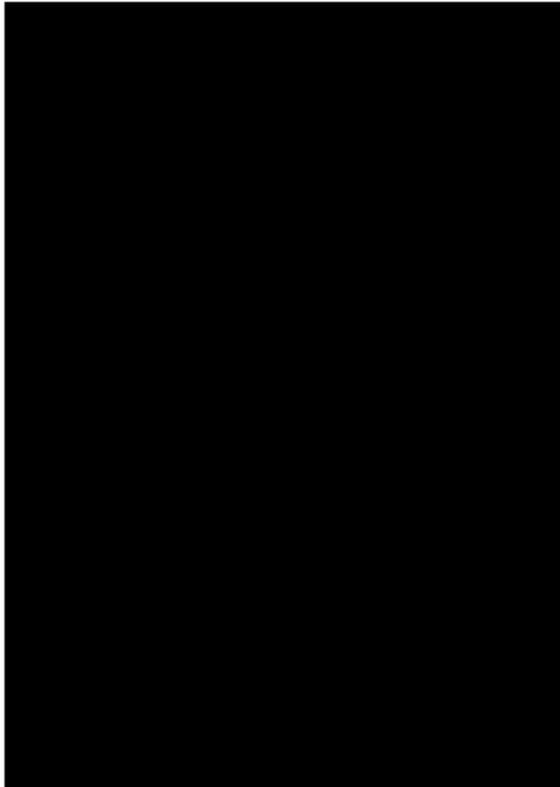


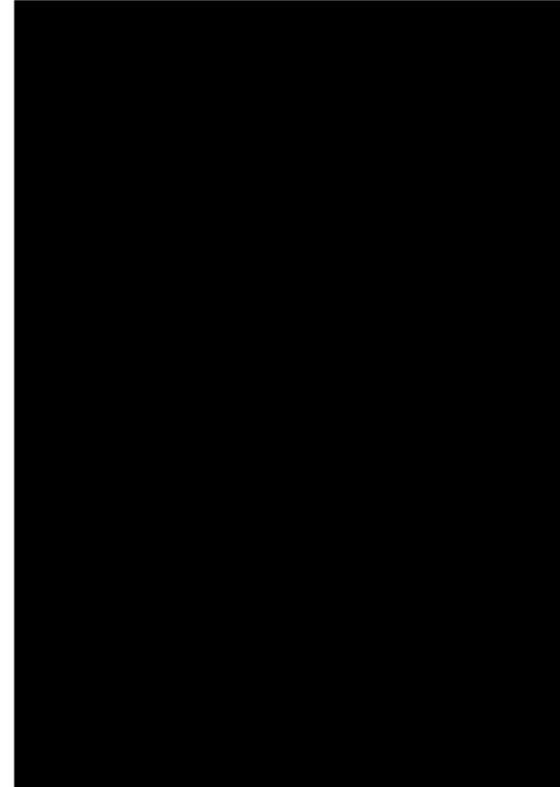
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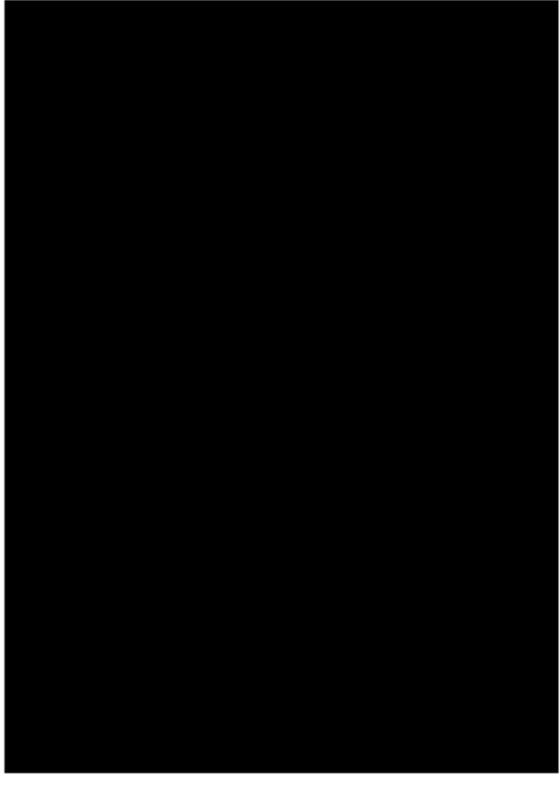
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1 (Recess taken from 9:37 a.m. to 9:44 a.m.)
 2 THE VIDEOGRAPHER: We are now back on the
 3 record, and the time is 9:44 a.m.
 4 BY MR. SEARLES:
 5 Q. I'd like to show you what's been previously
 6 marked as Exhibit 712.
 7 A. Okay.
 8 Q. I'm sorry. I'm just trying to find the page.
 9 A. Page 31?
 10 Q. You're looking at the bottom of the page or
 11 the top?
 12 A. I think there were two page numbering
 13 sections. Yeah, I've got it wrong.
 14 Q. What I'm looking at is 78 of 97 is the page
 15 I'd like to direct your attention to. Are you with me?
 16 Using the numbers in the top right-hand corner.
 17 A. Okay.
 18 Q. What we're looking at here is IndyMac's
 19 Form 10-Q for the period ending March 31, 2007; correct?
 20 A. Okay.
 21 Q. What role, if any, did you have in preparing
 22 the 10-Q?
 23 A. I didn't prepare the 10-Q.
 24 Q. Did you have any role in reviewing it?
 25 A. I reviewed the 10-Q, at least the final

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1 version.
 2 Q. Okay. And then you also signed the stock
 3 certifications in connection with it as well as the Q
 4 itself; correct?
 5 A. That's correct.
 6 Q. On the section we're looking at, regulatory
 7 capital requirements beginning on page 76 of 97
 8 through 78 of 97, were you familiar at the time, March,
 9 for this period of 2007 that was the manner in which
 10 IndyMac would report its regulatory capital requirements
 11 including breaking out its capital ratios as reported on
 12 both a pre-subprime adjusted basis as well as a
 13 post-subprime adjusted basis?
 14 MS. VETA: Object to the form.
 15 THE WITNESS: Yes, I was generally familiar
 16 with that.
 17 BY MR. SEARLES:
 18 Q. What I wanted to walk you through is 78 of 97,
 19 at the end of the top paragraph where you're discussing
 20 the impact of double-risk weighting subprime assets.
 21 "The impact of additional risk-weighted criteria related
 22 to subprime loans had the effect of reducing IndyMac's
 23 total risk-based capital by nine basis points." Do you
 24 see that?
 25 A. I do.

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1 Q. Keeping that in mind, I'd like to show you the
 2 next Q, which is Exhibit 713, and going to the same
 3 section. I apologize for not having the page previously
 4 marked. This would be on page 37 of 89.
 5 A. Mine for some reason doesn't seem to have the
 6 numbers on it.
 7 MS. VETA: Nor does mine.
 8 BY MR. SEARLES:
 9 Q. Let me give you my copy, then.
 10 A. What's the -- if you give me the page number
 11 on the --
 12 Q. I'm looking at the top right-hand corner which
 13 I have as -- if you turn to page 38 of 39 which the page
 14 number embedded in the document is page 31 of 32, if you
 15 look at the bottom of the page.
 16 A. The section that starts "Capital"?
 17 Q. Right.
 18 A. Okay. Page 31 of 32. Got it.
 19 Q. Again, this is, just for the record, the 10-Q
 20 of IndyMac for the period ending June 30 of 2007.
 21 Again, this is a document you would have -- you signed;
 22 correct?
 23 A. Yes.
 24 Q. And you would have reviewed the final draft of
 25 it?

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1 A. Yes.
 2 Q. And, again, you see the reporting of the
 3 capital ratios both on a pre-subprime adjusted basis and
 4 a post-subprime adjusted basis is reflected here?
 5 A. Yes.
 6 Q. That was your understanding at the time of how
 7 generally the bank reported its capital ratios?
 8 A. Yes.
 9 Q. Again, directing your attention to the same
 10 piece of information at the top of page 38 of 39, the
 11 10-Q states, "The subprime loans totaled" -- excuse me.
 12 The final sentence. "The impact of additional
 13 risk-weighting criteria related to subprime loans have
 14 the effect of reducing our total risk-based capital by
 15 15 basis points from 12.24 percent to 12.09."
 16 Do you see that?
 17 A. I do.
 18 Q. In the prior period it had the effect of nine
 19 basis points?
 20 A. Right.
 21 Q. Continuing with this theme, the next quarter
 22 Q, I'd like to show you what's been previously marked as
 23 Exhibit 714. If you turn to pages 44 of 120.
 24 A. Got it.
 25 Q. I'm getting better at this. And this exhibit,

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1 if I haven't already stated, is the 10-Q for IndyMac for
 2 the period ending September 30, 2007; correct?
 3 A. Yes.
 4 Q. And, again, this is a document you would have
 5 signed?
 6 A. Yes.
 7 Q. And a document you would have reviewed --
 8 A. Yes.
 9 Q. -- the final draft of?
 10 A. Yes.
 11 Q. And, again, you see the bank reporting the
 12 capital ratios in the same format as the prior two
 13 quarters?
 14 A. I do.
 15 Q. Directing your attention again to that same
 16 section of capital, the final sentence of the paragraph
 17 reads here, "The impact of the additional risk-weighting
 18 criteria related to subprime loans had the effect of
 19 reducing our total risk-based capital by 22 basis points
 20 from 12.01 to 11.79."
 21 Do you see that?
 22 A. I do.
 23 Q. So it's gone from 9 to 15 to now 22?
 24 A. Yes.
 25 Q. You have a copy of Exhibit 711, which I showed

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1 you yesterday. I believe you identified this yesterday,
 2 but this is the Form 8-K, date of report February 12,
 3 2008; correct?
 4 A. Right.
 5 Q. And if you could turn to page 46 of 95 using
 6 the numbers in the top right-hand corner.
 7 A. Yes.
 8 Q. There's a section on capital. Again, you see
 9 the reporting of the capital ratios both on a pre- and
 10 post-subprime adjusted basis which is the same manner in
 11 which the prior three quarters was reported?
 12 A. Yes.
 13 Q. And you understood at this time that's how
 14 IndyMac was reporting its capital ratios?
 15 A. Yeah, as of 2/12, yes.
 16 Q. And, again, getting to that same last sentence
 17 of the paragraph, it reads, "The impact of the
 18 additional risk-weighting criteria related to subprime
 19 loans had the effect of reducing our total risk-based
 20 capital by 31 basis points from 10.81 percent to
 21 10.5 percent."
 22 Do you see that?
 23 A. I do.
 24 Q. Do you have an understanding of why the effect
 25 of the double-risk weighting of subprime assets was

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1 having an increasing effect on IndyMac's -- or an
 2 increasing negative effect on IndyMac's capital ratios
 3 going from 9 to 15 to 22 to 31?
 4 MS. VETA: Object to the form.
 5 THE WITNESS: I think I have a general
 6 recollection of why.
 7 BY MR. SEARLES:
 8 Q. Which is?
 9 A. That the subprime double-risk weighting, when
 10 it was originally put in place, applied to all subprime
 11 loans. Then at a point we and the OTS worked together,
 12 and the definition of subprime loans was changed; so
 13 that was kind of the first change, defining subprime
 14 loans in a different way.
 15 And then the second change that occurred --
 16 and I don't remember exactly when -- the OTS waived the
 17 right to double-risk weight subprime loans that were
 18 held for sale, and that was defined to keep it objective
 19 because you could just call a loan held for sale -- I
 20 think my recollection is held for sale 90 days or less.
 21 In other words, that -- you know, those loans were
 22 turning through.
 23 So I think the main reason that this grew
 24 wasn't that we were doing more subprime loans. In fact,
 25 we were doing less, but what happened is when the

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1 secondary markets for subprime loans collapsed
 2 completely in, like, August, September, we got stuck
 3 with some subprime loans in portfolio, and they moved
 4 from held for sale where they were not double-risk
 5 weighted, you know, under 90 days and held for
 6 investment over 90 days, and that was the reason that
 7 the percentage increased.
 8 Q. And that's your understanding as you sit here
 9 today?
 10 A. That's my general understanding.
 11 Q. The two changes you mentioned regarding how
 12 subprime loans are defined, those changes occurred prior
 13 to 2007; right?
 14 MS. VETA: Object to the form.
 15 THE WITNESS: The two changes, yes. My
 16 recollection is they occurred prior to 2007.
 17 BY MR. SEARLES:
 18 Q. Were you involved in facilitating those
 19 changes with the OTS?
 20 A. I don't recall specifically. If you have a
 21 document, I'd be happy to comment on that but a long,
 22 long time ago.
 23 Q. Do you recall when those changes occurred?
 24 A. Well, we became a thrift in 2000; so it would
 25 have been some time between 2000 and -- as we discussed,

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1 they didn't occur in 2007. So my recollection is the
 2 definition of subprime loans, changing that definition,
 3 you know, occurred earlier towards 2000, and the held
 4 for sale, the 90-day waiving the requirement for
 5 double-risk weighting of those loans occurred closer to
 6 2007. But I don't have a -- if you have a document, I'd
 7 be happy to address that.
 8 Q. No, I was just exploring your general
 9 recollection at this point.
 10 And this 31-basis point effect of the subprime
 11 risk weighting as of February 12 of 2008, did you
 12 consider that to be -- have a material effect on
 13 IndyMac's reported capital ratios?
 14 MS. VETA: Object to the form.
 15 THE WITNESS: Well, it was as of 12/31/07.
 16 BY MR. SEARLES:
 17 Q. I understand.
 18 A. As of 12/31/07 --
 19 MS. VETA: Same objections.
 20 THE WITNESS: -- I don't think I considered it
 21 one way or another at that point in time.
 22 BY MR. SEARLES:
 23 Q. Whether it was material in any amount?
 24 MS. VETA: Object to the form.
 25 THE WITNESS: It didn't come in my mind to

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1 consider the materiality difference between those two
 2 numbers at that point in time.
 3 BY MR. SEARLES:
 4 Q. When, if ever, did it enter your mind to
 5 consider that difference?
 6 A. Well, I mean as we were doing our best in 2008
 7 to keep IndyMac well capitalized, we were doing
 8 everything that was appropriate to keep the institution
 9 well capitalized in terms of -- including addressing
 10 regulatory requirements as it related to our risk-based
 11 capital ratio.
 12 Q. Okay. So at some point in time in 2008, did
 13 you consider the impact of subprime risk weighting on
 14 IndyMac's reported capital ratio to have a material
 15 effect on its capital ratios?
 16 MS. VETA: Object to the form.
 17 BY MR. SEARLES:
 18 Q. On its reported capital ratios?
 19 A. I considered -- at some point in time, I
 20 considered the one that really came up was the cap on
 21 counting capitalized servicing as part of your
 22 risk-based capital. That had a material effect and was
 23 extremely volatile because of interest rates, and we
 24 were butting up against that cap. So that was the one
 25 that, in particular, that I very much focused on as

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1 something that was having a material impact on that
 2 total risk-based capital.
 3 Q. Did you focus on the subprime risk weighting
 4 impact at all?
 5 A. I did focus on that as a lesser issue.
 6 Q. I'd like to show you Exhibit 574. The marking
 7 on the exhibits can be obscured.
 8 Do you recognize this exhibit?
 9 A. I do.
 10 Q. This is an e-mail from you, dated February 21,
 11 2008, to Darrell Dochow at OTS. He's the regional
 12 director; correct?
 13 A. Yeah, with a copy to other OTS officials and
 14 several of my key senior managers on the board.
 15 Q. The purpose of this e-mail is what?
 16 A. The purpose of this e-mail is to begin the
 17 discussions with Mr. Dochow about -- and, first of all,
 18 to alert him to the fact that this unusual situation is
 19 occurring because of the environment that we found
 20 ourselves in in IndyMac's business model which
 21 creates -- as a mortgage banker created a lot of
 22 capitalized servicing and to bring to his attention,
 23 which just got brought to my attention a few days
 24 earlier, the volatility of our total risk-based capital
 25 being caused by this artificial servicing cap

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1 limitation.
 2 Q. I see. On the second page of the e-mail in
 3 the third full paragraph you describe the effect, at
 4 least your understanding of the effect, of this
 5 servicing limit. You say, "If we received a waiver on
 6 the servicing rights capital limit, our capital ratios
 7 today would go from roughly 5.99 percent and
 8 10.15 percent to roughly 6.60 percent and 10.66 percent,
 9 a material difference."
 10 Do you see that?
 11 A. Yeah, I just want to get it in the chart
 12 because I know what your next question will be. Okay.
 13 Q. Okay. And the reference to the numbers 10.15
 14 percent and 10.66 percent -- do you have an
 15 understanding of what those numbers refer to?
 16 A. They're an estimate of what the current ratios
 17 are.
 18 Q. I guess my question was are these numbers
 19 reflective of the total risk-based capital ratio?
 20 A. Which one?
 21 Q. The paragraph I directed you to, the third
 22 paragraph where you're referring to certain
 23 percentages -- 5.99, 10.15, 6.60, 10.66 -- the ones
 24 10.15 and 10.66, do they refer to the total risk-based
 25 capital ratio?

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1 A. It appears that they do, yes.
 2 Q. Was it your understanding at the time you
 3 wrote this e-mail that that .51 percent difference was,
 4 in your words, a material difference?
 5 A. The difference of the -- you're talking about
 6 the -- let's see. 51 basis points difference?
 7 Q. Right.
 8 A. Yeah, I mean I don't think I'm using the word
 9 "material" in the scope of the securities laws here.
 10 Maybe that's not exactly -- I'm, you know, a former
 11 accountant, and the word "material" comes out of your
 12 mouth a lot; right? So I mean it's an important
 13 difference.
 14 Q. Okay. Important, significant --
 15 A. When we're close; right?
 16 Q. Okay. I just want to -- because you know my
 17 next question --
 18 A. Yeah, yeah.
 19 Q. -- which is with respect to the effect of
 20 subprime risk weighting of 31 basis points, did you view
 21 that as similarly important particularly when you're
 22 close?
 23 A. I think, you know, you're -- so to kind of
 24 separate this just a little bit, on 2/12, right, when we
 25 filed our 12/31/07 8-K -- you know, the 8-K that we did

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1 for the fourth quarter with the -- and you went through
 2 the 10.81 and the 10.50.
 3 Q. Right.
 4 A. Right. I didn't focus on that as being a
 5 material difference in any way, and, you know, sitting
 6 here with the benefit of hindsight, I don't really see
 7 that as a material difference. I think the issue that
 8 I'm kind of -- now what we're focusing on is, oh, my
 9 gosh. This capitalized servicing asset -- the
 10 volatility of it caused by interest rate changes is
 11 creating -- and this arbitrary cap because you can see
 12 kind of in the discussion that there were -- you know,
 13 that this cap just was an arbitrary cap that regulators
 14 put that had nothing to do with risk. It just was an
 15 arbitrary cap.
 16 There were other people who thought it should
 17 be two times your net worth and others who thought it
 18 should be unlimited. But that cap is causing
 19 fluctuations in a two-day period causing our capital
 20 ratio total risk base to go from 9.82 to 10.15 in two
 21 days with no change in our GAAP net worth. That is
 22 nonsensical. We need to get -- we need to address -- we
 23 need to alert our regulators as soon as we found out,
 24 right, within a day or two -- and I can quantify it --
 25 and talk to them about how can we address this unique

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1 issue that's coming up because of our mortgage banking
 2 business model and the unprecedented environment we find
 3 ourselves in.
 4 Q. I see it's very difficult to predict what's
 5 going to happen because of the interest rate
 6 fluctuation.
 7 A. Right.
 8 Q. And the effect of the subprime risk weighting
 9 is more easy to predict?
 10 A. It's done because we're not doing any new
 11 subprime loans.
 12 Q. Okay. I understand the distinction you're
 13 drawing.
 14 But then with respect to the effect of
 15 31 basis points particularly, in your words, when you're
 16 close, would you consider a 31-basis point change in
 17 your capital ratio to be important?
 18 MS. VETA: Object to the form.
 19 THE WITNESS: Well, what we found out -- and
 20 we'll discuss this later, right? What I found -- you
 21 know, I'm a former auditor, and what we found out is
 22 that, you know, if you're close on your capital ratio,
 23 everything is important.
 24 BY MR. SEARLES:
 25 Q. Okay. Well, I'm just trying to get an answer

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1 to my question.
 2 So did you consider a 31-basis point effect
 3 from the subprime risk weighting during this time period
 4 to be important or, in your words, material?
 5 A. No, I didn't consider it -- well, first of
 6 all, I didn't say the 31 basis points was material here.
 7 Q. No, I didn't --
 8 A. I said the difference that this was a
 9 material -- I said here -- I used the word "material,"
 10 and I'm not using it in the context of the securities
 11 language but 51 basis -- a 51 basis -- excuse me. Yeah,
 12 a 51-basis point change and really the -- and when I'm
 13 using that word "material," I'm talking about the idea
 14 of getting out the volatility of this issue, the
 15 enormous volatility of this issue on our capital ratios,
 16 you know, which made it, you know, highly unpredictable.
 17 You know, that -- that was the issue I was addressing.
 18 You could see that the sub -- that the -- you know, if I
 19 felt the subprime was material, I wouldn't have put it
 20 in a P.S. I mean I have that kind of like -- and also
 21 we have these two other issues.
 22 Q. So is it your testimony that you did not view
 23 the relief, this purported relief from subprime risk
 24 weighting, to be welcome news?
 25 MS. VETA: Object to the form.

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1 MR. SEARLES: Join.
 2 THE WITNESS: No, that's not my testimony. I
 3 viewed it to be welcome news.
 4 BY MR. SEARLES:
 5 Q. All right. And you viewed it to be welcome
 6 news because it helped the bank remain well capitalized?
 7 A. Like hundreds of other things.
 8 Q. All right. It served to increase the --
 9 IndyMac's reported capital ratios, the purported relief
 10 from that requirement of double-risk weighting subprime
 11 assets; right?
 12 MS. VETA: Object to the form.
 13 MS. MATELIS: Join.
 14 THE WITNESS: As I stated earlier in my
 15 testimony, I was charged and responsible with doing
 16 everything I could as CEO to keep the bank safe and
 17 sound and well capitalized and that -- you know, under
 18 the rules and regulations. And if this was something
 19 that we could get as a waiver, you know, we had an
 20 obligation to do that.
 21 BY MR. SEARLES:
 22 Q. Okay. Did you actually ask for a waiver from
 23 Mr. Dochow on the double-risk weighting of subprime
 24 assets? From the P.S. it looks like you state you're
 25 discussing the subprime risk weighting and a cap on

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1 accounting general loan loss reserves, and you say,
 2 well, I'm not asking for a waiver on either of these.
 3 You're kind of tossing it in there for the mix.
 4 So did you ever have a conversation with
 5 Mr. Dochow where you actually affirmatively asked for a
 6 waiver on the subprime risk weighting, or was this just
 7 manna from heaven?
 8 MS. VETA: Object to the form.
 9 MS. MATELIS: Join.
 10 THE WITNESS: I don't have a strong
 11 recollection of this, but kind of as I reread this and
 12 refreshed my memory, you want my view on that P.S. a
 13 little bit or no?
 14 BY MR. SEARLES:
 15 Q. Well, I remember from your testimony before
 16 the Commission that Mr. Chung took he asked you about
 17 the circumstances surrounding the waiver. I assume your
 18 memory today is no better than it was at the time you
 19 provided that testimony; correct?
 20 MS. VETA: Object to the form.
 21 THE WITNESS: I'm not sure. I'm not sure I
 22 reviewed all of that testimony.
 23 BY MR. SEARLES:
 24 Q. All right. All right. Give me your -- in
 25 answer to my question, do you recall affirmatively

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1 asking Mr. Dochow for a waiver of the requirement to
 2 double-risk weight subprime assets?
 3 A. I don't have a recollection of that, no.
 4 Q. Do you have a recollection of him giving you a
 5 waiver on that subject?
 6 A. I did not -- when I kind of first began my
 7 preparation of this with my attorneys back before the
 8 investigation, I did not have a recollection of it until
 9 certain documents refreshed my memory.
 10 Q. Okay. Those documents are when you're telling
 11 the board about it; right? Obviously you must have
 12 known about it?
 13 A. Right. And other people saying that they were
 14 aware of it.
 15 Q. Okay. All right. Your memory today -- is it
 16 any better two years ago when you testified before the
 17 Commission about this?
 18 A. No.
 19 MS. VETA: Object to the form.
 20 THE WITNESS: In terms of remembering him -- a
 21 call with him like I do with the 18 million?
 22 BY MR. SEARLES:
 23 Q. Right.
 24 A. No.
 25 Q. So you don't recall any of the specifics of

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1 the conversation -- was it a conversation you had with
 2 Mr. Dochow or was it --
 3 A. I think so just based on the documents.
 4 Q. Okay.
 5 A. I didn't remember it.
 6 Q. And you don't recall any of the specifics of
 7 the conversation?
 8 A. No.
 9 Q. Okay. So I guess you wanted to tell me the
 10 background to this P.S.?
 11 A. You know, my attorneys probably think that's
 12 volunteering too much information but --
 13 Q. Consider it a question, and you won't be
 14 volunteering.
 15 A. The reason that I worded it, I believe, you
 16 know, in reading this and thinking about it, the
 17 worded -- I wanted -- I wanted the servicing line. If I
 18 had put all of those in the body of the letter, they --
 19 they would probably have given me the one I didn't want.
 20 The servicing one was the important one. I wanted that
 21 to be -- have that be the highlight. I wanted them to
 22 have to say yes or no on that one because that one had
 23 the volatility. The other two did not. They were
 24 fixed, you know, and declining as loans paid off.
 25 Q. As we saw, the effect of subprime risk

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1 weighting's effect not declining but the effect --
 2 A. No, no, no. It was only because of that
 3 situation that I talked about where we had a portfolio
 4 of loans in the fourth quarter, but we weren't doing any
 5 new subprime loans; so it was declining from -- from
 6 12/31/07 on, it would be declining.
 7 Q. Right. But you don't dispute the exercise you
 8 just walked through --
 9 A. Don't do --
 10 MS. VETA: Let him finish his question --
 11 BY MR. SEARLES:
 12 Q. -- that the effect --
 13 MS. VETA: Excuse me. Give me an opportunity
 14 to object if I have an objection. Then you answer the
 15 question, and that way the court reporter can keep it
 16 all straight.
 17 BY MR. SEARLES:
 18 Q. You don't dispute through the exercise you
 19 walked through with the different 10-Ks ending with the
 20 8-K on -- not 10-Ks. 10-Qs -- ending with the 8-K on
 21 February 12 that the effect of the subprime risk
 22 weighting was actually increasing, the 9 to 15 to 22 --
 23 A. It had --
 24 Q. -- to 31?
 25 A. It increased historically through 12/31/07.

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1 It would decrease going forward because we weren't doing
 2 any new subprime loans.
 3 BY MR. SEARLES:
 4 Q. Okay.
 5 A. And those loans would prepay. Some of those
 6 loans -- and did prepay.
 7 Q. All right. But you don't dispute through the
 8 documents we just walked through --
 9 A. Don't dispute what we walked through.
 10 THE REPORTER: I need you to let him finish
 11 the question.
 12 THE WITNESS: Sorry.
 13 BY MR. SEARLES:
 14 Q. I'm not sure if you're done answering my
 15 question regarding the background of the P.S.
 16 A. So, you know, we were trying to get, you know,
 17 an affirmative decision on that, but the P.S. was
 18 designed, well, okay, if they're going to give us a no,
 19 you know, even though we want to make them aware of
 20 these other two because well take whatever we can get,
 21 but what we really want is the servicing waiver.
 22 Q. Okay. And that waiver you never got from OTS;
 23 correct?
 24 A. That's correct. Although my recollection is
 25 they were still considering reverse mortgage servicing

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1 rights not to be a servicing asset at all because
 2 they're structured differently, and my recollection is
 3 that that item was still open.
 4 Q. Yes, but that never benefitted the bank
 5 because the waiver was never granted; correct?
 6 A. Versus the other was a no. My recollection is
 7 the cap was a no, but a definitional change that
 8 reversed mortgage servicing rights were not servicing
 9 rights was still open is my recollection.
 10 Q. Okay. If nothing else, by the end of the day
 11 I will bury you with paper. I'm handing you what's been
 12 previously marked as Exhibit 916. Do you recognize this
 13 document?
 14 A. I do.
 15 Q. And, for the record, this is IndyMac's
 16 Form 10-K for the fiscal year ending December 31, 2003.
 17 Again, this is a document you would have signed?
 18 A. Yes.
 19 Q. And is this a document you would have reviewed
 20 the final draft of?
 21 A. Yes.
 22 Q. Okay. I'd like to direct your attention to --
 23 if you use the page numbers at the bottom, if you go to
 24 page 67, the section "Regulatory Capital Requirements."
 25 A. Okay.

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1 Q. In the second paragraph on the regulatory
 2 capital requirement section, the second sentence says,
 3 "During the fourth quarter of 2003 the company revised
 4 its approach to conform to this guidance," regarding
 5 subprime lending -- subprime risk weighting, "and this
 6 revised approach was accepted by the OTS," and it goes
 7 on to explain the change. This is one of the changes
 8 you were just previously referring to; correct?
 9 A. Yes.
 10 Q. Do you recall what process IndyMac went
 11 through in its dialogue with OTS to obtain approval for
 12 that change?
 13 A. I don't.
 14 Q. Do you know if it was anything more than a
 15 phone call from Mr. Dochow?
 16 A. I don't recall.
 17 Q. Do you have any idea who would have been
 18 involved in obtaining that change?
 19 A. I mean I definitely recall being aware of this
 20 because -- the only reason is because I had the
 21 convoluted definition before. I had the subprime
 22 definition before this more simple definition.
 23 Q. I see.
 24 A. I had developed it.
 25 Q. I see. To your regret, I take it?

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1 A. No, it was just a different way to do it.
 2 Q. I see. And the second sentence to the end of
 3 this paragraph states, "We report our subprime loan
 4 calculation in an addendum to the thrift financial
 5 report that we filed with the OTS."
 6 Do you see that?
 7 A. Yes.
 8 Q. And was that your understanding of how the
 9 subprime loan calculation was reported to the OTS?
 10 MS. VETA: Object to the form.
 11 BY MR. SEARLES:
 12 Q. At the time?
 13 A. I mean I don't know -- I don't recall what
 14 my -- you know, what my view was at the time.
 15 Q. You may have reviewed it at the time, but you
 16 just forgot it as you sit here nine years later?
 17 A. Yes.
 18 Q. Assuming you read this as you did before
 19 signing it, it would have -- does this at least serve to
 20 refresh your recollection as to how IndyMac reported its
 21 subprime risk-weighted numbers to the OTS?
 22 A. I mean I didn't read this document cover to
 23 cover, but I mean I don't agree with the wording here.
 24 Q. And you understood in some fashion IndyMac
 25 reported a subprime risk-weighted number to the OTS at

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1 least during this period of time?
 2 A. Yes.
 3 Q. Okay. I'd like to show you what's previously
 4 been marked as Exhibit 917. Just preliminarily, do you
 5 recognize this document?
 6 A. It looks like it's the 10-Q for the period
 7 ended March 31, 2005.
 8 Q. I'd like to direct your attention to page 53
 9 using the page numbers at the bottom of the document.
 10 Under the "Regulatory Capital Requirement" section on
 11 that page, does this -- is this the second change that
 12 you were testifying to earlier?
 13 A. I'm sorry. Where are you saying?
 14 Q. In the "Regulatory Capital Requirement"
 15 section on page 53, second paragraph.
 16 A. Where does it refer to a change?
 17 Q. Well, it doesn't refer to a change, but it
 18 talks about the calculation. Subprime loans held for
 19 sale which are either delinquent or more than 90 days
 20 old.
 21 A. Okay.
 22 Q. Is that the second change you're referring to?
 23 A. Well, that's the definition of how we
 24 calculated the subprime double-risk weighting at this
 25 time. As you said, it's not a change here.

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1 Q. What was the second change you recall
 2 occurring with respect to the calculation of the
 3 subprime ratio?
 4 A. No, I said -- I'm being kind of formal about
 5 my response on this. This is the change. I'm saying
 6 it's not highlighted as a change.
 7 Q. Okay. I understand now. Even though it's not
 8 highlighted as a change, it's the second change you
 9 spoke about earlier?
 10 A. Correct.
 11 Q. And, again, you see --
 12 A. I mean I'm not sure that this is the period,
 13 right, because you'd have to see period before this;
 14 right?
 15 Q. All right. Well, let me turn to a slightly
 16 different subject then. Again, this is a document you
 17 would have signed; correct?
 18 A. Yes.
 19 Q. You would have reviewed the final draft of it
 20 before signing it?
 21 A. Yes.
 22 Q. And, again, the same language as we saw in
 23 Exhibit 916 in the second paragraph, third sentence, "We
 24 report our subprime loan calculation in an addendum to
 25 the thrift financial report we filed with the OTS."

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1 Do you see that on page 53, last paragraph on
 2 the page, middle of the paragraph?
 3 A. We report our subprime loan addendum to the
 4 thrift report we filed -- blah, blah, blah. Yes.
 5 Q. As of 2005 was that your understanding of how
 6 it was reported?
 7 MS. VETA: Object to the form. Are you
 8 talking about the TFR or the addendum?
 9 THE WITNESS: I don't recall, you know --
 10 BY MR. SEARLES:
 11 Q. I'm talk about the language that's
 12 reflected --
 13 A. I mean I don't recall specifically, you know,
 14 at that date that was my understanding, but that was my
 15 general understanding of where it was reported.
 16 Q. Okay. I'd like to show you what's been
 17 previously marked as Exhibit 701.
 18 A. Can we refresh my memory on what was the Q we
 19 were just looking at? What was the date of that?
 20 Q. 3/31/05.
 21 A. 3/31/05. I'm trying to get my time frame so
 22 between this e-mail and --
 23 Q. I can bring out more 10-Qs if you'd like.
 24 A. No. Okay.
 25 Q. Do you recognize this exhibit?

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1 A. I mean not this -- are you saying just
 2 generally do I recognize the CCR addendum here or the
 3 e-mail?
 4 Q. Well, let me ask you perhaps an easier
 5 question. Do you recognize generally the format by
 6 which IndyMac reported its subprime adjusted numbers to
 7 the OTS?
 8 A. I recognize it. I don't recall whether I had
 9 looked at this, you know, subsequent to -- I mean before
 10 2000 -- you know, whether I had ever reviewed this
 11 addendum when I was at IndyMac.
 12 Q. Okay. When you say "this addendum," you're
 13 referring to the exhibit before you?
 14 A. Just this -- the thrift report addendum.
 15 Q. All right. You may not have reviewed any of
 16 them in any course of time?
 17 A. I just don't recall.
 18 Q. I see. All right. But this -- the e-mail
 19 that's attached as a cc or addendum and in the Q that we
 20 were just looking at for period ending March 31, '07, it
 21 talks about an addendum to the thrift financial report.
 22 It's your understanding we're talking about the same
 23 thing here? This is the addendum by which IndyMac
 24 reported its --
 25 A. Yeah, that's my general understanding.

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1 Q. You see at the last page of this exhibit
 2 there's a CCR addendum towards the right? Do you see
 3 that at the top of the page? The very last page is what
 4 I'm focused on. Feel free to spend as much time as you
 5 like.
 6 A. The last page of this document?
 7 Q. Yes.
 8 A. Okay.
 9 Q. You see towards the right half portion of the
 10 page at the top, "CCR Addendum"?
 11 A. I do.
 12 Q. Okay. And then there's one column "Subprime
 13 new definition" and then to the right "Subprime old
 14 definition"?
 15 A. Okay.
 16 Q. And then numbers reported there including,
 17 towards the bottom of the page looking to the left,
 18 "Tier one risk-based capital ratio." So it's reporting
 19 IndyMac's total risk-based capital ratio both as under
 20 the new definition and the old new definition of
 21 subprime assets; right?
 22 A. Yes. Which by the way -- I mean on this last
 23 page, just looking at this, you can see it was 30 basis
 24 points difference under the new definition between total
 25 risk-based capital here at this stage. So, you know, it

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1 was higher, you know, in prior periods.
 2 Q. You know my next question. Do you consider
 3 that 30 basis points important?
 4 MS. VETA: Object to the form.
 5 THE WITNESS: No, not at -- no.
 6 BY MR. SEARLES:
 7 Q. Let me show you another similar document,
 8 Exhibit 708. Do you generally recognize this document,
 9 Exhibit 708?
 10 A. It looks like this one's got the old
 11 definition cut off for some reason. The columns aren't
 12 here.
 13 Q. Yeah, I see that.
 14 A. Even though it says on the cover of it.
 15 Q. All right. But do you generally recognize
 16 this exhibit?
 17 A. I mean I just -- I don't recall ever seeing
 18 these documents.
 19 Q. Okay.
 20 A. Okay. But I recognize it because I'm -- you
 21 know, was the CEO of IndyMac, and I recognize what the
 22 document is.
 23 Q. Okay. What is the document?
 24 A. It looks like it's a formal addendum that we
 25 send to mid-level managers at the OTS that's not part of

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1 our formal thrift report.
 2 Q. The e-mail on 708 is directed to Mark Reiley
 3 at OTS; correct?
 4 A. Yes.
 5 Q. And Mark attaches the September 30, 2007, CCR
 6 addendum calculated under the following definitions, and
 7 it provides --
 8 A. Yeah.
 9 Q. -- for the two definitions even though for
 10 some reason the addendum doesn't include both?
 11 A. I'm just saying just the process to me --
 12 because these are -- you know, this is really -- looks
 13 very informal to me.
 14 Q. Yes. But it looks no less formal than
 15 Exhibit 701; correct?
 16 A. Right. I'm just saying just as I see these
 17 I'm commenting on that.
 18 Q. Okay. And Exhibit 710, similar document?
 19 A. Yeah, this one they've got both definitions
 20 here.
 21 Q. Meaning the old and new definition of
 22 subprime?
 23 A. Yes.
 24 Q. What are we looking at here?
 25 A. It looks like the addendum for the 12/31/07

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1 TFR.
 2 Q. Just like the other two exhibits we looked at?
 3 A. Yes.
 4 Q. Okay. Just while we're on the subject of
 5 whether these are formal or informal, I'd like to show
 6 you Exhibit 538.
 7 A. Okay.
 8 Q. Do you recognize this exhibit?
 9 A. Yes, I do.
 10 Q. And what are we looking at here?
 11 A. I don't know the formal definition of it, but
 12 it was, I think, the approval document related to us
 13 becoming a thrift back in -- on, you know, just before
 14 July 1, 2000, when we became a thrift.
 15 Q. Okay. Now, you see one of the conditions for
 16 the approval of IndyMac becoming a thrift in
 17 paragraph 11?
 18 A. I do.
 19 Q. All right. And this imposes the requirement
 20 for double-risk weighting subprime assets; correct?
 21 Paragraph 11?
 22 MS. VETA: Object to the form.
 23 THE WITNESS: Yes, but, you know, I would
 24 point out that all of the conditions in here are, you
 25 know, subject to the, you know, satisfactory review of

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1 the western region director and, you know, kind of
 2 within his control, it says here.
 3 BY MR. SEARLES:
 4 Q. Well, in the second paragraph, is that what
 5 you're referring to of the document? What it says in
 6 that paragraph is "provided that the conditions set
 7 forth below are satisfied in a manner satisfactory to
 8 the western regional director or his designee.
 9 Accordingly, the holding company application is hereby
 10 approved subject to the following conditions."
 11 Do you see that?
 12 A. I do.
 13 Q. Was it your understanding that the manner in
 14 which the western regional director would be satisfied
 15 with respect to the reporting of subprime risk weighting
 16 of its assets would be through an addendum to the TFR
 17 report?
 18 MS. VETA: Object to the form.
 19 THE WITNESS: In terms of how he would be
 20 satisfied with respect to that? Yeah, I don't know that
 21 I had an understanding of that issue.
 22 BY MR. SEARLES:
 23 Q. I see. But the document we just went through,
 24 the CCR addendum, that is the manner in which IndyMac
 25 did report its subprime adjusted total risk-weighted

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1 number?
 2 MS. VETA: Object to the form.
 3 THE WITNESS: Right.
 4 BY MR. SEARLES:
 5 Q. So is it your understanding from this phone
 6 call that you had or some communication you had with
 7 Mr. Dochow, it was sometime late February, 2008, where
 8 you obtained to your understanding a waiver of the
 9 requirement of reporting subprime assets?
 10 A. My recollection is that sometime in 2008, and,
 11 you know, it's enhanced because there's some discussion
 12 of it in some of the board minutes and in communications
 13 around that time.
 14 Q. All right. I'd like to show you the TFR
 15 addendum that IndyMac submitted to the OTS after the
 16 so-called purported waiver.
 17 Have you seen those documents before?
 18 MS. VETA: Object to the form.
 19 MS. MATELIS: Join.
 20 THE WITNESS: I don't think I saw them at the
 21 time, but I've seen this subsequent.
 22 BY MR. SEARLES:
 23 Q. And you know where I'm going to be going with
 24 this.
 25 A. Yes.

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1 Q. I'd like to show you what's been previously
 2 marked as Exhibit 521.
 3 A. Yeah.
 4 Q. Do you recognize this exhibit?
 5 A. I do generally.
 6 Q. This is an e-mail dated May 5, 2008, to Mark
 7 Reiley again, the same individual we saw before in the
 8 earlier exhibits at OTS. "Mark, attached is the
 9 March 31, 2008, CCR addendum which is subject to
 10 amendment."
 11 And attached to that do you recognize the
 12 format of the document?
 13 A. I do.
 14 Q. It's the same as the earlier exhibits we saw?
 15 A. It is.
 16 Q. And you see that on the last page of the
 17 addendum IndyMac is continuing to report, as it has
 18 historically reported, to the OTS a total risk-based
 19 capital ratio adjusted both under the new and old
 20 subprime definitions?
 21 A. I think --
 22 Q. Do you see that?
 23 A. I do.
 24 Q. Okay. Were you aware that IndyMac was
 25 continuing to report its subprime adjusted numbers to

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1 the OTS in the same manner as it had historically done
 2 in May of 2008?
 3 A. No. And I also wasn't aware that we had
 4 continued to report under the old and new definition
 5 either, and I think that that really cuts to your point
 6 and destroys your point which is we kept reporting this
 7 information. And so, you know -- I mean when you look
 8 at it, you know, I think the OTS, even though they
 9 granted these changes, wanted to see them going forward
 10 to see how they were affecting our capital so that at
 11 some point in the future they might decide to change it
 12 if it became a more material item to them.
 13 Q. Change what?
 14 A. Change it back.
 15 Q. Change what back?
 16 A. The waiver they had granted us on double-risk
 17 weighting. If subprime loans -- we started originating
 18 subprime loans in the future at some point in time, they
 19 want to keep seeing this even though they had granted
 20 the waiver just like they wanted to keep seeing it under
 21 the old and new definition of subprime.
 22 Q. Was this where -- your testimony, is that
 23 based on any conversation you had with the OTS?
 24 MS. VETA: Object to the form.
 25 THE WITNESS: That's based on my experience in

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1 dealing with the regulators for a long period of time.
 2 BY MR. SEARLES:
 3 Q. It's not based on any conversation you had
 4 with the OTS, is it?
 5 A. No, it's an educated guess.
 6 Q. It's just a guess?
 7 MS. VETA: Object to the form.
 8 THE WITNESS: It's an educated guess.
 9 BY MR. SEARLES:
 10 Q. It's speculation.
 11 MS. VETA: Object to the form.
 12 THE WITNESS: Well, I've been told -- I think
 13 it's an educated guess. We can debate that.
 14 BY MR. SEARLES:
 15 Q. All right. I'd like to show you -- oh, tape
 16 time.
 17 THE VIDEOGRAPHER: This is the end disk 1 of
 18 deposition of Michael W. Perry. We're going off the
 19 record at 10:40 a.m.
 20 (Recess taken from 10:40 a.m. to
 21 10:48 a.m.)
 22 THE VIDEOGRAPHER: This begins disk No. 2 in
 23 the deposition of Michael W. Perry. We are now
 24 officially back on the record at 10:48 a.m.
 25 BY MR. SEARLES:

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1 Q. Mr. Perry, I'd like to show you -- I don't
 2 believe I have already -- Exhibit 533. Do you recognize
 3 this exhibit?
 4 A. I don't recall seeing it at the time, but I
 5 recognize it now.
 6 Q. And this is another -- it's the revised CCR
 7 addendum filed with OTS filed on May 12, 2008; correct?
 8 A. Correct.
 9 Q. All right. When you signed -- reviewed and
 10 signed IndyMac's May 12 10-Q, did you know that IndyMac
 11 was continuing to report as it had historically to the
 12 OTS as total risk-based capital ratio based on a
 13 subprime adjusted basis?
 14 A. No.
 15 MS. VETA: Object to the form.
 16 BY MR. SEARLES:
 17 Q. And the IndyMac's 10-Q that was filed on
 18 May 12, 2008, no longer contained the disclosures we saw
 19 in the prior 10-Qs about how it reports its subprime
 20 adjusted basis points total capital ratio both on a pre-
 21 and post-subprime adjusted basis; correct?
 22 A. Say that again.
 23 Q. Sorry about the lack of clarity on that
 24 question.
 25 The IndyMac's May 12, 2008, 10-Q no longer

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1 reports a capital ratio adjusted on a pre- and
 2 post-subprime adjusted basis; correct?
 3 MS. VETA: Object to the form.
 4 THE WITNESS: I believe that's correct, yes.
 5 BY MR. SEARLES:
 6 Q. All right. Knowing that IndyMac, in fact,
 7 continued as Exhibits 521 and 533 demonstrate -- that
 8 IndyMac continued to report a subprime adjusted ratio to
 9 to the OTS, do you believe the 10-Q was inaccurate that
 10 was filed on May 12, 2008, that no longer disclosed
 11 what, in fact, IndyMac was doing?
 12 A. Absolutely not. It was completely accurate
 13 with respect to this issue. As I discussed in my
 14 testimony, I believe that based on my experience, even
 15 though I hadn't seen these, and based upon the track
 16 record where you can see that they continued to -- we
 17 had to report the old and the new subprime in the
 18 addendum and that I believe that they just wanted to
 19 continue to see what this was even though they had
 20 granted this waiver.
 21 Q. And this is an understanding you obtained
 22 after May 12, 2008; correct?
 23 MS. VETA: Object to the form.
 24 THE WITNESS: Yes.
 25 BY MR. SEARLES:

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1 Q. Because you were not aware of what IndyMac was
 2 doing, in fact, during that period of time with respect
 3 to what it was reporting to the OTS?
 4 MS. VETA: Object to the form.
 5 THE WITNESS: On this addendum, that's
 6 correct.
 7 BY MR. SEARLES:
 8 Q. So it's your testimony you don't think IndyMac
 9 should have continued to report, as it had previously
 10 done, a subprime adjusted number as it was reporting to
 11 the OTS?
 12 MS. VETA: Object to the form.
 13 THE WITNESS: It was no longer a regulatory
 14 requirement at that point. The disclosure was accurate.
 15 BY MR. SEARLES:
 16 Q. How do you know it was no longer a regulatory
 17 requirement?
 18 A. Because we got an approval from the OTS to not
 19 require it.
 20 Q. To not require reporting it?
 21 A. To not require a double-risk weighting of our
 22 subprime loans in calculating our total risk-based
 23 capital on our TFR.
 24 Q. How do you explain that IndyMac continued to
 25 report it as it had historically done on a subprime

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1 adjusted basis?
 2 MS. VETA: Objection. Asked and answered.
 3 THE WITNESS: I mean I'll repeat it for a
 4 third time. I think they still wanted to see it just to
 5 make sure that in the future if we -- if somehow it
 6 changed -- that's what regulators do. They wanted --
 7 they had -- we had an old definition of subprime that
 8 they had granted us a waiver on, and we didn't know to
 9 change when that waiver was done in our public
 10 disclosures.
 11 All we did is put how it was to be calculated
 12 going forward. I think that's what the team did -- and
 13 they continued to ask us to report under the old and new
 14 in that TFR addendum, and I'm sure that they just
 15 continued to say, well, we'd like to continue to see
 16 this because this isn't part of the TFR. This is just
 17 really an informal document that is giving them
 18 supplemental information for their -- you know, that
 19 they requested all the time. The OTS can request any
 20 kind of supplemental information.
 21 BY MR. SEARLES:
 22 Q. All right. Well, we saw in the earlier
 23 filings in 2003 and 2005 IndyMac stating to the market
 24 that it reports this number in an addendum to the TFR,
 25 which you now call an informal document, but it's

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1 stating to the market we reported an addendum to the
 2 TFR. Do you remember those disclosures?
 3 A. We reported it in an addendum.
 4 Q. And the exhibit before you is an addendum,
 5 correct, Exhibit 533?
 6 A. I think the point that you're trying to get at
 7 is in those situation where you had the disclosures that
 8 you were referring to, we had a requirement to
 9 double-risk weight subprime loans. As of some date in
 10 February of 2008, we had no requirement going forward to
 11 double-risk weight subprime loans in calculating our
 12 total risk-based capital. That was a waiver that was
 13 given to us by the OTS.
 14 This TFR -- which, you know, you're right. I
 15 was not aware of this addendum, this addendum to the
 16 TFR, this informal supplemental information -- is just
 17 supplemental information. It's not our total risk-based
 18 capital calculation, and we didn't include any language
 19 about how to calculate the subprime double-risk
 20 weighting because we were no longer subject to it.
 21 Q. I'm curious as to why you call the CCR
 22 addendum informal. Where is that coming from?
 23 A. Look, Cecelia Conde is a staff person, and
 24 it's going to a middle manager at the OTS in an e-mail.
 25 I mean it's not a formal part of our TFR.

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1 Q. Do you know how the TFR is communicated to the
 2 OTS? Who sends it, and who receives it at the OTS?
 3 A. I don't know how, but I do know that the TFR
 4 is publicly failed. The addendum is not part of our --
 5 all TFRs for a financial institutions are in public
 6 file. You can access the entire document. This
 7 addendum is not.
 8 Q. And you knew that -- did you know that, that
 9 the TFR addendum is not publicly filed when you
 10 disclosed in the 2003 10-Q and 2005 10-Q when you're
 11 discussing how IndyMac discloses the subprime
 12 risk-weighted number in an addendum and then discloses
 13 those numbers in its Q?
 14 MS. VETA: Object to the form.
 15 BY MR. SEARLES:
 16 Q. You were aware of that practice; correct?
 17 MS. VETA: Object to the form.
 18 THE WITNESS: I'm sorry. Which?
 19 BY MR. SEARLES:
 20 Q. The historical practice of how IndyMac
 21 reported its subprime adjusted numbers in its public
 22 filings with the SEC even though those numbers were not
 23 publicly available in a TFR; right?
 24 MS. VETA: Same objections.
 25 THE WITNESS: As I said earlier, the reason

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1 that we reported it in prior periods is because it was a
 2 requirement. The OTS required us to double-risk weight
 3 subprime loans. It was no longer a requirement based
 4 upon the approval that we received in February of 2008.
 5 BY MR. SEARLES:
 6 Q. But you can't recall the exact words of
 7 Mr. Dochow's conversation with you in terms of this
 8 waiver; correct?
 9 A. Well, I mean you can get into all that that
 10 you want, but there is an enormous amount of
 11 documentation around supporting that we got that
 12 approval from Mr. Dochow and that multiple people
 13 internally, externally at the OTS all knew about it, and
 14 I'm sure the OTS internal documentation confirms that.
 15 Q. Are you aware of any internal OTS
 16 documentation that you've seen that confirms that?
 17 A. I can't recall specifically, but I'm sure
 18 there is.
 19 Q. Were you aware that IndyMac in May of 2008,
 20 according to both Exhibit 521 and 533, the CCR addendums
 21 filed on May 5 and May 12, was reporting on a subprime
 22 adjusted basis a capital ratio of below 10 percent?
 23 A. Can you repeat that question for me, please.
 24 Q. Were you aware in May of 2008 that IndyMac was
 25 reporting to the OTS in its CCR addendums a subprime

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1 adjusted total risk-based capital ratio that was below
 2 10 percent, i.e., no longer well capitalized?
 3 MS. VETA: Object to the form.
 4 THE WITNESS: As I previously testified, I
 5 wasn't aware that we were continuing to file this
 6 addendum and hadn't seen these addendums. So no, I
 7 wasn't aware of that.
 8 BY MR. SEARLES:
 9 Q. And that clearly wasn't disclosed in IndyMac's
 10 May 12 10-Q, was it, that on a subprime adjusted basis
 11 it was now below 10 percent?
 12 MS. VETA: Object to the form.
 13 THE WITNESS: It wasn't disclosed because it
 14 was no longer required. We were no longer required to
 15 double-risk weight subprime assets by that time.
 16 BY MR. SEARLES:
 17 Q. And you have no explanation as to why IndyMac,
 18 even though it supposedly had no requirement, continued
 19 through these documents to report a subprime adjusted
 20 capital ratio?
 21 MS. VETA: Object to the form, asked and
 22 answered.
 23 BY MR. SEARLES:
 24 Q. Other than your educated guess, you don't have
 25 an understanding why IndyMac continued to report in the

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1 same manner as it had historically done?
 2 MS. VETA: Same objection. Mischaracterizes
 3 the witness' testimony.
 4 THE WITNESS: You know, for the fourth time I
 5 would just say it is my strong view and educated guess
 6 that just as they continued to report an old and new
 7 subprime addendum because I'm sure that the OTS wanted
 8 to see what the capital ratios would be under their old
 9 and new definition of subprime loans where they gave us,
 10 you know, the exemption for the loans that were held for
 11 sale 90 days or less.
 12 And we continued to report that even though
 13 after they granted that waiver, you know, all the way
 14 through May, I am sure and I'm highly confident that the
 15 reason that we continued to file this addendum is they
 16 just wanted to see it even though they had granted the
 17 waiver for us. So I mean I think we did the right
 18 disclosure here, the right thing, and I think you're -
 19 I think you're misinterpreting what this document is all
 20 about.
 21 BY MR. SEARLES:
 22 Q. It's your understanding, your educated guess,
 23 that the subprime adjusted number is still a number that
 24 the OTS is interested in knowing?
 25 A. Yes.

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