style="text-align: right;">60</p> <p>1 50-billion-dollar range and probably sometime mid 2013 2 at that time when I met with them late July, early 3 August 2012.</p> <p>4 But I said we had not done a real 5 in-depth analysis, so I was just kind of giving her kind 6 of my off-the-cuff perspective in the moment.</p> <p>7 Q. And FHFA was on notice that you had sent this 8 message to Treasury?</p> <p>9 A. Yes.</p> <p>10 MR. LAUFGRABEN: Object to the form of 11 the question.</p> <p>12 A. Yes.</p> <p>13 Q. (BY MR. THOMPSON) And they were on notice of 14 that fact before the Third Amendment; is that right?</p> <p>15 MR. LAUFGRABEN: Same objection.</p> <p>16 A. Yes.</p> <p>17 Q. (BY MR. THOMPSON) Okay. Now, if we look 18 for -- let's look at some of these Board minutes, and 19 we've actually -- we've been going -- well, that's fine.</p> <p>20 Does -- do you need a break, or --</p> <p>21 A. I am fine right now.</p> <p>22 Q. Okay.</p> <p>23 A. I am fine right now. If I need water, then I 24 will need a break.</p> <p>25 Q. Okay. Very good.</p>
<p style="text-align: right;">59</p> <p>1 DeMarco conversations occurred when we were actually in 2 the serious mode of potentially -- we were looking -- 3 we did a full analysis at the end of the second quarter; 4 no release. We did a full analysis at the end of the 5 third quarter; no release.</p> <p>6 When we were doing the analysis for the 7 fourth quarter of 2012, we started to get to a point 8 where we were tipping towards release, and that's when I 9 began to have conversations with more senior folks at 10 FHFA on it. But they were already aware of the 11 statement that I made to Treasury. I mean, in general, 12 I put it on people's radar screens that it's something 13 that could happen in the not-so-distant future.</p> <p>14 I will say that I believe Mary Miller 15 asked me in this meeting about how large would it be and 16 did I have any idea of when.</p> <p>17 Q. Yeah.</p> <p>18 A. And I believe my response was around 19 50 billion, but that could be larger or smaller 20 depending upon when. The further out in time it is, the 21 smaller it probably would be. It is part of the 22 evidence that it might be good.</p> <p>23 So the further out in time that it would 24 be released, the smaller the release size would be.</p> <p>25 But I said probably in the</p>	<p style="text-align: right;">61</p> <p>1 Okay. So we're going to have the 2 court reporter mark as McFarland 2 a document that bears 3 the Bates number FM3153 through 3159. 4 (McFarland Exhibit No. 2 was marked.)</p> <p>5 Q. (BY MR. THOMPSON) And if we look, these are 6 minutes of the meeting of the Board of Directors from 7 August 22, 2011. And if we look at the last sentence of 8 the second paragraph, it indicates Jeff Spohn from the 9 Federal Housing Finance Agency also participated.</p> <p>10 Is this a piece of what you were saying 11 earlier, that typically there was an FHFA member at your 12 Board meetings?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And if we turn to page 4 of this 15 document, there's a heading that says, "Bank of America 16 Countrywide and Bank of New York Mellon Proposed 17 Settlement."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And do you recall that Fannie Mae had initiated 21 a series of litigations against major financial 22 institutions?</p> <p>23 A. Yes.</p> <p>24 MR. LAUFGRABEN: Object to the form of 25 the question.</p>

<p style="text-align: right;">62</p> <p>1 What does this have to do with the</p> <p>2 Discovery Order?</p> <p>3 MR. THOMPSON: Profitability. They made</p> <p>4 tens of billions of dollars off of this.</p> <p>5 MR. LAUFGABEN: A couple of questions.</p> <p>6 Q. (BY MR. THOMPSON) So at -- and do you recall</p> <p>7 what the gist of the lawsuit was?</p> <p>8 Was it that you had bought product and</p> <p>9 covenants were false?</p> <p>10 MR. LAUFGABEN: Object to the form of</p> <p>11 the question.</p> <p>12 A. Yes. Well, that we had bought product that had</p> <p>13 not complied with the requirements.</p> <p>14 The general model that existed in</p> <p>15 originations at the time was to detect and correct after</p> <p>16 the fact, versus inspect and reject prior to taking it</p> <p>17 on. So it was determined that a significant percent of</p> <p>18 the -- the loans that we received that had been</p> <p>19 originated through some of these -- now, there were</p> <p>20 different lawsuits. So there's investment securities,</p> <p>21 and there is loan guarantee activity.</p> <p>22 So the lawsuits and the loan guarantees</p> <p>23 was premised basically on the fact that we had found a</p> <p>24 significant defects in a significant number of loans.</p> <p>25 And that per the requirements, they were to make us</p>	<p style="text-align: right;">64</p> <p>1 side, while we didn't build in settlement projections as</p> <p>2 settlement projections, we did have assumptions about</p> <p>3 how much we should expect to receive.</p> <p>4 It's not -- in the normal course, a loan</p> <p>5 would go bad. We would assess the defects. If we</p> <p>6 thought we had a valid claim against the institution</p> <p>7 that originated the loan, we could build some assumption</p> <p>8 in for recovery from that institution for those defects.</p> <p>9 So in our normal projection of net loan losses, we would</p> <p>10 include some amount of recovery from various</p> <p>11 institutions for them curing the defects.</p> <p>12 When we got into significant</p> <p>13 contention -- let's use the Bank of America Countrywide</p> <p>14 as an example -- we tried to be very conservative. Not</p> <p>15 that we didn't think we had a legitimate claim to a lot</p> <p>16 larger number, but we knew that Bank of America was</p> <p>17 heavily disputing our requests and how much we had been</p> <p>18 asking for them to make us good, you know, to cure the</p> <p>19 defects. So we tried to be very, very conservative as</p> <p>20 to how much we thought we would actually collect from</p> <p>21 Bank of America.</p> <p>22 And so then as the actual agreements were</p> <p>23 reached, it was a matter of comparing that which we had</p> <p>24 already incorporated into our assumption set versus how</p> <p>25 much we actually got from them.</p>
<p style="text-align: right;">63</p> <p>1 whole on that. That was sort of the operating model.</p> <p>2 And that were large sums of money owed to us to resolve</p> <p>3 all those loans in accordance with the</p> <p>4 Loan Origination Agreements that existed. So that's on</p> <p>5 the loan origination side.</p> <p>6 There were also lawsuits that existed</p> <p>7 related to the investment securities and whether or not</p> <p>8 the institutions involved had fully and appropriately</p> <p>9 disclosed information about securities to the buyers of</p> <p>10 those securities as required, and that the lawsuits</p> <p>11 contend that they had not. And as a result, they owed</p> <p>12 damages to the buyers and owners of those securities,</p> <p>13 Fannie Mae being one of those.</p> <p>14 Q. (BY MR. THOMPSON) Did your team, when it was</p> <p>15 building projections of future profitability, include a</p> <p>16 line item for expected values of settlements that might</p> <p>17 or verdicts that might be realized?</p> <p>18 A. Not as a general practice.</p> <p>19 We would only build those in if in the</p> <p>20 event it was all but certain and agreed to. Otherwise,</p> <p>21 we -- there -- now, I want to pause here, because</p> <p>22 there's two ways one can address some of these issues.</p> <p>23 So on the investment securities side, we</p> <p>24 didn't build anything in for being -- you know, getting</p> <p>25 some kind of a settlement. On the loan origination</p>	<p style="text-align: right;">65</p> <p>1 Q. Okay. Very helpful. Thank you.</p> <p>2 A. Okay.</p> <p>3 Q. And we can put this document to the side.</p> <p>4 A. Okay.</p> <p>5 Q. Now, the periodic commitment fee.</p> <p>6 Do you recall there being any discussion</p> <p>7 while you were at Fannie Mae about the amount of the</p> <p>8 periodic commitment fee?</p> <p>9 MR. LAUFGABEN: Objection as to time</p> <p>10 period.</p> <p>11 Q. (BY MR. THOMPSON) As I said, at the</p> <p>12 beginning -- the assumption is -- that I am asking</p> <p>13 about --</p> <p>14 A. The main discussions were the -- that they were</p> <p>15 continuing to waive our need to pay the commitment fee.</p> <p>16 Q. Okay. Was the commitment fee regarded by</p> <p>17 yourself as akin -- not the commitment fee, but the</p> <p>18 commitment itself as akin to a line of credit?</p> <p>19 MR. LAUFGABEN: Objection; vague.</p> <p>20 A. Yeah.</p> <p>21 I mean, obviously the</p> <p>22 Preferred Stock Purchase Agreement provides for</p> <p>23 funding -- access to funding if in the event certain</p> <p>24 conditions exist. One could say that's not dissimilar</p> <p>25 to some forms -- you can call it a line of credit, or</p>

<p style="text-align: right;">66</p> <p>1 you can call it an LC, a letter of credit, because it's</p> <p>2 a little bit more you draw if in the event certain</p> <p>3 conditions exist, whereas a line of credit is open-ended</p> <p>4 as to where one can draw and pay down and whatnot on it.</p> <p>5 So you -- yeah. The commitment fee would</p> <p>6 probably be very similar to fees that you would see</p> <p>7 structured into those types of instruments.</p> <p>8 Q. And are those types of fees generally</p> <p>9 calculated as a percentage of the outstanding</p> <p>10 commitment?</p> <p>11 MR. LAUFGRABEN: Objection; lack of</p> <p>12 foundation, calls for speculation, calls for</p> <p>13 expert testimony.</p> <p>14 A. I would say it -- for letters of credit and</p> <p>15 lines of credit in the normal ordinary course of banks'</p> <p>16 dealings with customers, since I have a lot of banking</p> <p>17 experience, that would be a customary structure --</p> <p>18 Q. (BY MR. THOMPSON) Okay.</p> <p>19 A. -- Yes.</p> <p>20 Q. All right. Did anyone at FHFA or Treasury tell</p> <p>21 you that the periodic commitment fee would be</p> <p>22 incalculably large if they didn't waive it?</p> <p>23 A. No.</p> <p>24 MR. LAUFGRABEN: Objection.</p> <p>25 Q. (BY MR. THOMPSON) Okay. I am going to have --</p>	<p style="text-align: right;">68</p> <p>1 on the books.</p> <p>2 And when you had this combined result, it</p> <p>3 made it at times difficult to ensure that you were -- we</p> <p>4 were getting the desired results from the new</p> <p>5 book of business. So could we kind of separate the</p> <p>6 results into two pieces, that of the bad back book,</p> <p>7 which is the bad bank, and that of the new book, that</p> <p>8 being the good bank, in such a way that it -- it would</p> <p>9 better enable us to understand the unique results of</p> <p>10 each of the -- each part of the portfolio.</p> <p>11 Q. And have you heard of the term, "vintages"?</p> <p>12 A. Yes.</p> <p>13 Q. And is this a metaphor similar to wine, that</p> <p>14 the originations and investments made in a particular</p> <p>15 year could be good or bad?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And were the vintages of 2009 and '10</p> <p>18 and '11 and '12 good vintages for Fannie Mae?</p> <p>19 A. Yes. They were certainly much better vintages</p> <p>20 than the vintages of 2002, '3, '4, '5, '6, '7.</p> <p>21 Q. Yes.</p> <p>22 And as time went on, the good vintages</p> <p>23 became a bigger part of Fannie's future, and the bad</p> <p>24 vintages became diminished; is that right?</p> <p>25 MR. LAUFGRABEN: Objection to the form of</p>
<p style="text-align: right;">67</p> <p>1 our next one will be McFarland 3. It has a Bates number</p> <p>2 of FM3070 through 3074.</p> <p>3 (McFarland Exhibit No. 3 was marked.)</p> <p>4 Q. (BY MR. THOMPSON) So these are</p> <p>5 minutes of the meeting of the Board of Directors of</p> <p>6 Fannie dated October 20, 2011. If you look at the third</p> <p>7 full paragraph on the first page, we can see you're</p> <p>8 present, as well as Jeff Spohn of the FHFA.</p> <p>9 A. Uh-huh.</p> <p>10 Q. And if we turn to the second page, the first</p> <p>11 full paragraph, the first sentence reads, quote, "The</p> <p>12 Board discussed the utility of obtaining on an ongoing</p> <p>13 basis a good bank/bad bank financial presentation, and</p> <p>14 CFO McFarland indicated that she would include this</p> <p>15 information in the November Board reporting package."</p> <p>16 What is being referred to there as the</p> <p>17 good bank/bad bank?</p> <p>18 A. At that time, Fannie Mae's results were</p> <p>19 commingled. The results associated with the book that</p> <p>20 had been originated prior to the -- I use the word,</p> <p>21 "meltdown" -- the financials crisis, the 2007, 2008</p> <p>22 period, whatever you want to call it, and obviously</p> <p>23 there were fairly significant losses coming forward from</p> <p>24 that book of business. All the while, over the last</p> <p>25 most-recent period, new loans had been originated, put</p>	<p style="text-align: right;">69</p> <p>1 the question.</p> <p>2 A. Yes.</p> <p>3 So two things began to happen: The</p> <p>4 percentage of the overall book, you know, the -- the</p> <p>5 older vintages, comprised less of the total portfolio</p> <p>6 vis-à-vis the new vintages, and the performances of the</p> <p>7 new vintages improved.</p> <p>8 The, for instance, the 2011 vintage had</p> <p>9 better performance than 2009 vintage.</p> <p>10 Q. (BY MR. THOMPSON) Okay.</p> <p>11 A. So you had both of those positives occurring</p> <p>12 over time.</p> <p>13 Q. Okay. And I would like to ask the</p> <p>14 court reporter to mark this next exhibit as McFarland 4.</p> <p>15 It has a Bates number of FHFA72466 through 72484.</p> <p>16 (McFarland Exhibit No. 4 was marked.)</p> <p>17 Q. (BY MR. THOMPSON) This document says,</p> <p>18 "Senior Preferred Stock Purchase Agreement:</p> <p>19 Treasury Draw Projections, October 24, 2011, Financial</p> <p>20 Planning & Analysis."</p> <p>21 Who was in charge of the</p> <p>22 financial planning and analysis of Fannie at this time?</p> <p>23 A. I believe it was Anne Gehring reporting to me.</p> <p>24 Q. Okay. And then if we turn to page -- I am</p> <p>25 going to refer to these Bates numbers -- these are the</p>

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1 little numbers in the bottom right-hand corner -- 72478.
 2 It's the 13th --
 3 A. 78?
 4 Q. Yes, 78.
 5 A. Okay.
 6 Q. And it shows projections of total net income.
 7 And if we look at 2020 out through 2026, it -- in this
 8 document, Fannie's projecting profits of about
 9 10 billion a year; is that right?
 10 A. Yes --
 11 MR. LAUFGRABEN: Objection.
 12 A. -- this document says that.
 13 Q. (BY MR. THOMPSON) Okay. And do you believe as
 14 of October 2011 that that was a reasonable
 15 long-term projection of profitability for Fannie?
 16 A. Yes.
 17 I do, though, appreciate, having been in
 18 this business for a long time, that the further out in
 19 time you go, the more those projections are subject to a
 20 lot of factors that have yet to occur that would not
 21 have been, you know, explicitly incorporated into those
 22 projections.
 23 So they are reasonable placeholders based
 24 on trending out what you know today or could reasonably
 25 expect based on what you know today. But as you get

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1 further out in time, a lot of stuff can happen; with
 2 that as a caveat.
 3 Q. Okay. Now, did anyone at FHFA -- well, first
 4 of all, would FHFA have been aware of these projections?
 5 MR. LAUFGRABEN: Object to the form of
 6 the question; calls for speculation.
 7 A. I need to refresh my memory as to where this
 8 document was -- it's -- this looks like a document that
 9 would have been covered in the Executive Committee
 10 and/or the Board, but I can't -- you know, I need -- I
 11 don't know if that was the case or not, because there's
 12 no nomenclature on this document to indicate one way or
 13 the other.
 14 If it had been, then clearly members of
 15 FHFA would have been present in those meetings.
 16 Q. (BY MR. THOMPSON) And if we look at this, is
 17 it fair to say that you at this time, October 2011,
 18 really thought that 2013 and then maybe going into 2014
 19 was going to be a turning point for Fannie's
 20 profitability?
 21 A. The projections that existed at that time based
 22 on this document show that profitability starts to show
 23 up in 2013. I mean, that's what this particular
 24 forecast indicated.
 25 Q. Yes.

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1 Do you recall anyone at FHFA ever
 2 criticizing any of the projections of
 3 future profitability that Fannie was making in
 4 2011 and 2012 up through the time of the
 5 net worth sweep?
 6 MR. LAUFGRABEN: Object to the form of
 7 the question.
 8 A. I -- my recollection is there wasn't criticism.
 9 There were questions. There were
 10 cautions. In other words, you know, let's not forget
 11 that, you know, this -- that a lot of bad things have
 12 happened, right?
 13 And, you know, with some history in mind,
 14 when the declines were occurring, the degradations were
 15 occurring, the company was having a hard time keeping up
 16 with the face of the degradations. As a result, the
 17 forecasts that the company had been producing prior to
 18 my arrival -- and I am basing this on what I have been
 19 told, so I don't know if it's relevant here or not --
 20 that the actual outcomes tended to be a little bit worse
 21 than what the company had been projecting.
 22 But when I got there, we focused very
 23 heavily on trying to continue to improve the quality of
 24 the forecasts. And I think if you look at the actual
 25 results vis-a-vis a lot of the forecasts we were

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1 producing, you would see the results and forecasts being
 2 more in alignment. In fact, it improved over time.
 3 Having had experience at other companies,
 4 that's not unusual that it's hard to catch up with
 5 trends, whether that's negative trends or positive
 6 trends.
 7 So if some things are going bad,
 8 sometimes it's hard to catch up to how bad. And, you
 9 know -- but on the flip side, when things start to turn
 10 good, sometimes it's hard to catch up with how fast and
 11 the magnitude of the tailwinds and how much things are
 12 going to improve and how fast. So that's not a unique
 13 thing to Fannie Mae.
 14 I just remember there being some general
 15 discussions about, you know, are we -- you know, let's
 16 not forget that there have been times in the past where
 17 the forecasts didn't reflect all the badness that
 18 ultimately happened, right?
 19 Q. (BY MR. THOMPSON) Uh-huh.
 20 A. And it was more in that general conversation,
 21 but not a -- what I would call an outright criticism of,
 22 "You're wrong. That can't be right."
 23 There wasn't any of that kind of --
 24 Q. Okay. And were you aware that Grant Thornton
 25 was doing its own projections of the future

154	<p>1 of foundation. This is also beyond the scope of the</p> <p>2 Discovery Order.</p> <p>3 A. I mean, you know, I don't remember exactly, you</p> <p>4 know, did somebody say this or that or whatever. I</p> <p>5 don't remember the specific comments, but I remember the</p> <p>6 general gist of conversation was in that kind of vein.</p> <p>7 Q. (BY MR. THOMPSON) And was there a sense of</p> <p>8 this is a problem if we can't generate capital and</p> <p>9 retain capital?</p> <p>10 MR. LAUFGRABEN: Object to the form of</p> <p>11 the question.</p> <p>12 How is this related to any of the topics</p> <p>13 in the Discovery Order?</p> <p>14 MR. THOMPSON: Well, it relates to the</p> <p>15 profitability, was it a problem in the term of</p> <p>16 probability.</p> <p>17 MR. LAUFGRABEN: We will instruct the</p> <p>18 witness not to answer this.</p> <p>19 MR. THOMPSON: She is not your witness.</p> <p>20 MR. BARTOLOMUCCI: Do you know what the</p> <p>21 question on the table is?</p> <p>22 A. So why we've had a little bit of back and forth</p> <p>23 here.</p> <p>24 Q. (BY MR. THOMPSON) So was there a sense that</p> <p>25 this was going to be a problem for Fannie going forward</p>	156	<p>1 It could be, but it didn't necessarily need to be. So I</p> <p>2 wasn't, you know, kind of trying to draw any conclusion.</p> <p>3 It seemed odd to me that if what they</p> <p>4 wanted to do was wipe out the shareholders, why they</p> <p>5 didn't do that in inception of the conservatorship in</p> <p>6 the first place, because they left market speculation to</p> <p>7 occur in the marketplace.</p> <p>8 So -- but time passes. Different people</p> <p>9 and minds may think differently over time. So, you</p> <p>10 know, I wasn't assuming one way or the other that they</p> <p>11 were trying to wipe out the shareholders.</p> <p>12 Q. Well, you said earlier that, well, you know,</p> <p>13 there was surprise and not surprise.</p> <p>14 Was the not surprise because there was a</p> <p>15 sneaking suspicion that the Government wasn't going to</p> <p>16 let anyone else participate in the profits?</p> <p>17 MR. LAUFGRABEN: Same objection as we</p> <p>18 specified before.</p> <p>19 We would instruct the witness not to</p> <p>20 answer this question. It's far beyond the scope of the</p> <p>21 Discovery Order, and Counsel has not tied it to any</p> <p>22 topics in the Discovery Order.</p> <p>23 MR. BARTOLOMUCCI: Do you want to restate</p> <p>24 the question?</p> <p>25 MR. THOMPSON: Sure.</p>
155	<p>1 that it was not able to retain capital?</p> <p>2 MR. LAUFGRABEN: Same objection.</p> <p>3 We're instructing the witness not to</p> <p>4 answer, this is so far beyond the scope of the discovery</p> <p>5 order.</p> <p>6 A. There were discussions about the pros and cons.</p> <p>7 In other words, what about it is good for Fannie, what</p> <p>8 about it may not be so good for Fannie, okay?</p> <p>9 Q. Okay.</p> <p>10 A. Sos, you know, one of the things, you know,</p> <p>11 that is to the good is it did resolve this iterative</p> <p>12 borrow-to-pay-the-dividend issue that we've talked about</p> <p>13 previously.</p> <p>14 You know, in my mind, the lack of capital</p> <p>15 accumulation meant that we had no -- we were building no</p> <p>16 financial wherewithal to take on unexpected events and</p> <p>17 losses, that we would be highly dependent on the</p> <p>18 Government -- even more-so dependent on the Government</p> <p>19 if an event, things like that happened in the future.</p> <p>20 I didn't take in my own mind whether this</p> <p>21 was a temporary -- you know, that we've got this -- you</p> <p>22 know, look, they put a second amendment in, they put a</p> <p>23 third amendment in, could there be a fourth amendment.</p> <p>24 So things could change in the future, so</p> <p>25 I didn't take it as a forever and ever amen necessarily.</p>	157	<p>1 Q. (BY MR. THOMPSON) So was there a -- did you</p> <p>2 have the sense that the Government simply was not going</p> <p>3 to allow the private shareholders to participate in</p> <p>4 future profits when you were at Fannie?</p> <p>5 Do you think that was one of the</p> <p>6 possibilities that might ultimately come out?</p> <p>7 MR. LAUFGRABEN: Renew our objections and</p> <p>8 our instruction to the witness not to answer.</p> <p>9 Counsel still has not tied this to the</p> <p>10 Discovery Order.</p> <p>11 MR. BARTOLOMUCCI: David, do you really</p> <p>12 want her to answer what was her sense of what the</p> <p>13 Government thought was possible?</p> <p>14 MR. THOMPSON: Yeah.</p> <p>15 I mean, it goes to the reasonable</p> <p>16 investment -- yeah.</p> <p>17 Q. (BY MR. THOMPSON) I mean, from your</p> <p>18 perspective, you were dealing with the Government, and</p> <p>19 you said you weren't surprised totally by the net worth</p> <p>20 sweep.</p> <p>21 I just really want you to explain why.</p> <p>22 MR. LAUFGRABEN: Same objections, and</p> <p>23 same instructions.</p> <p>24 A. I will tell you -- yeah. This is from my</p> <p>25 vantage point. I am not presuming what the Government</p>

158	<p>1 was thinking or wanted. I am not trying to represent 2 anything from them. I may represent my perspective on 3 what they may have been thinking. 4 I just sat down with them -- to the 5 Treasury and said, "We think we're sustaining 6 profitable." 7 The numbers were decent-sized. I also 8 put on the radar that there was a possibility of a 9 deferred tax allowance release that could be sitting in 10 the not-so-distant future. 11 So the fact that this happened shortly 12 thereafter -- so the time -- the time connection there 13 was part of why -- that was part of why I wasn't 14 surprised. Okay. I just told them that. 15 So then the question is why would they be 16 concerned of us making money and creating capital inside 17 the enterprise. I think in my own opinion, a lot of -- 18 a lot of people got wiped out, and the Government had to 19 step in on a lot of fronts during the financial crisis. 20 I think politically it seemed a little -- it would seem 21 to me that there would be individuals bothered that some 22 individuals might profit from the Government's support 23 of the enterprises, okay? 24 So, you know, it wouldn't -- would it 25 be -- how would it play out if somebody made big bucks</p>	160	<p>1 2523 through 2525. 2 (McFarland Exhibit No. 20 was marked.) 3 Q. (BY MR. THOMPSON) Now, this is a letter from 4 you to Ed DeMarco dated August 6th, 2012; is that right? 5 A. Yes. 6 Q. And you're reporting that there's a surplus 7 amount, thus there's no need for a draw; is that right? 8 A. Yes. 9 MR. LAUFGRABEN: Object to the form of 10 the question. 11 Q. (BY MR. THOMPSON) If we look at the last page 12 of the document, there's a lists of assets and 13 liabilities. I just want to make sure I understand. 14 The Government's commitment was not 15 listed as an asset on the Balance Sheet of the company; 16 is that correct? 17 A. Yes. 18 Q. Okay. So this next one is going to be 19 McFarland 21. It has a Bates number of Fannie Mae 2482. 20 (McFarland Exhibit No. 21 was marked.) 21 Q. (BY MR. THOMPSON) So this is an e-mail from 22 Nicola Fraser dated August 7th, 2012 to you and 23 Mr. Benson and Mr. Mayopoulos and others. The subject 24 is, "Draft Treasury Meeting Discussion Materials, 25 Treasury Slides 8, 9, 12 Version 9."</p>
159	<p>1 because -- off the backs of the taxpayers? I am kind 2 of -- how some people could connect dots that the 3 Government stepped in, put a bunch of money into the 4 GSEs using taxpayers' funds, and now Daddy Big Bucks 5 over here is making a big profit off of Fannie Mae 6 stock. 7 You could see how positioned that way, 8 how that would be pretty politically unpalatable. I 9 could see why there could be a concern that anybody 10 plays things out that way. So, thus, why -- I wasn't 11 trying to presume that they completely wanted to wipe 12 out the shareholders, but I certainly would appreciate 13 why there would be sensitivity of things playing out in 14 a way that somebody would glob on to that story line. 15 Does that make sense? 16 Q. (BY MR. THOMPSON) Yes. Thank you. And let's 17 go on. 18 MR. LAUFGRABEN: Is this a good time to 19 take a five-minute break? 20 MR. THOMPSON: Sure. 21 THE REPORTER: Okay. It's 2:58. 22 (Recess from 2:58 p.m. to 3:05 p.m.) 23 THE REPORTER: It's 3:05. 24 Q. (BY MR. THOMPSON) Okay. We're on to 25 McFarland 20, and it has a Bates number of Fannie Mae</p>	161	<p>1 Does this relate to the meeting that you 2 described earlier that took place at Treasury on the eve 3 of the net worth sweep where you spoke to Ms. Miller 4 about deferred tax assets and other things? 5 MR. LAUFGRABEN: Object to the form of 6 the question; mischaracterizes previous testimony. 7 A. This relates to the presentation that was being 8 prepared for my use in the meeting with Treasury on the 9 9th with Mary Miller and others at Treasury to update 10 them on our financial results forecast. And while the 11 meeting materials didn't express in writing the deferred 12 tax allowance issue, I in that meeting articulated that 13 orally to Treasury. 14 Q. (BY MR. THOMPSON) Okay. And you can put that 15 to the side. Let's look at McFarland 22, which has 16 Bates numbers 2526 through 2535. 17 (McFarland Exhibit No. 22 was marked.) 18 Q. (BY MR. THOMPSON) So take a moment, 19 Ms. McFarland, to look through this, and my question is 20 whether this is the PowerPoint presentation that was 21 provided to Treasury at that meeting? 22 A. Yes, although -- so you asked earlier -- I 23 think you didn't think you had the presentation. 24 Q. Exactly. 25 A. This is it, although this is the update.</p>

162	<p>1 So from time to time, presentations, 2 whether that's -- you know, Treasury or Board or 3 whatever, it looks like this has some updates. Normally 4 those updates are minor corrections. Maybe it's 5 spellings or -- you know, I can't tell you what got 6 changed, but clearly we met with them on August 9th. 7 So the version I would have used would 8 have been the version that existed on August 9th, not 9 the updated version as of August 15th. I am not aware 10 of substantive changes made the document. In all 11 material respects, probably the information here is the 12 same material that I reviewed with Treasury. 13 Q. Okay. 14 MR. THOMPSON: And I guess, Chris, if 15 you-all could look and see if you have the August 9th 16 version, that would be great, you know? We would 17 certainly appreciate it. 18 MR. BARTOLOMUCCI: Got it. 19 Q. (BY MR. THOMPSON) Okay. So -- and you walked 20 them through each of these slides -- 21 MR. LAUFGRABEN: Object to the form of 22 the question. 23 Q. (BY MR. THOMPSON) -- the Treasury officials 24 who were present? 25 A. I walked Treasury through the financial slides.</p>	164	<p>1 Q. Yes. I understand. 2 A. They kept things fairly close to the vest, if 3 you will. 4 Q. Yes. 5 A. So this was not untypical of that. 6 But they asked a few questions. 7 Sometimes from the questions they ask, you can kind of 8 get a sense of what's on their mind. 9 That is where, you know, Mary did ask me 10 -- when I brought up the deferred tax asset allowance 11 valuation, you know, she asked me that question as an 12 example. But -- 13 Q. Okay. That's helpful. 14 Let me ask you a question: Does it 15 follow from the fact that -- well, strike that. 16 Am I right in thinking that Fannie Mae 17 did reserve some of its loan loss provisions? 18 MR. LAUFGRABEN: Object to the form of 19 the question. 20 A. Fannie Mae's loan loss reserve declined -- 21 Q. (BY MR. THOMPSON) Okay. 22 A. -- over time. 23 Q. Okay. 24 A. And so in -- you know, so if you think of that 25 as a loan loss reserve reversal, then yes.</p>
163	<p>1 Q. The financial slides, okay. 2 A. Correct. 3 Q. Including the projections of future 4 profitability? 5 A. Yes. 6 MR. LAUFGRABEN: Objection. 7 Q. (BY MR. THOMPSON) Okay. And what was their 8 reaction to the projections of future profitability? 9 MR. LAUFGRABEN: Object to the form of 10 the question. It's vague. 11 A. I remember there being a few questions asked 12 that I would put more in the category of seek to 13 understand. 14 Q. (BY MR. THOMPSON) Okay. 15 A. And I do think there was a, you know -- a 16 little bit of question around, well, you know, what 17 could cause the outcomes to be, you know, different than 18 this. And I believe I gave them a brief update of some 19 sensitivity analyses that we do, which we kind of do on 20 a recurring basis. 21 But there wasn't any expression of -- I 22 want to be careful here. 23 Generally in our meetings with Treasury, 24 they wanted to hear a lot more from us than they were 25 giving.</p>	165	<p>1 Q. Okay. And does it mean that, with the benefit 2 of hindsight, Fannie was over-reserved at one point? 3 MR. LAUFGRABEN: Object to the form of 4 the question; calls for speculation. 5 Just please put a time frame on it. 6 A. Let me answer this in the theoretical 7 construct, and then we can apply it to Fannie 8 specifically. 9 Q. (BY MR. THOMPSON) Okay. 10 A. When a company changes its allowance one way or 11 the other, it can be for a variety of reasons. One, it 12 can be because they didn't get it right before, and they 13 had to correct it, which I think is a little bit of the 14 question you're asking. 15 There are two other general reasons: 16 One, for instance, if I reserved in period A for loans I 17 expected to go bad in the future, and I am now in the 18 future, those loans have gone bad, I have worked through 19 them, and I charged them off, I no longer need to carry 20 the reserve on them anymore. So the reserves will going 21 away. 22 Now, I may put up new reserves for new 23 loans that I think will go bad or loans that didn't look 24 as bad in period A but now look not so hot in the next 25 period.</p>

166	<p>1 So reversing reserves may just be the</p> <p>2 fact that you've worked through the problems, and you no</p> <p>3 longer need to carry the reserve because you actually</p> <p>4 realize the charge-off.</p> <p>5 The third bucket can be because</p> <p>6 assumptions have changed, that you have seen -- you</p> <p>7 assumed a certain home price, so your severity was going</p> <p>8 to be a certain level. Now home prices are improving,</p> <p>9 so what you're likely to get -- it could be the other</p> <p>10 way. Let's say it was improving.</p> <p>11 Then you would say, "Okay. I expect to</p> <p>12 get more for the collateral than I previously expected."</p> <p>13 That's not a correction of an error.</p> <p>14 That's not meaning I was over-reserved in the prior</p> <p>15 period.</p> <p>16 The reserves were based on what home</p> <p>17 prices were in the prior period. Now that I see that</p> <p>18 home prices are going to be better, I am updating the</p> <p>19 reserves to reflect those updated assumptions.</p> <p>20 Q. Okay. Do you recall for Fannie whether all</p> <p>21 three of those factors were in place, or just some of</p> <p>22 them --</p> <p>23 MR. LAUFGRABEN: Object to the form of</p> <p>24 the question.</p> <p>25 Q. (BY MR. THOMPSON) -- in the reduction of the</p>	168	<p>1 Judgment is required in setting allowance</p> <p>2 loan loss.</p> <p>3 Q. (BY MR. THOMPSON) Okay. Where are the areas</p> <p>4 where judgment needs to be brought into bear?</p> <p>5 Future home prices is one, right?</p> <p>6 MR. LAUFGRABEN: Objection; vague, calls</p> <p>7 for speculation.</p> <p>8 A. As we discussed previously, there were a number</p> <p>9 of different home-price projections out there.</p> <p>10 Q. (BY MR. THOMPSON) Yeah.</p> <p>11 A. So you use judgment as to which home price</p> <p>12 projections you're going to use as your base-case</p> <p>13 calculation.</p> <p>14 You can see periods of time -- so when</p> <p>15 you look back at your history, you can try to</p> <p>16 extrapolate off the historical performance what you</p> <p>17 might expect in the future for loans in the same stage</p> <p>18 of delinquency. So you could say that historically</p> <p>19 loans that are 90 days delinquent, X percent of them</p> <p>20 don't pay.</p> <p>21 However, what you would probably see, if</p> <p>22 you looked back over history, what that percentage</p> <p>23 looked like 12 months ago might look different than</p> <p>24 6 months ago which may look different than 3 months ago.</p> <p>25 There's judgment involved in how you should consume</p>
167	<p>1 loan loss provisions?</p> <p>2 MR. LAUFGRABEN: Same objection with</p> <p>3 respect to the time period.</p> <p>4 A. For the time period -- I believe we started</p> <p>5 reducing reserves sometime in 2012, so let's -- I will</p> <p>6 answer it in the context of declines in allowance during</p> <p>7 2012 from, say, where it ended in 2011. So let me just</p> <p>8 box it in.</p> <p>9 There was nothing that caused those</p> <p>10 declines that we deemed to be a correction of an error,</p> <p>11 because, quite frankly, if it was a correction of an</p> <p>12 error, and it was material, we would need to restate our</p> <p>13 prior financials. We have that responsibility from an</p> <p>14 accounting perspective to do so.</p> <p>15 All of the materials change in the</p> <p>16 allowance were driven by the burnoff of the bad stuff</p> <p>17 and improving assumptions and applying those improving</p> <p>18 assumptions to what we thought we now needed to have in</p> <p>19 the reserves.</p> <p>20 Q. (BY MR. THOMPSON) Is there some judgment that</p> <p>21 you as CFO and your team had to exercise as you were</p> <p>22 trying to set the right level of loan loss provisions?</p> <p>23 MR. LAUFGRABEN: Objection; form of the</p> <p>24 of the question.</p> <p>25 A. Yes.</p>	169	<p>1 historical information into your assumptions set and</p> <p>2 calculations of where you think you need to set your</p> <p>3 reserves today.</p> <p>4 We talked earlier about the fact that we</p> <p>5 had made requests of a myriad of financial institutions</p> <p>6 to make good on their warrant obligations for defects in</p> <p>7 loans that they presented to us, and we had to make</p> <p>8 assumptions to the collectability of those demands and</p> <p>9 requests on other financial institutions.</p> <p>10 So those are just examples of things that</p> <p>11 are included in the loan loss reserve calculations that</p> <p>12 requires some degree of management judgment.</p> <p>13 Q. Okay. Do you also have to make some management</p> <p>14 judgment about future macroeconomic conditions like the</p> <p>15 employment rate and that sort of thing?</p> <p>16 MR. LAUFGRABEN: Objection; vague.</p> <p>17 A. You can make assumptions around unemployment</p> <p>18 and its effect on expected performance. And, you know,</p> <p>19 you need to have an analytical basis for how you're</p> <p>20 consuming those assumptions.</p> <p>21 But that can be a factor that can be used</p> <p>22 and considered in setting your allowances.</p> <p>23 Q. (BY MR. THOMPSON) Okay. This one is going to</p> <p>24 be McFarland 23. It has a Bates number of Fannie Mae</p> <p>25 3595 through 3602.</p>

186	<p>1 MR. LAUFGRABEN: Object to the form of</p> <p>2 the question.</p> <p>3 Within what time period?</p> <p>4 MR. THOMPSON: The same time period we've</p> <p>5 been talking about.</p> <p>6 A. 2008?</p> <p>7 Q. (BY MR. THOMPSON) And 2011, '12.</p> <p>8 A. I am not aware of swapping of loans that</p> <p>9 occurred at my time at Fannie.</p> <p>10 Q. Okay.</p> <p>11 A. Okay.</p> <p>12 MR. THOMPSON: Well, we are ending --</p> <p>13 getting very close to the end of my questions.</p> <p>14 And so what I would request is maybe we</p> <p>15 could take a short break, and I can confer with my</p> <p>16 colleagues. We may have some questions of their own,</p> <p>17 but there's light at the end of the tunnel. Let's take</p> <p>18 a five-minute break.</p> <p>19 THE REPORTER: It's 3:48.</p> <p>20 (Recess from 3:48 p.m. to 4:18 p.m.)</p> <p>21 THE REPORTER: It's 4:18.</p> <p>22 MR. THOMPSON: So the Fairholme</p> <p>23 plaintiffs do not have any more questions at this time,</p> <p>24 but thank you very much. We appreciate you taking the</p> <p>25 time today and we owe you a check and we will get that</p>	188	<p>1 It was merely that the -- the profits,</p> <p>2 under the structure prior to the Third Amendment, would</p> <p>3 create some capital accumulation, and that capital</p> <p>4 accumulation could, you know, be there for providing the</p> <p>5 starting of capital available for whatever the</p> <p>6 resolution of housing finance might be.</p> <p>7 It could be there to help take future</p> <p>8 negative events; you know, those kinds of things, but</p> <p>9 not -- there was no specific conversations about</p> <p>10 deploying capital in various ways, no.</p> <p>11 Q. I think that answers my question, but I will</p> <p>12 ask it again.</p> <p>13 Was there any discussion that you were</p> <p>14 aware of, of deploying that capital to try to pay back</p> <p>15 the Government for the money that it had borrowed?</p> <p>16 MR. LAUFGRABEN: Objection; calls for a</p> <p>17 legal conclusion.</p> <p>18 A. In the context that there would be capital</p> <p>19 available that at some point the existing construct, the</p> <p>20 Preferred Stock Purchase Agreement and the</p> <p>21 conservatorship, there's a hope and maybe an optimistic</p> <p>22 belief that that couldn't continue in perpetuity. And</p> <p>23 so all of the claims of the Government against Fannie</p> <p>24 needed to be resolved, and that to the extent that</p> <p>25 Fannie was profitable and that might create capacity</p>
187	<p>1 to your counsel next week for -- you know, it's a</p> <p>2 witness fee. I think it's \$120, so don't spend it all</p> <p>3 in one place.</p> <p>4 THE WITNESS: I can retire now.</p> <p>5 MR. THOMPSON: Thank you very much.</p> <p>6 EXAMINATION</p> <p>7 BY MR. ZAGAR:</p> <p>8 Q. Good afternoon, Ms. McFarland. My name is Eric</p> <p>9 Zagar. I represent the class action plaintiffs, and I</p> <p>10 have a few questions.</p> <p>11 All of my questions will pertain to the</p> <p>12 time period from when you started at Fannie Mae in 2011</p> <p>13 until the Third Amendment in August of 2012.</p> <p>14 A. Okay.</p> <p>15 Q. We talked a lot today about projections that</p> <p>16 Fannie Mae would be profitable and able to accumulate</p> <p>17 capital.</p> <p>18 My question is, did you give any thought</p> <p>19 to how Fannie Mae could use that capital that it was</p> <p>20 projected to accumulate?</p> <p>21 MR. LAUFGRABEN: Objection; form.</p> <p>22 A. Not -- we didn't have conversations about, oh,</p> <p>23 if we had this much capital, then we could go out and</p> <p>24 expand our business in this way or, you know, any of</p> <p>25 those types of things.</p>	189	<p>1 from which to, you know, make available for whatever</p> <p>2 those resolutions might be.</p> <p>3 But there wasn't any specific</p> <p>4 conversation on specific structures from which to try to</p> <p>5 make that happen in the near term.</p> <p>6 Q. (BY MR. ZAGAR) Was there any discussion that</p> <p>7 you were aware of of just getting the excess capital to</p> <p>8 Treasury voluntarily?</p> <p>9 MR. LAUFGRABEN: Object to the form of</p> <p>10 the question.</p> <p>11 A. I think it's important to bear in mind that the</p> <p>12 profitable was recent, so the actual, you know,</p> <p>13 profitable quarters started in early 2012; that the</p> <p>14 improvement in our forecasts, you know, all kind of came</p> <p>15 about, you know, in that positive way in the last, say,</p> <p>16 six-month period. And so we were consuming a lot of</p> <p>17 new-and-improved information, and then the Third</p> <p>18 Amendment went in place.</p> <p>19 So really, in some ways, I would contend</p> <p>20 there really wasn't sufficient enough time for us to</p> <p>21 really sort of contemplate. If the Third Amendment had</p> <p>22 not been put in place, it's theoretical we might we have</p> <p>23 begun to explore a myriad of options possibly.</p> <p>24 But the way that the timing of everything</p> <p>25 played out, the Third Amendment was put in place, you</p>

190	<p>1 know, so quickly, if you will, after the news started to</p> <p>2 turn good, we never delved in in a deep way into some of</p> <p>3 those options and alternatives.</p> <p>4 Q. (BY MR. ZAGAR) The net worth sweep giving all</p> <p>5 the profits to Treasury, that was not your idea,</p> <p>6 correct?</p> <p>7 A. It was not my idea.</p> <p>8 MR. LAUFGRABEN: Object to the form of</p> <p>9 the question.</p> <p>10 Q. (BY MR. ZAGAR) Do you think it is likely that</p> <p>11 you would have come up with that idea on your own?</p> <p>12 MR. LAUFGRABEN: Objection; form, calls</p> <p>13 for speculation. It's outside the scope.</p> <p>14 A. No, I don't believe that I would have proposed</p> <p>15 something quite like that.</p> <p>16 MR. ZAGAR: That's all I have. Thank</p> <p>17 you.</p> <p>18 EXAMINATION</p> <p>19 BY MR. LAUFGRABEN:</p> <p>20 Q. Good afternoon, Ms. McFarland. As I mentioned</p> <p>21 earlier, my name is Eric Laufgraben, and I represent the</p> <p>22 United States in this action.</p> <p>23 I think you testified earlier that one</p> <p>24 source of recapitalization would be retained earnings.</p> <p>25 In your view, what amount of capital, if</p>	192	<p>1 said I would love to be able to use a little pen and</p> <p>2 paper to calculate that.</p> <p>3 But, you know, I kind of come from a</p> <p>4 traditional bank environment. So when I assess and look</p> <p>5 at the activities, you know, I thought of it in the</p> <p>6 context of what -- how would you evaluate the capital</p> <p>7 requirements if you -- you constructed it more similar</p> <p>8 to how capital requirements are set for banks.</p> <p>9 Having said that, some of the back of the</p> <p>10 envelope we were doing wasn't based on the Balance Sheet</p> <p>11 that existed in 2012, because the presumption is that</p> <p>12 certain things would change over time. So the held</p> <p>13 portfolio, which I think was a little under a</p> <p>14 billion dollars, then -- I can't remember the exact</p> <p>15 number -- would diminish over time, the guaranteed</p> <p>16 assets that were consolidated onto the Balance Sheet.</p> <p>17 So I can't remember how we kind of worked</p> <p>18 through all of those different numbers. That's why I am</p> <p>19 hesitant to just throw, you know, an off-the-cuff</p> <p>20 enumeration of it.</p> <p>21 Q. Now, were any of the forecasts that you</p> <p>22 presented to -- to Treasury prior to the execution of</p> <p>23 the Third Amendment -- now, it's true that none of them</p> <p>24 took into account the potential for a payment of</p> <p>25 periodic committee fees; is that correct?</p>
191	<p>1 any, would Fannie Mae need to be deemed adequately</p> <p>2 capitalized?</p> <p>3 A. You know, we did do some what I call</p> <p>4 back-of-the-envelope work on that, and, you know, I -- I</p> <p>5 would have to -- I don't remember the exact numbers.</p> <p>6 I think you would probably be looking at</p> <p>7 something in the high single-digit percent of assets,</p> <p>8 you know? You know, something in the</p> <p>9 7-to-8-percent-of-asset range, and I could work the math</p> <p>10 backwards and come up with a -- what that means in</p> <p>11 dollars.</p> <p>12 It would certainly be at a level higher</p> <p>13 than what Fannie would require to have in capital</p> <p>14 pre-conservatorship.</p> <p>15 Q. Do you know how much that would be based on the</p> <p>16 level of assets held in 2012?</p> <p>17 A. On-Balance-Sheet assets -- of course, we</p> <p>18 haven't done any kind of risk because it's a little more</p> <p>19 complex than that simple math.</p> <p>20 I think the on-Balance-Sheet assets of</p> <p>21 Fannie on a GAAP basis were a little over 3 trillion, if</p> <p>22 I remember correctly. What would that be, 24 -- is that</p> <p>23 24 billion? Do I have the zeros right?</p> <p>24 But -- well, but you would do it on --</p> <p>25 really have to look at -- okay. Let me -- that's why I</p>	193	<p>1 A. That's correct.</p> <p>2 Q. Okay. And the Treasury commitment, did that</p> <p>3 serve as a means to absorb losses like capital?</p> <p>4 A. It could be used -- if I remember, it was</p> <p>5 structured I think in a way that that could be used in</p> <p>6 addition to or instead of up to the amount that was</p> <p>7 available.</p> <p>8 Q. And I will come back to it, but with respect to</p> <p>9 the -- I think it's the August 9th, 2012 meeting that</p> <p>10 you attended with Treasury, I think you mentioned that</p> <p>11 you advised Mary Miller of the possibility and the</p> <p>12 Treasury team of the possibility of releasing the</p> <p>13 DTA valuation allowance.</p> <p>14 Is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Now -- and I think you -- you said that</p> <p>17 you had some belief that there was some sort of -- that</p> <p>18 Treasury was influenced by that -- by that disclosure</p> <p>19 that you said that you made during that meeting when it</p> <p>20 decided to execute the Third Amendment.</p> <p>21 A. The timing of the Third Amendment was</p> <p>22 coincidental. It was closely -- followed closely after</p> <p>23 those conversations.</p> <p>24 Q. Okay.</p> <p>25 A. And so it was possible that the information we</p>

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1 provided in that meeting may have had some influence on
 2 the going forward with the Third Amendment when it
 3 happened.
 4 **Q. But to be clear, no one from -- you don't know**
 5 **either way; is that correct?**
 6 A. That's correct.
 7 **Q. And no one from Treasury ever indicated that as**
 8 **much to you?**
 9 A. They never mentioned the Third Amendment until
 10 they told us they were doing it.
 11 **Q. Right.**
 12 **And no one from Treasury ever indicated**
 13 **that the Third Amendment was somehow connected in any**
 14 **way to your disclosure to Mary Miller or to Treasury**
 15 **during the August 9th meeting?**
 16 A. Yeah; no one at Treasury ever said that.
 17 **Q. And no one from FHFA ever said that, either,**
 18 **did they?**
 19 A. No.
 20 **Q. And turning back to that meeting, we saw what**
 21 **was previously marked as McFarland Exhibit No. 24. This**
 22 **is an e-mail from David Benson to Tim Bowler dated**
 23 **August 11th, 2012.**
 24 A. Okay. I remember the document. I can pull it
 25 out from this stack here.

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1 Okay. Got it.
 2 **Q. Okay. Now, this is now, I guess, 2 days after**
 3 **you met with Treasury on August 9th?**
 4 A. Based on the date of the e-mail, yes.
 5 **Q. Now, none of -- the models that are reflected**
 6 **in the attachments here, none of those models**
 7 **incorporate the release of the valuation allowance, do**
 8 **they?**
 9 A. No, but they incorporate the utilization of the
 10 deferred tax asset over time.
 11 It got back -- that conversation on the
 12 assumption from a tax perspective, but, no, not a -- you
 13 know, a release in a near future period, no.
 14 **Q. Okay. And what was previously marked for**
 15 **identification as McFarland 22 -- this is the one that**
 16 **says on the cover, "Fannie Mae Update Treasury Meeting**
 17 **August 9th, 2012" -- it says it's updated on**
 18 **August 15th, 2012.**
 19 A. Correct.
 20 **Q. Now, is it also correct for the models in these**
 21 **attachments that none of those models, you know, reflect**
 22 **a -- you know, any sort of, you know, definitive release**
 23 **of a valuation allowance at any particular point in**
 24 **time; is that correct?**
 25 A. That's correct.

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1 As I stated earlier, I did not include
 2 any of that in the numbers or in writing, but I did
 3 articulate that potential to the members that were
 4 present there from Treasury.
 5 **Q. Okay.**
 6 A. And Mary asked me some follow-up questions
 7 about that.
 8 **Q. Now, I guess the day before the Treasury**
 9 **meeting was, you know, I guess, August 8th, 2012.**
 10 **Do you recall being interviewed by media**
 11 **outlets following Fannie Mae's release of the 10-Q for**
 12 **the second quarter of 2012 on or around**
 13 **August 8th, 2012?**
 14 A. If August 8th was the date we released the
 15 10-Q, then I would have done media interviews on
 16 August 8th. That would have been normal.
 17 I don't recollect the date we filed the
 18 **Q.**
 19 MR. LAUFGRABEN: May I have this marked
 20 for identification?
 21 (McFarland Exhibit No. 28 was marked.)
 22 MR. BARTOLOMUCCI: Do you have any other
 23 copies?
 24 MR. LAUFGRABEN: No.
 25 MR. BARTOLOMUCCI: Don't worry about it.

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1 **Q. (BY MR. LAUFGRABEN) Do you recognize what's --**
 2 **THE REPORTER: 28.**
 3 **Q. (BY MR. LAUFGRABEN) What's been handed to you**
 4 **is what's been marked for identification as**
 5 **McFarland 28. It's a filing for Fannie Mae, the**
 6 **Form 10-Q.**
 7 **And do you recognize this document?**
 8 A. Yes.
 9 **Q. Okay. And is this the -- is this the 10-Q for**
 10 **Fannie Mae for the second quarter of 2012?**
 11 A. Yes.
 12 **Q. Okay. And was this released on or around**
 13 **August 7th, 2012?**
 14 A. I would have to look here. I should be able
 15 to.
 16 It's dated August 8th, 2012.
 17 **Q. Thank you for clarifying.**
 18 **Is this the 10-Q that was released on or**
 19 **around August 8th, 2012?**
 20 A. Yes.
 21 **Q. Okay. And just for the record, on the page**
 22 **that's marked for identification as Treasury 4079 at the**
 23 **very end --**
 24 A. 4079; let me get to that.
 25 Okay. Yes, my certification.