

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JUN 24 2013

TIM RHODES
COURT CLERK

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Oklahoma Department of Securities)
<i>ex rel.</i> Irving L. Faught,)
Administrator,)
)
Plaintiff,)
)
v.)
)
2001 Trinity Fund, L.L.C. and)
Robert Arrowood,)
)
Defendants.)

Case No. CJ-2012-6164
Judge Roger Stuart

**PLAINTIFF'S RESPONSE TO DEFENDANT
ROBERT ARROWOOD'S MOTION FOR
SUMMARY JUDGMENT
AND BRIEF IN SUPPORT**

The Oklahoma Department of Securities ("Department") respectfully submits the following response to Defendant Robert Arrowood's motion for summary judgment ("Motion") and asks that the Court deny the Motion.

I. Introduction

On September 28, 2012, the Department filed its petition in this matter (the "Petition") alleging that Defendants 2001 Trinity Fund, L.L.C. (the "Trinity Fund") and its president and control person, Robert Arrowood, violated the registration and anti-fraud provisions of the Oklahoma Uniform Securities Act of 2004 (the "Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011). As described in the Petition, Defendant Arrowood caused the Trinity Fund to issue promissory notes (the "Notes") to numerous investors in several states as a means of raising money to fund the operations of the Trinity Fund. Despite the Trinity Fund having little net revenue, Defendant Arrowood

used investor money deposited into the accounts of the Trinity Fund to repay previous investors and to directly pay for a litany of personal expenses ranging from expensive cars to vacations, landscaping, jewelry, spas, clothing and even withdrawals of cash of up to \$10,000 at a time. The scheme ultimately collapsed.

Defendant Arrowood now asks this Court to determine that the Notes are not securities as defined by the Act and grant summary judgment based upon an extremely incomplete picture of the facts in this matter. Defendant Arrowood omits other material facts, all of which are necessary for the Court to make an appropriate determination as to whether the Notes are securities.

II. Standard of Review

Summary judgment is proper only when it appears that there is no substantial controversy as to any material fact and one of the parties is entitled to judgment as a matter of law. *Seitsingerv. Dockum Pontiac, Inc.*, 1995 OK 29, 894 P.2d 1077, 1079. Summary judgments are not favored and are granted only in matters where it is perfectly clear that no issue of material fact exists in a case. *Erwin v. Frazier*, 1989 Ok 95, 786 P.2d 61, 62-63. All inferences and conclusions drawn from any undisputed facts must be viewed in the light most favorable to the party opposing the motion. *Northip v. Montgomery Ward & Co.* 1947 OK 142, 529 P.2d 489, 497. If reasonable persons could reach different conclusions, summary judgment is improper. *Wittenberg v. Fidelity Bank, N.A.*, 1992 OK 165, ¶2, 844 P.2d 155.

III.
**Response to Defendant Arrowood's Statement
of Undisputed Facts**

The Motion presents the Court with nine purported statements of undisputed fact. The statements of fact are at best an incomplete picture of the total facts necessary for the Court to appropriately make the determination of whether the Notes are securities as defined by the Act and in no way provide a basis to determine that the Notes are not securities.

Statements 1 through 3. Statements one through three, describing the date the Petition was filed, the factual assertions of the Petition, and the causes of action asserted in the Petition are not disputed. However, these statements are irrelevant to the determination of whether summary judgment should be granted.

Statements 4 and 5. The fourth and fifth statements, that the Notes generally carried a term of less than sixty days and bore a fixed rate of interest, are not disputed. However, and as more fully described below, the length of the term of a note and whether the note bears a fixed rate of interest are only two factors, among several, used in the applicable tests for determining whether a note is a security. The actual rate of interest is a more important factor courts look to in determining whether a note is a security. The Notes carried extremely high rates of interest. *See Exhibit 1 (Notes of Larry Sessions and Richard Rossell)*. The Notes attached as *Exhibit 1* carried an effective annual interest rate in excess of thirty-nine percent (39%). This fact is indicative of the note being an investment and therefore a security as defined by the Act.

Statement 6. The sixth statement, that the Notes were not contingent upon the success of the Trinity Fund's operations, is not disputed. However and as more fully discussed

below, the fact that a note or other type of debt offering is contingent upon earnings does not render the securities laws inapplicable. Many types of debt obligations, not contingent upon earnings, are securities.

Statement 7. The seventh statement, that the Notes were merely routine business loans, is disputed. This statement is supported by the affidavit of one person and is not an assertion of fact but an opinion. Several other investors have identified the payments to the Trinity Fund as “investments.” *See Exhibit 2, (wherein the word “investment” is written into the memo line of numerous checks made payable to the Trinity Fund).*

Statement 8. The eighth statement, that the holders of the Notes did not consider them to be securities, is disputed. First, the Motion only includes as support for this proposition the affidavit of one person. Other investors considered the Notes to be investments. *See Exhibit 2, (wherein the word “investment” is written into the memo line of numerous checks made payable to the Trinity Fund).*

Statement 9. The ninth statement, that *one* note is secured by an oil and gas property, is not disputed. Of many issued Notes, the Department is aware of only one that is secured. *See, Exhibit 3 for numerous other Notes lacking any form of collateral.* To represent to the Court that this single Note indicates how the scheme as a whole was conducted provides an incomplete picture of the context under which the remaining Notes were issued.

In his examination taken under oath in connection with the Trinity Fund bankruptcy proceeding, Defendant Arrowood admitted that the mortgage referenced in Exhibit 4 of the Motion, was only executed by him as part of a renewal of previously issued Notes to the individuals the Trinity Fund was unable to pay when originally due.

(See Exhibit 4, Arrowood transc.; 103:21(In Re: 2001 Trinity Fund, L.L.C., Case no. 09-16236, United States Bankruptcy Court for the Western District of Okla.).

IV.

The Notes are Securities as defined by the Act

A. The Notes are Securities as Defined by the Act.

Section 1-102 of the Oklahoma Securities Act of 2004, (the "Act"), Okla. Stat. tit.

71, §§ 1-101 through 1-701 (2011) provides in relevant part:

32. "Security" means a *note*; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security," or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. [Emphasis added.]

Oklahoma courts have stated that the Act embodies a flexible principle that is "capable of adaptation to meet the countless and variable schemes devised by those who seek to use the money of others on the promise of profits." *State v. Hoephner*, 1978 OK CR 18, ¶ 7, 574 P.2d 1079, 1081, citing *S.E.C. v. Howey*, 328 U.S. 293, 66 S.Ct. 1100, 90 L.Ed. 1244 (1946).

The Oklahoma Supreme Court has stated that in interpreting the provisions of the Act, the interpretive history of the federal securities laws should be considered. *Day v. Southwest Mineral Energy, Inc.*, 1980 OK 118, ¶ 30-31, 617 P.2d 1334, 1339 (citing Section 406 of the predecessor act). Federal law interpreting the definition of the term “note” was settled by the United States Supreme Court in *Reves v. Ernst & Young*, 494 U.S. 56, 66, 110 S.Ct. 945, 108 L.Ed.2d 47 (1990). The Court should find the reasoning of *Reves* persuasive in considering the Department’s request.

In *Reves*, the Court unequivocally stated that for purposes of the federal securities laws *all notes are presumed to be securities*. *Reves*, 494 U.S. at 65 (*emphasis added*). That presumption is rebuttable only if the note falls within certain enumerated exceptions. *Id.* This list of enumerated exceptions consists of the following:

1. a note delivered in consumer financing;
2. a note secured by a mortgage on a home;
3. a short term note secured by a lien on a small business or some of its assets;
4. a note evidencing a character loan to a bank customer;
5. short-term notes secured by an assignment of accounts receivable;
6. a note formalizing an open-account debt incurred in the ordinary course of business; and,
7. notes evidencing loans by commercial banks for current operations.

Id.

The Notes at issue in the case at bar clearly do not fall within any of the categories identified by the Supreme Court as being excluded from coverage as a security. The Notes were not delivered by an individual in connection with a consumer loan or for a home mortgage; all but one of the Notes were unsecured; the Notes were not issued to a bank as part of a customer loan, the Notes were not secured by an assignment of accounts or to formalize an open-account debt and the Notes were not to evidence loans by a commercial bank for current operations.

In the Motion, Defendant Arrowood **only** attempts to compare the Notes to the third type of note excluded under *Reves*, “a short term note secured by a lien on the assets of a small business or its accounts receivable.” There is no evidence that the Notes at issue in the case at bar are secured by the receivables of the Trinity Fund. The Motion itself only points to **one** Note that is secured in any fashion. The context in which that particular Note was secured by a mortgage on certain oil and gas leases was explained by Defendant Arrowood in his bankruptcy examination. Defendant Arrowood testified that the mortgage was only executed by him as part of a renewal of previously issued Notes the Trinity Fund was unable to pay when originally due. (*See Exhibit 4, Arrowood transc.; 103:21(In Re: 2001 Trinity Fund, L.L.C., Case no. 09-16236, United States Bankruptcy Court for the Western District of Okla.)*).

Of the many issued Notes issued by the Trinity Fund over an extended period of time, the Department is aware of only one that is secured. *See, Exhibit 3 for numerous other Notes lacking any form of collateral.* The Notes at issue in the case at bar bear no resemblance to any of the enumerated exceptions set forth in *Reves*.

B. Defendant Arrowood fails to create a new exclusion under *Reves*

To avoid application of the Act, the Defendant attempts to use the four part test of *Reves* to create a new exclusion from the definition of security. The facts present in this matter and case law do not support this proposition.

Under *Reves*, if the note in question can be shown to bear a “strong resemblance” to any of the above seven categories of *non-securities*, by using a four part test commonly

referred to as the “family resemblance” test, the note may be still be excluded from the definition of “security”. *Id.* at 66-67.

Those four factors are:

1. the motivation of the parties;
2. the offeror’s plan of distribution;
3. the reasonable expectations of the public; and
4. whether an alternative regulatory scheme renders application of the securities laws unnecessary.

Id.

It is important to note that these four *Reves* factors are to be used to evaluate whether the note in question bears a “strong resemblance” to one of the seven excluded notes listed in Section A above. It is also important to recognize that these four factors are not elements to be met, but rather points of comparison for the ultimate factual determination of “family resemblance.” *Robyn Meridith, v. Levy*, 440 F.Supp.2d 378, 384 (D.J.J. 2006).

1. The motivations of the parties

Defendant Arrowood attempts to convince the Court that summary judgment at an early stage of this litigation should be entered based upon **one** affidavit of an individual who states that he did not consider the transaction to be a security.

In the context of determining whether a note is a security as defined under federal law: “If the seller’s purpose is to raise money for the general use of a business enterprise...and the buyer is interested primarily in the profit the note is expected to generate, the instrument is likely to be a security.” *Reves at 66.*

Defendant’s own affidavit attached to the Motion as Exhibit 2 makes his motivations very clear. His motivation was “... to raise cash for its business operations.” Several holders of the Notes considered the transactions investments. *See Exhibit 2,*

(wherein the word "investment" is written into the memo line of numerous checks made payable to the Trinity Fund).

Furthermore, the Notes themselves indicate investment intent on the part of the investors. The Notes carry rates of interest far in excess of normal commercial loan rates. This is indicative of an investment, not a commercial loan. *S.E.C. v. Stoiber*, 161 F.3d 745, 750 (D.C. Cir. 1998), citing, *Reves*, 494 U.S. at 67-68.

2. The plan of distribution

Defendant Arrowood also contends that because he did not broadly advertise the Notes they should be excluded. This assertion is contrary to existing case law and is not determinative of whether the Notes are securities. In analyzing this part of the *Reves* "family resemblance" test, the Court has stated: "To establish that there is common trading, in an instrument, all that need be shown is that the instruments were offered and sold to a "broad segment of the public." *Reves* at 68. The instrument need not have been traded on an exchange. *R.T.C. v. Stone*, 998 F.2d 1534, 1539 (10th Cir. 1993). *See also, Deal v. Asset Mt. Group*, 1992 WL 212482 at *1 (N.D. Ill, August 27, 1992)(an offering to at least six investors, not otherwise linked except as customers of the defendant, supported the inference that investors were from a broad segment of the public).

Defendant Arrowood has received money from investors in numerous states and has already testified in his bankruptcy examination that many of the investors were brought to him by other people. *See Exhibit 4 Arrowood transc. at 42:20; 72:25; 75:3 and 76:17, (In Re: 2001 Trinity Fund, L.L.C., Case no. 09-16236, United States Bankruptcy Court for the Western District of Okla.)*. Selling the Notes to a broad

segment of the public over an extended period of time to individuals as a means of “raising cash” is a securities offering.

Regardless of the number of individuals to whom the Notes were sold, this factor must be weighed against “the purchasing individuals need for the protection of the securities laws.” *S.E.C. v. Mulholland*, 2013 WL 979426 (E.D. Mich., 2013), *See also S.E.C. v. Ralston Purina*, 346 U.S. 119 (1953) (in the context of whether an offering qualifies as a private offering under the exemptive provisions of the federal securities laws, a determination of whether there is a “public offering” of securities does not depend on the number of offerees, but on whether the offerees need the protections of the federal securities laws).

3. Reasonable expectations of the public

On this point, Defendant Arrowood again attempts to rely upon the affidavit of one individual who states that he did not consider the transaction to be a security. Other investors view the transactions differently and considered the Notes as investments. *See Exhibit ____, (wherein the word “investment” is written into the memo line of numerous checks made payable to the Trinity Fund).*

4. The existence of another regulatory structure

Finally, the “family resemblance” test looks to whether “some factor such as the existence of another regulatory scheme significantly reduces the risk of the instrument, thereby rendering application of the securities laws unnecessary. *Reves at 66-67.* In support, Defendant Arrowood contends that **one** Note collateralized with an interest in an oil and gas lease is determinative. This assertion ignores the numerous other Notes

issued for a decade to finance the business operations of the Trinity Fund with no form of collateral.

There is no other regulatory protection afforded these individuals other than the application of the securities laws. The case at bar is the quintessential example of the need for application of the securities laws by providing the investors with all of the necessary information they need about the Trinity Fund and Defendant Arrowood to make an informed investment decision.

**V.
Conclusion**

The Motion fails to establish that the Notes are not securities. Rather, what has been shown is that the Notes are presumed securities and that they bear no similarity to any judicially crafted exclusion. The Department asks that the Motion be denied.

Respectfully Submitted,

OKLAHOMA DEPARTMENT OF SECURITIES



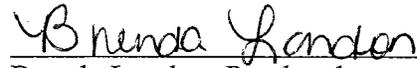
Shaun Mullins OBA #16869
Gerri Kavanaugh OBA # 16732
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
Telephone: (405) 280-7700
Facsimile: (405) 280-7742
Email: smullins@securities.ok.gov
gkavanaugh@securities.ok.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June, 2013, the foregoing document was sent by email and first-class mail to the following:

William H. Bock
Michelle L. Greene
William H. Bock, Inc.
6402 N. Santa Fe Ave., Ste. A
Oklahoma City, OK 73116
bocklaw@sbcglobal.net
Attorney for Defendant Robert Arrowood

L. Win Holbrook
Andrews Davis, P.C.
100 North Broadway, Suite 3300
Oklahoma City, OK 73102
wholbrook@andrewsdavis.com
Bankruptcy Trustee for 2001Trinity Fund, L.L.C.



Brenda London, Paralegal

PROMISSORY NOTE

Date: July 3rd, 2009

Principle Amount: \$127,628.15

FOR VALUE RECEIVED, the undersigned hereby jointly and severally promises to pay to the order of the Wade Manning Sessions the sum of One Hundred Twenty Seven Thousand Six Hundred Twenty Eight Dollars and 15/100 (\$127,628.15), plus interest as set out herein. The loaned amount shall draw interest, from the date set out above, at the rate of 5% (see schedule below) which, along with the principle amount hereof, shall be paid in accordance with such schedule.

On or before August 18th, 2009, principal and interest shall be paid in full in the amount of One Hundred Thirty Four Thousand Nine Dollars and 55/100 (\$134,009.55).

This note, at the option of the holder thereof, immediately shall be due and payable upon the occurrence of any of the following: 1) Failure to make any payment due hereunder on or before its due date.

In the event this note shall be in default and placed for collection, then the undersigned agrees to pay all reasonable attorney fees and costs of collection. Payments not made within ten (10) days of due date shall be subject to a late charge of 5% of said payment.

This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of Oklahoma.

2001 Trinity Fund, LLC



Robert C. Arrowood, President

Acknowledgement

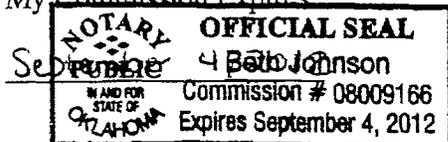
STATE OF OKLAHOMA

COUNTY OF CLEVELAND

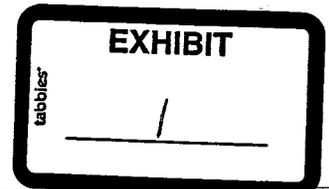
Before me, the undersigned, a Notary Public in and for said County and State on this 10th day of July, 2009, personally appeared Robert C. Arrowood, as President of 2001 Trinity Fund, LLC to me know to be the identical person who executed the same as his free and voluntary act and deed for said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My Commission Expires:




Notary Public



PROMISSORY NOTE

Date: January 16th, 2009

Principle Amount: \$105,000.00

FOR VALUE RECEIVED, the undersigned hereby jointly and severally promises to pay to the order of the Richard Rossell the sum of One Hundred Five Thousand Dollars and 00/100 (\$105,000.00), plus interest as set out herein. The loaned amount shall draw interest, from the date set out above, at the rate of 5% (see schedule below) which, along with the principle amount hereof, shall be paid in accordance with such schedule.

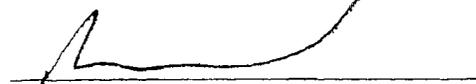
On or before March 3, 2009, principal and interest shall be paid in full in the amount of One Hundred Ten Thousand Two Hundred Fifty Dollars and 00/100 (\$110,250.00).

This note, at the option of the holder thereof, immediately shall be due and payable upon the occurrence of any of the following: 1) Failure to make any payment due hereunder on or before its due date.

In the event this note shall be in default and placed for collection, then the undersigned agrees to pay all reasonable attorney fees and costs of collection. Payments not made within ten (10) days of due date shall be subject to a late charge of 5% of said payment.

This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of Oklahoma.

2001 Trinity Fund, LLC


Robert C. Arrowood, President

Acknowledgement

STATE OF OKLAHOMA
COUNTY OF CLEVELAND

Before me, the undersigned, a Notary Public in and for said County and State on this 16th day of January, 2009, personally appeared Robert C. Arrowood, as President of 2001 Trinity Fund, LLC to me know to be the identical person who executed the same as his free and voluntary act and deed for said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My Commission Expires:


Notary Public





Capture Date: 10/14/2008 Sequence #: 5420442157

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1130

JAMES B. BARLOW

DATE 10.08.08

PAY TO THE ORDER OF 2001 TRINITY FUND LLC \$ 60,000

SIXTY THOUSAND DOLLARS

Liberty Bank

FOR INVESTMENT

James B. Barlow

BANK OF AMERICA, N.A. OKC
 10/14/08

BANK OF AMERICA

PAY TO THE ORDER OF
 BANK OF AMERICA
 FOR DEPOSIT ONLY
 2001 TRINITY FUND, LLC

No Electronic Endorsements Found
 No Payee Endorsements Found

Document 1

PROMISSORY NOTE

Date: July 3rd, 2009

Principle Amount: \$168,000.00

FOR VALUE RECEIVED, the undersigned hereby jointly and severally promises to pay to the order of the Larry Michael Sessions the sum of One Hundred Sixty Eight Thousand Dollars and 00/100 (\$165,000.00), plus interest as set out herein. The loaned amount shall draw interest, from the date set out above, at the rate of 5% (see schedule below) which, along with the principle amount hereof, shall be paid in accordance with such schedule.

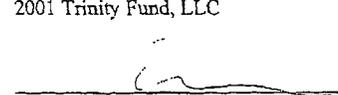
On or before August 18th, 2009, principal and interest shall be paid in full in the amount of One Hundred Seventy Six Thousand Four Hundred Dollars and 00/100 (\$173,250.00).

This note, at the option of the holder thereof, immediately shall be due and payable upon the occurrence of any of the following: 1) Failure to make any payment due hereunder on or before its due date.

In the event this note shall be in default and placed for collection, then the undersigned agrees to pay all reasonable attorney fees and costs of collection. Payments not made within ten (10) days of due date shall be subject to a late charge of 5% of said payment.

This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of Oklahoma.

2001 Trinity Fund, LLC


Robert C. Arrowood, President

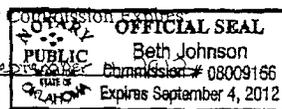
Acknowledgement

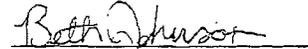
STATE OF OKLAHOMA

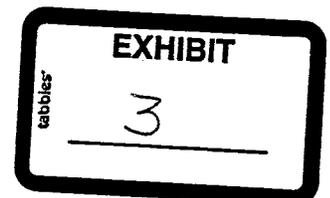
COUNTY OF CLEVELAND

Before me, the undersigned, a Notary Public in and for said County and State on this 10th day of July, 2009, personally appeared Robert C. Arrowood, as President of 2001 Trinity Fund, LLC to me know to be the identical person who executed the same as his free and voluntary act and deed for said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My Commission Expires

Beth Johnson
Notary Public


Beth Johnson
Notary Public



PROMISSORY NOTE

Date: March 3rd, 2007

Principle Amount: \$400,000.00

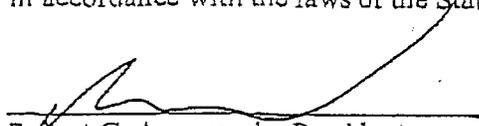
FOR VALUE RECEIVED, the undersigned hereby jointly and severally promises to pay to the order of David L. Pearlman Trust of P.O. Box 129, Lake Zurich, Ill. 60047 the sum of Four Hundred Thousand Dollars (\$400,000.00), plus interest as set out herein. The loaned amount shall draw interest, from the date set out above, at the rate of 10% (see schedule below) which, along with the principle amount hereof, shall be paid in accordance with such schedule.

On or before April 4th, 2007, principal and interest shall be paid in full in the amount of Four Hundred and Forty Thousand Dollars (\$440,000.00).

This note, at the option of the holder thereof, immediately shall be due and payable upon the occurrence of any of the following: 1) Failure to make any payment due hereunder on or before its due date. 2) Upon the insolvency, bankruptcy of 2001 Trinity Fund, LLC.

In the event this note shall be in default and placed for collection, then the undersigned agrees to pay all reasonable attorney fees and costs of collection. Payments not made within ten (10) days of due date shall be subject to a late charge of 5% of said payment.

This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of Oklahoma.


Robert C. Arrowood - President
2001 Trinity Fund, LLC

Acknowledgement

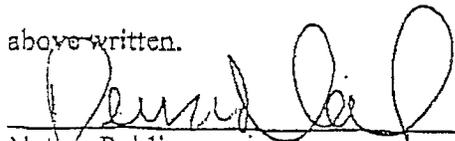
STATE OF OKLAHOMA

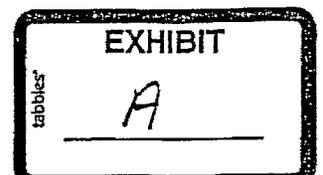
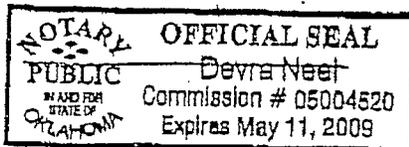
COUNTY OF CLEVELAND

Before me, the undersigned, a Notary Public in and for said County and State on this 13th day of March, 2007, personally appeared Robert C. Arrowood as President of 2001 Trinity Fund, LLC to me know to be the identical person who executed the same as his free and voluntary act and deed for said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My Commission Expires:


Notary Public



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IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

IN RE: 2001 TRINITY FUND, L.L.C.,
Debtor.)

L. WIN HOLBROOK, Trustee)
Plaintiff,)

-vs-) 09-16236 WV-166

Robert Arrowood, Cathy Arrowood,
and Arrowood Companies, Inc., an)
Oklahoma Corporation,)
Defendants.)

EXAMINATION UNDER OATH

OF ROBERT ARROWOOD

ON MAY 17, 2012

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

WORD FOR WORD REPORTING, L.L.C.
3250 CHASE BANK BUILDING
100 NORTH BROADWAY
OKLAHOMA CITY, OKLAHOMA 73102

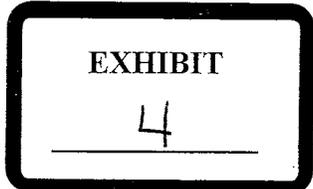
Reported By: Chrystal H. Vance, C.S.R.

A P P E A R A N C E S

Leif Swedlow, Esq.
ANDREWS DAVIS
100 North Broadway, Suite 3300
Oklahoma City, Oklahoma 73102
405.272.9241
Lswedlow@andrewsdavis.com

Michael Paul Kirschner, Esq.
ROBERTSON & WILLIAMS
9658 North May Avenue, Suite 200
Oklahoma City, Oklahoma 73120
405.848.1944

* * * * *



25
0005

1 ROBERT ARROWOOD
2 of lawful age, being first duly sworn, examines
3 and says in reply to the questions propounded as
4 follows:
5 * * * * *
6 EXAMINATION
7 BY MR. SWEDLOW:
8 Q. Will you state your name for the record,
9 please.
10 A. Rob Arrowood.
11 Q. Mr. Arrowood, have you been to an
12 examination taken pursuant to Section 2004 in the
13 Bankruptcy Court before?
14 A. No, I have not.
15 Q. But you have given depositions before,
16 right?
17 A. Yes.
18 Q. Okay. Today's examination will proceed
19 much like a deposition. We're on the record. We
20 do have a number of documents, as you see, that
21 we've organized that we'll be showing you some of
22 them over the course of time. The trustee's
23 office has collected these from various sources.
24 And I want to just make sure we know who we all
25 are.

0006

1 I'm Leif Swedlow. And in this
2 examination, I'm representing the trustee,
3 Mr. Holbrook's, role. Mr. Kirschner is here. And
4 my understanding is that he represents the debtor
5 entity as an entity. Is that your understanding
6 as well?
7 A. Yes.
8 Q. Okay. And Mr. Holbrook may come and go
9 at various times during the course of the
10 examination.
11 Let's do just a little bit of background
12 since this is the first time I've met you.
13 A. Okay.
14 Q. What education do you have?
15 A. Just a Bachelor's in Business.
16 Q. Where from?
17 A. Carson-Newman.
18 Q. Where's that?
19 A. It's in Tennessee.
20 Q. Any particular specialization with that
21 degree?
22 A. No.
23 Q. When did you obtain it?
24 A. '87, I believe.
25 Q. Where did you go to work after college?

0007

1 A. Moved to Oklahoma and just started doing
2 some oil and gas stuff, buying minerals and
3 selling them.
4 Q. Tell me what you mean by "stuff" more
5 precisely.
6 A. I met a landman and we would buy
7 minerals and, you know, flip them. And that's
8 kind of what got me involved in oil and gas. It
9 was the summer right after college.

21 Q. I understand. Tell me if I have it
22 right.
23 At a certain point, if you weren't going
24 to be doing title work research for somebody else,
25 you didn't need to keep that certification?

0010

1 A. Correct.
2 Q. Okay. Did you continue doing your own
3 title homework on deals --
4 A. On and off.
5 Q. -- that you were contemplating? Okay.
6 A. I'm sorry.
7 Q. That's all right.
8 A. On and off, but I would also, you know,
9 contract a lot of it out.
10 Q. Okay. Who are you currently employed by?
11 A. I'm self-employed.
12 Q. Are you still, generally, in the business
13 of, as you described it, flipping mineral lease
14 interests?
15 A. Yes.
16 Q. What does your portfolio consist of
17 today?
18 A. For personal?
19 Q. Okay.
20 A. Or for -- I don't really own anything
21 personal. Again, we just kind of buy and sell.
22 But I do it through, you know, different
23 entities.
24 Q. What entity do you have a controlling
25 interest in presently?

0011

1 A. Controlling interest?
2 Q. Let me rephrase the question.
3 A. Sorry.
4 Q. What entities do you have any ownership
5 interest in presently?
6 A. Trinity Resources.
7 Q. What else?
8 A. Arrowood Companies.
9 Q. Is that "Inc.," right?
10 A. Yes.
11 Q. What else?
12 A. Arrowood Holdings, that's an LLC.
13 Q. Okay. What else?
14 A. Hydro 11, Inc.
15 Q. What else?
16 A. I believe that's it.
17 Q. Do you still hold an interest --
18 A. Oh --
19 Q. -- in Arrow Mac?
20 A. Arrow Mac? No.
21 Q. An entity that you claimed on tax returns
22 that you held an interest through 2001 Trinity
23 Fund --
24 A. Yeah, that company is no longer in
25 existence.

0012

1 Q. Who were the owners of that when it
2 existed?
3 A. It was a family furniture company. So my
4 sister -- I don't really remember all the owners,
5 but I think my dad and mom, I think, that was --

17 Q. And your son?
18 A. John. I'm not positive about John.
19 Q. Do you have records that'll identify and
20 confirm --
21 A. Our tax records would, yeah.
22 Q. Do you have records, other than your tax
23 returns, that would identify the various ownership
24 interests?
25 A. The corporate books should.

0015

1 Q. Where are those kept?
2 A. In Norman.
3 Q. Do you have ready access to them at all
4 times?
5 A. At all times? Yeah, I mean, I don't use
6 them a whole lot, but I'm sure they're there.
7 Q. When was Trinity Resources formed?
8 A. I believe in '87 -- '87, '88.
9 Q. What assets are currently held in Trinity
10 Resources?
11 A. Various. I don't know if we have
12 minerals, but just some working interest.
13 Q. Let's start with the largest one you can
14 recall being on the books of Trinity Resources.
15 A. Right now?
16 Q. Right.
17 A. I don't really know. Probably in the
18 Noble field there in Norman, I believe, it's like
19 a 5 percent interest.
20 Q. So for convenience, we'll just call that
21 the Noble 5 percent?
22 A. Okay.
23 Q. When did Trinity Resources acquire the
24 Noble 5 percent?
25 A. Late last year or -- wait a minute, it --

0016

1 I think in April or May of last year, so first
2 quarter.
3 Q. From whom?
4 A. A local company there, Sand, I believe is
5 the name of the company.
6 Q. At that interest at any time been held by
7 any other entity that you had any interest in?
8 A. No.
9 Q. Where did the money come from to acquire
10 that interest from Sand?
11 A. It was part of a commission, you know,
12 just -- we negotiated something from one price and
13 sold, I think, you know, 90-plus percent for
14 another and just retained that.
15 Q. Okay. What was the swapped property?
16 A. The swapped property?
17 Q. You said that you --
18 A. Well, we -- what we do --
19 Q. -- you exchanged something. What did you
20 exchange?
21 A. Well, now, for instance, let's say we
22 negotiate a price for \$100,000 to purchase 100
23 percent, we may sell 95 percent for the 100,000
24 and retain 5 percent. So there wasn't a property
25 --

0017

1 Q. So you're saying that you were selling

13 with you today, right?

14 A. Correct.

15 Q. Okay. I take it that that was your
16 effort to comply with some requests you received
17 previously from the trustee with regard to
18 gathering and disclosing information about the
19 business activities of debtor entity and relating
20 matters, is that right?

21 A. It's a continued effort. I should
22 be -- I haven't finished going through everything.

23 Q. Are you generally familiar with the
24 records that you brought today?

25 A. Generally, yes.

0020

1 Q. Okay. Would we find any contracts,
2 agreements, documents of any kind that give us
3 information about exchanges of money or assets
4 between Trinity Fund and Arrowood Companies in
5 those five boxes?

6 A. There may be. I'm not 100 percent sure.

7 Q. Okay.

8 A. I -- again, I just kind of -- if Trinity
9 Fund was, you know, in the file, I just pulled
10 it. I haven't thoroughly gone through each and
11 every file.

12 Q. Okay. Well, then, let's go based off of
13 not what you think may or may not be in those
14 boxes, but what you believe ought to exist at some
15 point when you uncover that particular box or file
16 drawer or wherever it might be. Okay. In other
17 words, based on what you know, once we gathered up
18 all the relative documents, what will we find?
19 what will we see in terms of documents concerning
20 transactions between 2001 Trinity and Arrowood
21 Companies?

22 A. I think most of those transactions would
23 be in our bank records. There should be some in
24 there, but, again, I don't know about if I --
25 well, they should be in there. And, again, I

0021

1 still have files to go through.

2 Q. Will we find any consultant contracts in
3 writing?

4 A. Probably not.

5 Q. Will we find any service agreements in
6 writing?

7 A. There may be some bills, but I don't know
8 if you'd call them service contracts.

9 Q. Would we find any promissory notes or
10 security instruments?

11 A. Probably.

12 Q. Who will be the signatories on the notes
13 or security agreements that we expect to find?

14 A. They would be probably myself.

15 Q. On both the borrower and the lender side?

16 A. Well, if Trinity Fund gave one to
17 Arrowood, it would just be one signature. Both
18 parties did not sign the instruments and vice
19 versa.

20 Q. Would we see assignments or other
21 instruments of conveyance of properties?

22 A. I don't know that there are conveyances
23 back and forth of properties, but there may be. I

9 A. Possibly.
10 Q. Between Hydro 11 and Arrowood Companies?
11 A. No.
12 Q. Between Hydro 11 and Arrowood Holdings?
13 A. No. There hasn't been a whole lot done
14 in Hydro 11. Period.
15 Q. What is your role -- what was your role
16 in Trinity Fund up until the point which it
17 entered its current state?
18 A. President.
19 Q. And what duties did you cover in that
20 office?
21 A. Primarily negotiations. That was
22 primarily the role.
23 Q. Did you receive payroll?
24 A. I did receive compensation, but it
25 wasn't, I mean, a set amount.

0025

1 Q. would it be fair to say that you -- you
2 withdrew compensation from the companies available
3 resources from time to time, but not on any fixed
4 schedule?
5 A. Yes.
6 Q. Who else actively worked for Trinity
7 Fund?
8 A. I had several people. I had Cathy, you
9 know, quite a bit. You know, just other people in
10 the office. It just, again, depending on what
11 project we had going.
12 Q. Has --
13 A. There were other landmen. It really just
14 depended on the project and who was available.
15 Q. Has Cathy ever gone out and herself
16 negotiated a deal?
17 A. Probably leases.
18 Q. Can you recall a particular one?
19 A. Not particular, no.
20 Q. Can you recall any specific transactions
21 she negotiated that resulted in business for
22 Trinity Fund?
23 A. There were -- I'm -- she was very active
24 in the Barnett Shale also.
25 Q. Specifically, how?

0026

1 A. We would both go to Arlington, Tarrant
2 County, not every day, but several times a week
3 and negotiate leases. I mean, just -- it was just
4 a, you know, kind of a landman-type role.
5 Q. You mentioned Arlington.
6 A. Uh-huh.
7 Q. Is that relating to a transaction that
8 resulted in business relationship with Carizzo?
9 A. Correct.
10 Q. And that involved drilling in and around
11 the University of Texas Arlington Campus, is that
12 right?
13 A. That was some of it, yes.
14 Q. I understand that you appeared there to
15 give some talks to some of the people that were
16 interested in that process as it was developing,
17 right?
18 A. Correct.
19 Q. Cathy didn't participate in that stage,

5 know, kids. I mean, like this meeting is not on
6 there. I just --
7 Q. Do you have someone else who keeps track
8 of where and when you need to be for business?
9 A. Beth kind of does. But, again, I
10 don't -- I mean, if I have a meeting, I just go to
11 a meeting. I don't plan out long, you know --
12 it's kind of, you know, as it's available that's
13 when you go.
14 Q. Okay. You have now identified that Cathy
15 has been an active participant in the Trinity Fund
16 business up until it's change of state. What type
17 of calendar system has she maintained?
18 A. She's probably worse than I am. I have
19 no clue.
20 Q. As between you and she, who's most
21 knowledgeable about the day-to-day business
22 activities of Trinity Fund?
23 A. It would be myself.
24 Q. Would you know at all times what she had
25 planned during the course of a week?
0030
1 A. We would literally go together, stay down
2 there. I mean, it was kind of like if, you know,
3 this person needs to talk, you know, to one of
4 us -- I mean, it was just kind of a play-it-by-
5 ear-type situation. I mean, it was, again, a lot
6 going on.
7 Q. Do you do quite a bit of communication by
8 e-mail?
9 A. Not as much as I do by phone, but I do
10 use e-mail, yes.
11 Q. I noticed at least one of those boxes
12 seems to have a pretty good run of printed out
13 e-mails at least on some subjects. Is that your
14 understanding, too?
15 A. Yes.
16 Q. Have you endeavored to search and create
17 a set of all of your e-mails that relate to the
18 business of Trinity Fund?
19 A. Somewhat, but I -- it's not completed. I
20 mean, I kind of don't know what all has been
21 provided and what hasn't.
22 Q. Who's been assisting you with that?
23 A. Me.
24 Q. Okay. You're saying you're doing it
25 yourself, but you don't know what's been provided?
0031
1 A. Well, I provided a lot of stuff during
2 the lawsuit. I provided a lot of stuff when we
3 filed the Chapter 11 and I didn't keep copies of
4 everything that was provided, just kind of turned
5 everything over.
6 Q. You haven't --
7 A. So --
8 Q. -- you haven't flushed out or deleted
9 your e-mail inbox and sent box, have you?
10 A. No.
11 Q. So you should still be able to recover
12 those things going back --
13 A. Right. But what I have to do, I have to
14 determine if it was from, you know, Trinity Fund
15 business or, you know, one of the other entities.

1 expense for Trinity Fund in 2008?
2 A. 2008, 37,494.
3 Q. How much of that were you 1099'd for?
4 A. I have no clue.
5 Q. Okay. To the best of what you recall,
6 how much of that did you receive?
7 A. Again, I really have no clue without
8 looking. I'm not the one that prepared the taxes,
9 so I don't --
10 Q. You hired somebody to assist you based on
11 your books and records, right?
12 A. Correct.
13 Q. And, ultimately, you had to sign off on
14 those returns as this other person prepared them,
15 right?
16 A. Correct.
17 Q. Okay. Is there anyone other than you
18 that's considered the tax matters partner for
19 Trinity Fund, LLC? For purposes of taxation an
20 LLC is treated and taxed as a partnership, so --
21 A. Well, we're treated as S-Corporation.
22 Q. Okay. So you've elected in that context?
23 A. Correct.
24 Q. But there's always some person or some
25 member that's the so-called responsible party as
0035
1 it relates to the tax behavior of the entity. Is
2 that you --
3 A. Yes.
4 Q. -- with regard to Trinity Fund?
5 A. Yes.
6 Q. Okay. Just so that we don't have to come
7 back to it later, let's look at these same figures
8 for 2009.
9 We've marked the '09 return as Exhibit
10 88. Am I correct in seeing that compensation to
11 officers reported for Trinity Fund for 2009 was
12 again zero or blank?
13 A. Yes.
14 Q. Okay. And can you find the similar
15 breakdown for the dollars declared for contract
16 labor expense?
17 A. Yes.
18 Q. How much?
19 A. 105,429.
20 Q. Since that was '09, a year later, and to
21 my understanding, that was the last year of
22 regular operation as the present bankruptcy filing
23 was initiated in October of '09, right?
24 A. Correct.
25 Q. So that would be the last year of actual
0036
1 activity in the entity. How much of that money do
2 you recall yourself receiving?
3 A. I really don't recall.
4 Q. Maybe we can go at it a different way.
5 And it's okay to composite these two years
6 together. These are the two years we're going to
7 be focusing for a good part of the rest of these
8 documents, too. So we're talking about a grand
9 total of about 150,000 roughly, over the two years
10 time. Forty in one year and about 110 in the
11 other, right?

23 Q. Is that L-A-U-R-A?
24 A. Yes.
25 Q. Where does she office?
0039
1 A. In Midwest City, H&R Block.
2 Q. How long did she do that function for
3 you?
4 A. From 2001 and on.
5 Q. What was the largest number of people you
6 had actively doing some kind of work specifically
7 for Trinity Fund?
8 A. The largest?
9 Q. Uh-huh.
10 A. I mean, a lot of people just did it on
11 commission basis. A lot of the, you know, land
12 people, they brought me a deal, they'd, you know,
13 get a commission or, you know, kind of do what I
14 do, price it to me at a certain price. Would you
15 count those or -- I mean, I don't --
16 Q. No. Let's talk about, specifically,
17 people that you would ask to do some service and
18 then pay them for that service and it would be
19 more than just a one-off?
20 A. A what?
21 Q. More than a one-off, more than a one-time
22 event. In other words, who did you go back to
23 more than once that would end up in this category
24 of contract labor?
25 A. We did it the majority of it. But,
0040
1 again, you know, there were some, you know, land
2 companies that, you know, would bill us and we'd
3 pay them. I'm not sure if we 1099'd them, but I'm
4 -- I'm not, you know, a tax guy, so I -- I
5 don't -- I really just don't recall. I'm sorry.
6 Q. Did you keep your records of those
7 transactions as they occurred?
8 A. Yes.
9 Q. So if you hired a landman and said,
10 "please do this project," you would have kept a
11 copy of whatever document that defined the scope
12 of the work was, right?
13 A. Well, I thought I did, but I, you know,
14 only saw a few in there. But I -- again, most of
15 the transactions would just -- you know,
16 everything is filed of record, you know, in our
17 business. I mean, they're all some kind of
18 assignments or -- and a ton of this stuff I
19 provided, you know, gave, you know, during that
20 long lawsuit.
21 Q. I appreciate that there may be some
22 material to be provided in Discovery in your
23 litigation with Carizzo --
24 A. Right.
25 Q. -- that we either haven't received, or if
0041
1 to the extent we have received it, we haven't
2 quite digested --
3 A. Right.
4 Q. -- that quantity of materials yet.
5 A. Also, there should be quite a few. But I
6 didn't always get a -- you know, a bill. I mean,
7 there was, like, sometimes a set amount. You

19 ongoing and I can't really give you the exact
20 date. I know that, you know, I had asked them and
21 informed them and just kept, you know, getting the
22 blow-off on getting paid.

23 Q. And it turns that they had preemptively
24 filed the lawsuit?

25 A. Correct.

0044

1 Q. Before you had filed one?

2 A. Correct.

3 Q. Since you don't have counsel specifically
4 defending you here today, I wanted to give you a
5 reminder that if there is a question that I pose
6 to you that would require you to tell me something
7 that you got advice on or learned only through --
8 only through, a confidential communication with
9 your lawyer, then you can invoke attorney/client
10 privilege on that. Okay?

11 I give you that cautionary note that
12 you've got that the privilege. Because I'm not
13 sure what the answer to the next question is going
14 to come from, whether it's some knowledge that you
15 gained outside or strictly within. I'm going to
16 try to phrase it in a way that won't cause you to
17 have to tell me what you've talked to a lawyer
18 about.

19 A. Okay.

20 Q. When did you learn the dollar size of
21 Carizzo's claims against Trinity Fund?

22 we've established that at some point in
23 '07 you learned that they were making claims. Now
24 the question is, when did you find out how big
25 those claims were going to be?

0045

1 A. I really don't recall. The -- I
2 didn't -- they -- they never served me with the
3 lawsuit. Because I was a foreign entity doing --
4 you know, so they served, I guess, my registered
5 agent or something in Texas. I really can't give
6 you a date.

7 Q. It's okay to be kind of approximate. Was
8 it fairly close to the time that you learned that
9 they had sued you?

10 A. Yes.

11 Q. Okay. In other words, it wasn't just
12 days before trial?

13 A. Well, I really don't remember. What I
14 remember is, you know, we were, you know,
15 preparing a lawsuit against them for the money and
16 when we found out about that lawsuit, I got
17 some -- you know, I gave it to some local counsel
18 here in Oklahoma City. And I remember he was at
19 my office and he called the Carizzo attorney and
20 basically said, how can you sue him over -- you
21 know, I've looked at this agreement. I mean, the
22 agreement expired, how are you filing a lawsuit?

23 Q. Was that still in sometime in 2007?

24 A. Yes.

25 Q. Okay.

0046

1 A. I'm pretty sure. You've got me. Back
2 and forth at the end of 2006 or -- I really wasn't
3 prepared, I mean, in all honesty --

15 inquiry. In fact, it's some of the academic
16 literature about the difference between this and a
17 deposition gives us that education.

18 A. Okay.

19 Q. This is about the trustee's office trying
20 to figure out where bits and pieces of details are
21 about the assets that are part of the bankruptcy
22 estate.

23 A. Right.

24 Q. You understand? Now, within that scope,
25 there are some issues that are fair game for me to

0049

1 be inquiring into. And that's where we're going
2 to start getting into here a little bit
3 momentarily.

4 A. Okay.

5 Q. Because every dollar of money that passed
6 through 2001 Trinity Fund could be treated as part
7 of the estate. If it was -- if it was that
8 entity's money, at some point in time, then I
9 would take a look at where it went or what it was
10 used for. And there may be some reasons where the
11 trustee could seek to get some of it back from
12 whoever may have it, if they don't have a right to
13 keep it. That's part of what we're going to
14 inquire on. So do you understand that context
15 better now?

16 A. Yes.

17 Q. Okay.

18 MR. KIRSCHNER: Off the record a
19 second, please.

20 (A brief recess was taken, after
21 which the following proceedings were
22 had:)

23 Q. (By Mr. Swedlow) Back on the record
24 after a short break.

25 And I apologize, I don't have these in a

0050

1 binder, so I'm going to try to not let them get
2 too scattered all at once. I'll give you a copy
3 of what I've marked as Exhibit 11. Do you
4 recognize what that is?

5 A. Bank statement from Bank of America.

6 Q. And that's a Trinity Fund bank account?

7 A. Yes.

8 Q. That's not the only Trinity Fund bank
9 account, is it?

10 A. I think they had two at Bank of America.

11 Q. Okay. Are there any other banks where
12 Trinity Fund bank account has been located?

13 A. Coppermark.

14 Q. Okay. Is there more than one Coppermark
15 or just the one?

16 A. I think just the one.

17 Q. Anyplace else?

18 A. No.

19 Q. You see in the upper right-hand corner
20 where it's got a little header, Page 1 of 4, then
21 it tells us the statement period. This one being
22 January 2008?

23 A. Yes.

24 Q. And then the account number?

25 A. Yes.

11 A. When you say, "moving," I mean --
12 Q. Transferring --
13 A. Yeah, there was a transfer --
14 Q. Transferring 75,000 out of Trinity Fund
15 and into Arrowood Companies?
16 A. That's what it appears, correct.
17 Q. Okay. Can you tell me the business
18 purpose for that transfer.
19 A. Not without going back and -- I mean, not
20 off the top of my head, no, I can't.
21 Q. Do you have records that would be
22 specific to that \$75,000 transfer?
23 A. We should, yes.
24 Q. Where at?
25 A. I -- I guess at the office.
0054
1 Q. Which office?
2 A. At 701 -- at -- that will be the only
3 office, if I say office, 701 Wall Street.
4 Q. In some of these things I see checks
5 written for Storage Locker No. 725.
6 A. Right.
7 Q. Where is that storage locker?
8 A. It's there in Norman.
9 Q. Does that hold any business records?
10 A. No, there's no -- we don't have it
11 anymore.
12 Q. What -- what was stored in that when it
13 was --
14 A. Old machinery, just junk, Christmas
15 decorations --
16 Q. Household stuff?
17 A. Not as much household, just old phone --
18 I mean, just, literally, junk. The office we were
19 in at the time wasn't that large so a guy that
20 owned that was the same guy we were leasing from.
21 Q. So if there was a record that related to
22 why \$75,000 moved from 4535 to Arrowood Companies
23 Account Number 4729, it's going to be at 701 Wall
24 Street, is that right?
25 A. Correct.
0055
1 Q. Do you have records like that set aside
2 and in a file specific to those type of
3 transactions?
4 A. I don't know if we -- probably -- this --
5 something that large would either have to have
6 been for a reimbursement or -- you know, Arrowood
7 also transferred over a lot of money over to
8 Trinity and, you know, there would be loans, you
9 know, made and then paid back. And it was just
10 kind of an on-going --
11 Q. When we arrived at the end of October of
12 2009 --
13 A. Right.
14 Q. -- what do you believe to be the balance
15 of payments back and forth between these two
16 entities?
17 A. I believe Trinity Fund owed Arrowood
18 100,000 plus.
19 Q. Okay. Trinity Fund, LLC, has existed
20 since when?
21 A. 2001.

7 what checks were written for. This was basically
8 what we got every month, so --
9 Q. Actually --
10 A. -- some of those we may have to get that.
11 Q. Well, quite well experienced with Bank of
12 America's statements and record-keeping --
13 A. Okay.
14 Q. -- and if you ask them for it they can do
15 it.
16 A. Well, except they closed our account.
17 They --
18 Q. Understood.
19 A. Know what I'm saying? I may have to --
20 Q. Will you agree to make the inquiry --
21 A. Yes, I will.
22 Q. -- and if you get some absolute
23 blockade --
24 A. Right.
25 Q. -- then you understand we might subpoena

0059

1 those records?
2 A. Right. That's what I'm saying, I may
3 have to go that route. I'll -- I'll make an
4 inquiry first and let you know.
5 Q. Okay. Due to certain bank privacy
6 regulations we, may need your consent for them to
7 be able to disclose upon a subpoena without having
8 to necessarily go before a judge. Will you
9 provide us with that?
10 A. Yes.
11 Q. Now, you've indicated that there may be
12 records beyond just the bank statements.
13 A. We're talking about Trinity Funds?
14 Q. Right. And Arrowood.
15 A. Right. I'd have to talk to my attorney
16 on Arrowood, but Trinity Fund, I mean --
17 Q. The nice thing about any transfer between
18 these two entities is that it's going to show up
19 on both of their bank statements, right?
20 A. Right, right.
21 Q. Now, as to documents, other than just a
22 check or an automated transfer record or whatever
23 it might be, what other documents would detail why
24 money was moving back and forth?
25 A. I -- there -- there would be, you know,

0060

1 different ones. A lot of times there were
2 promissory notes that were executed. But they
3 would -- you know, it would be the most recent one
4 that we, you know, would keep. The -- I mean, I
5 may be able to find some old ones, but I know we
6 usually didn't -- we were very limited on filing
7 space, so it wasn't like we could keep a bunch of
8 everything, you know, every aspect of everything.
9 These were two, kind of, you know, companies that,
10 you know, went back and forth quite often, so --
11 Q. Other than promissory notes, what other
12 type of transaction documents do you expect to be
13 able to locate?
14 A. There may have been some things that
15 Arrowood owned and sold and put the money into
16 Trinity Fund, you know, as a loan or whatever.
17 Because I think there's probably some of that in

3 designated company car for Trinity Fund?
4 A. A designated company car like --
5 Q. Like a commercial vehicle permit-type of
6 thing?
7 A. No.
8 Q. Okay. Is it correct for me to derive
9 from this that you would fill up your personal
10 vehicles' gas tank using a debit card for the
11 Trinity Fund account?
12 A. If it was for business, yes.
13 Q. What records do you have that would
14 identify that it was for business in January of
15 2008?
16 A. I mean, we were on the road, I mean,
17 almost on a daily basis. I mean, I don't -- I
18 don't know that I would have records --
19 Q. Okay.
20 A. -- except for, you know, maybe people in
21 the --
22 Q. We're going to skip ahead just a little
23 bit.
24 A. All right.
25 Q. Did you ever purchase oil and gas lease
0064
1 interests in and around the central Colorado Rocky
2 Mountain Ski Resort area, Summit County. Did you
3 ever have business within Summit County, Colorado?
4 A. I do a lot of business with companies out
5 of Colorado, yes.
6 Q. How many of them office at Breckenridge
7 and Keystone?
8 A. I don't think any of them do.
9 Q. Okay. Would it be correct to say if you
10 were taking the family to Breckenridge and
11 Keystone, that's probably not oil and gas
12 business?
13 A. No, but we -- I think with our corporate
14 standing, we're allowed to have corporate meetings
15 wherever we want to designate those places, but --
16 Q. Are there books --
17 A. -- on a lot of --
18 Q. I apologize for interrupting, but --
19 A. Sorry.
20 Q. -- are there books and records of having
21 a meeting of members of Trinity Fund in
22 Breckenridge, Colorado?
23 A. Probably not.
24 Q. Okay. Now, let's go back to Exhibit 11.
25 This will be quicker once we get into the rhythm
0065
1 of it.
2 A. Wait a minute. Okay.
3 Q. If you flip forward a few pages, you'll
4 find the index pages might jump around a little
5 bit now and then. But we're looking for one of
6 the very lower right-hand corner, Index Page 167.
7 A. Okay.
8 Q. Can you tell me who Alex Brown is?
9 A. Yes. He's a, you know, guy that, you
10 know, loaned money and paid him back.
11 Q. Written promissory notes?
12 A. I believe so.
13 Q. Are they going to be in any of these

25 A. Okay.
0068
1 Q. We've got four other banker's boxes
2 here.
3 A. Right.
4 Q. Is what we're seeing the order in which
5 you've kept these files for the last several
6 years?
7 A. No.
8 Q. How have they been kept up till now?
9 A. In filing cabinets. This one may have
10 been -- God, I don't -- again, I just try to pack
11 as much as I could to get up here. These appear
12 to just have been laid on top of this box that --
13 MR. SWEDLOW: Are you still able to
14 hear us fine down there?
15 THE COURT REPORTER: Yes.
16 THE WITNESS: One of these boxes, I
17 think, were primarily lawsuit box. And in all,
18 honesty, I mean just to -- there's -- it's going
19 to be mixed together. I had to stack them where
20 everything wouldn't spill in transporting them,
21 so --
22 Q. (By Ms. Swedlow) What we're in front of
23 right now is a box labeled, "725," right?
24 A. Right. That's not --
25 Q. That seems to be the same number that was
0069
1 the storage locker's number. Was this box in the
2 storage locker?
3 A. No, this is 725 Energy.
4 Q. Okay.
5 A. Bill Nicholson.
6 Q. Bill Nicholson?
7 A. That -- that's would be Denton County.
8 Q. Okay. Let's inventory through this
9 box --
10 A. Okay.
11 Q. -- if you don't mind?
12 Let me go folder by folder and ask you
13 what's in each thing that's in this box.
14 A. All right.
15 Q. This first blue folder is labeled,
16 "Executed PA Trinity, slash, Carizzo."
17 A. Right.
18 Q. So this relates to --
19 A. Carizzo.
20 Q. -- a principle contract for the Barnett
21 shale play that you did with Carizzo, is that
22 right?
23 A. Yes.
24 Q. That's an --
25 A. Well, that --
0070
1 Q. -- unexecuted draft, isn't it?
2 A. It's not a principle one. We had
3 different ones. I don't want to confuse, you
4 know, because I'm in ongoing litigation.
5 Q. Okay.
6 A. This is a specific participation
7 agreement.
8 Q. Okay. So this is the folder that says,
9 "Executed Participation Agreement."

21 best to maintain the specific integrity of how
22 things are organized presently.

23 A. Okay.

24 Q. Okay. The next thing that we have in the
25 box in sequence is not in a folder at all, looks

0073
1 like attorney correspondence with Andrews --
2 right?

3 A. Correct.

4 Q. And then we have a June 11, 2008, letter
5 coming from Carizzo asking for a wire transfer of
6 over 11 million dollars.

7 A. Right.

8 Q. Okay. From what you can see on the face
9 of these, do these two documents have anything to
10 do with each other?

11 A. That would have to be the ongoing
12 lawsuit.

13 Q. Okay. So, again, this is related to your
14 litigation with Carizzo, right?

15 A. Actually, this gives you a timeline. It
16 looks like what we spoke about earlier.

17 Q. Okay.

18 A. So --

19 Q. Well, and I note that that's addressed to
20 the Trinity Fund --

21 A. Correct.

22 Q. -- as the client, right?

23 A. Correct.

24 Q. Next, we have another blue folder and it
25 says Barnett Shale Drilling Program as it's

0074
1 labeled, right?

2 A. Correct.

3 Q. Is this another iteration of the same
4 contract?

5 A. It appears to be, yes.

6 Q. Okay. Then we have another loose
7 document in between folders. Do you know whose
8 handwriting is on the Post-it note that says,
9 "Barnett Shale lawsuit?"

10 A. It's not mine.

11 Q. It's a faxed copy of a pleading that came
12 from Mary Brown, right?

13 A. Right.

14 Q. That is in the Denton, Texas filing?

15 A. I believe that's the lawsuit that we had
16 prepared when we found out that --

17 Q. I'm sorry to interrupt, but, yeah, I
18 think you're right. Because this has a fax cover
19 sheet from a law firm giving a draft of a petition
20 to be filed.

21 A. Okay.

22 Q. Because there's no file stamp on it,
23 right?

24 A. Right. Which I guess I was wrong on the
25 dates that I told you because that's '08.

0075
1 Q. Okay. Well, that's -- that's
2 contemplating filing a lawsuit in January of
3 2008.

4 A. Right.

5 Q. As indicated by the facts that are --

17 Clark. Again, that relates to Arlington, is that
18 right?

19 A. That's a lessor off campus.

20 Q. So that's what I think that you guys
21 would be calling UTB?

22 A. No -- well, it could be C. There's
23 probably going to be some stuff in here and that's
24 pertaining to another lawsuit, so I don't want to
25 lose any of this.

0078

1 Q. It's around -- it's around the University
2 Texas at Arlington?

3 A. Right.

4 Q. And all of your relationships with
5 Carizzo?

6 A. Yeah, that particular one is the lease
7 that the guy was going -- to Trinity Fund and
8 Carizzo insisted on having it go directly to him.
9 And we were supposed to get compensated but never
10 got compensated.

11 Q. Okay. And I know you noted that I had
12 been hunting down the fact that you got reported
13 on the --

14 A. There's Cathy right there.

15 Q. Okay. Let me back up.

16 You noted that I had found out that you
17 had been reported on in the UT Arlington
18 newsletter on campus, right?

19 A. Right.

20 Q. So you found a copy of the same article
21 I've seen and you're saying that Cathy is sitting
22 front left in this photograph?

23 A. Correct.

24 Q. Okay. And what I'm doing now is I'm just
25 going to kind of staple or paperclip by staple or

0079

1 paperclip. And, again, all of these unfolded
2 documents seem to all, again, relate to Arlington,
3 right?

4 A. Let me look at this one, let me see this
5 one real quick. Yeah.

6 Q. And, again, I'm trying to keep them all
7 in the same sequence.

8 A. Yeah.

9 Q. So far we're batting a thousand on this
10 box relating in some way to the Arlington
11 property.

12 A. So far, yes.

13 Q. Okay. Would you -- is everything in this
14 box related to the Arlington?

15 A. I don't know.

16 Q. So we're not going to know until we go
17 through all of it?

18 A. I can probably flip through it a little
19 quicker than --

20 Q. Okay. Well, let's do that when we get to
21 a better breaking point.

22 A. Okay.

23 Q. Is it fair to say the vast majority of
24 this box is probably Arlington?

25 A. Just give me --

0080

1 Q. Go ahead.

13 Q. So what we're looking for are the
14 documents that give the rest of the story, Paul
15 Harvey style, to all of these transactions.

16 A. All right. There are -- there were
17 checks written to other entities in the Denton
18 County Carizzo deal. I mean, several. Derrick
19 Resources received quite a bit, which was the
20 geologist in the deal. So do you want me to pull
21 those?

22 Q. When you get to those items where
23 somebody --

24 A. Like here's a statement, right here.

25 Q. Great. That's the kind of record that

0083

1 we're going to be looking to set aside. If it's
2 going to explain a check, that's what we're
3 seeking.

4 A. Okay.

5 Q. Does that give you the right guidance?

6 A. Yeah, I think so.

7 Q. Okay.

8 A. I don't know if I'll find them all, but
9 they're --

10 Q. Now, at the moment, we're not trying to
11 go through every single page. All that I'd like
12 you to do at the moment is just to get your mind
13 around what you have here today versus what you
14 don't?

15 A. Okay.

16 (A lunch discussion was held off the
17 record.)

18 Q. (By Mr. Swedlow) Back on the record
19 now. You understand you remain under oath, right?

20 A. Yes.

21 Q. I don't believe I asked you earlier on,
22 what's your home address?

23 A. 4601 Harrowgate, Norman, Oklahoma.

24 Q. A number of the documents I've had the
25 opportunity to see that relate to Trinity Fund use

0084

1 an address other than that. What's the usual
2 business address of Trinity Fund?

3 A. P.O. Box 722158, Norman, Oklahoma.

4 Q. And what was it before? What other
5 physical address has been used for Trinity Fund?

6 A. Oh, 1130 Rambling Oaks, Suite 220.

7 Q. That's the one I remember. Where is
8 that?

9 A. It's in Norman.

10 Q. Is that an office building?

11 A. Yes. Well, it's -- there's restaurants,
12 there's all sorts of stuff in the building.

13 Q. Okay.

14 A. Hair salon.

15 Q. Kind of like a strip mall?

16 A. No, it's a two-story deal.

17 Q. Mixed use?

18 A. Mixed use.

19 Q. Okay. During the lunch break, I had the
20 opportunity to go through and inventory of the
21 balance of what was in the boxes. If at some
22 point I mischaracterize what we have in front of
23 us, I want you to go ahead and jump in and

9 now, I just want to identify what we have in front
10 of us.

11 We have a folder that relates to Jeff
12 Petrie. And as I understand, Jeff Petrie also is
13 related to a company called Lomac, is that right,
14 L-O-M-A-C?

15 A. I believe so.

16 Q. Okay. And perhaps also transactions or
17 litigation relating to a fellow named Max Barton,
18 is that right?

19 A. Yes.

20 Q. Okay. We have Gene wise, Jack County,
21 Texas has a brown folder. Was this a mineral
22 interest flipping transaction as you've described
23 it?

24 A. Yeah, I believe it was leasehold.

25 Q. Okay. Then I have Jai Gas, which is

0088

1 spelled, J-A-I Gas, Limited. Is that also a
2 buy-sell --

3 A. Yeah.

4 Q. -- lease transaction?

5 A. I believe that's in Denton County. It
6 was a separate entity.

7 Q. We have a folder for a lease from Jane
8 Jernigan?

9 A. Yes.

10 Q. We have a couple of folders that relate
11 to a transaction called, "wyldfires" spelled with
12 a "Y," right?

13 A. Correct.

14 Q. And that -- it was a transaction that
15 occurred in Johnson County?

16 A. Right.

17 Q. As I understand the lease documents on
18 it -- you might remember, what year was that
19 transaction?

20 A. Looks like '08.

21 Q. In '08. And in this transaction, did you
22 buy some leases and then turn right around and
23 manage to sell leases?

24 A. Yes.

25 Q. Was Chesapeake the buyer on some of these

0089

1 leases?

2 A. Probably.

3 Q. Then we have a transaction on Lakewind,
4 LLC, which you have two folders. Again, was this
5 a lease buy and sell sequence?

6 A. That was a part of the UTA.

7 Q. Okay.

8 A. Lakewind bought some interest of the
9 carried working interest and that might have that
10 letter in it stating that we purchased it back for
11 a set price or something.

12 Q. Okay. So that was a transaction
13 subsidiary to your interests at the UTA project,
14 right?

15 A. Right.

16 Q. In summary, you were, in turn, selling
17 off some of what you had acquired?

18 A. Correct.

19 Q. And Lakewood was the purchaser?

5 A. Yes, sir.
6 Q. We have Tarrant County Mansfield, Tamara
7 Ford, another buy/sell deal?
8 A. Yes.
9 Q. We have Poteet, which looks like it's
10 also some documents relating to another mineral
11 lease?
12 A. Yeah, I might look -- I'm -- yeah.
13 Q. The next one in the sequence, the quantum
14 Geophysical. And it looks like that is simply a
15 piece of correspondence relating to a permit to
16 survey some land that you were holding lease
17 interests on?
18 A. Right. Looks like a seismic permit
19 maybe.
20 Q. Okay. That's actually back in July of
21 '06, correct?
22 A. Yes, sir.
23 Q. Do you remember off the top of your head,
24 did anything come of it?
25 A. That's Hamilton County. I don't think
0093
1 anything did come of it.
2 Q. You have document folder for Railroad
3 Commission of Texas. And it looks you were
4 participating in a -- maybe, an adversary
5 application. Looks like that related to some
6 interests that Trinity Fund was currently holding
7 at the time, is that right?
8 A. Correct. I don't think they still hold
9 that interest.
10 Q. And we have Tim Riddle with two "D's" and
11 only one "L."
12 A. Yeah.
13 Q. Again, that's buying and selling mineral
14 leases?
15 A. Yeah, that's Arlington there.
16 Q. We have K-A-Y-L-Y-N-N, Kaylynn Robinson,
17 again, another mineral lease transaction?
18 A. Yes.
19 Q. Richard Rossell with two "S's" and two
20 "L's?"
21 A. I think that's one the --
22 Q. That looks like monies that Trinity Fund
23 borrowed, right?
24 A. Yes.
25 Q. All right. So here we have the only
0094
1 thing in the file is a promissory note dated
2 January 16 of 2009, principle amount 105,000.
3 Repayment March 3 of 2009 for \$110,250, right?
4 A. Yes.
5 Q. Okay. So we should find his check to
6 Trinity Fund and then later Trinity Fund's check
7 back to him, is that right?
8 A. Some of these would be the
9 latest agreement. Let's say, for instance, you
10 loan me \$100,000, I may have just paid you the
11 interest back and you would have gotten a new
12 note.
13 Q. If that were the case, this file should
14 contain series of --
15 A. Yeah, but it doesn't.

1 Q. Actually, I want to get your answer to
2 that question --
3 A. Well --
4 Q. -- before you take a break off the
5 record.
6 A. The only reason -- well, I don't know how
7 to answer this without disclosing business -- I
8 mean, is this going to be public record where
9 people can see?
10 Q. This isn't --
11 A. That's what I need to know.
12 Q. We don't plan on this being filed with
13 the court. What would prevent you from asking the
14 question as to what was your business purpose for
15 --
16 A. Because I don't want the public knowing
17 what rate of return I make when I buy and sell
18 something.
19 Q. I understand.
20 A. That's the purpose.
21 Q. I think that what you're telling me is
22 that if we broke down the numbers of some of your
23 individual transactions, there may be occasions
24 where you buy an interest for, let's say, for
25 example, \$200,000 and then you're able to turn
0098
1 around and sell it to somebody else who values it
2 at over half a million. For example, the Saginaw
3 Airport lease deal.
4 A. Yes.
5 Q. Have I figured that one out pretty
6 accurately?
7 A. Well, the percentages may not be
8 accurate; but, yes, it would be more than the 5
9 percent that I was paying out. But sometimes I
10 had already gotten all the agreements put in place
11 and hadn't gotten the money in yet, so sometimes I
12 would borrow money just to get to, you know, to
13 where we got -- Trinity Fund got their money in on
14 the transaction or -- you know, almost like a, you
15 know, getting an advance before you get your --
16 you know, I kind of felt comfortable on what -- on
17 offering that based on what I knew my return was
18 going to be.
19 Q. Okay. On this particular one, do you
20 recall the circumstances?
21 A. No, I don't.
22 Q. All right. Would it have been typical
23 for you to describe the circumstances to the
24 person you were about to borrow a six figure sum
25 from? where we're talking about one of these
0099
1 where it's 45 or 60 or 90 days.
2 A. Yeah. I would say 90 -- in the high 90
3 percentile people would approach me to do this.
4 And, I mean, there were some that, you know, in
5 the hey-day of it, I could afford to do a, you
6 know, 10 percent. So it wasn't always described
7 what I was doing, but that's why we did a
8 promissory note, so I didn't, you know --
9 Q. Were there occasions where you would sit
10 down and describe what your current financial
11 needs were incident to getting a loan for a short

23 A. That I needed to sign it?
24 Q. Right.
25 A. No, I don't.

0102

1 Q. Okay.
2 A. He approached me through a guy out of
3 Fort Worth.
4 Q. Who was the guy in Fort Worth?
5 A. A guy named Jeremy Okler.
6 Q. Is that O-C-H-L-E-R?
7 A. No, that -- I think it's O-K --
8 Q. O-K-L-E-R perhaps?
9 Why would he have known that you needed
10 to borrow money?
11 A. Again, it's not a "need," okay? I had
12 people -- I mean, this was back when natural gas
13 prices were extremely high. Everybody and their
14 brother wanted to do something in oil and gas.
15 And I had people approach me on a daily basis
16 wanting to make some kind of return on their
17 money. What I was doing -- this -- this was only
18 -- I mean, I could just give him a certain return
19 on a promissory note not involving him in the deal
20 whatsoever.
21 And, you know, if the deal went bad, I
22 would still be obligated, you know, on the
23 promissory note. It wasn't "a need." I mean,
24 literally, I had people approaching me all the
25 time because I had made very good returns for a

0103

1 lot of people.
2 Q. And did this continue in both 2008 and
3 2009?
4 A. I think. I'd have to go back and look at
5 exact dates, but I believe so.
6 Q. Okay. The next folder that we have in
7 the series is called "Run Sheets." It looks like
8 an attorney in Hamilton, Texas did some land
9 review homework for you. Is that a fair
10 statement?
11 A. Yeah.
12 Q. Okay. Was there some specific
13 transaction that that related to?
14 A. That was a deal that I -- they -- that
15 attorney actually owned the abstract company. And
16 that was a deal where I would pay -- it was
17 actually her dad. They would get a certain amount
18 per acre that they could -- on leases that I took
19 that they instigated.
20 Q. Kind of like a commission?
21 A. Yeah. And part of that deal would be
22 that they would provide run sheets and she owned
23 the abstract company. So, you know, that was just
24 part of earning that commission.
25 Q. Do you remember what the name of the

0104

1 abstract company was?
2 A. No, it should be on there. I'm going to
3 guess Hamilton County Abstract or something. I
4 really don't remember.
5 Q. Okay.
6 A. There might be something on --
7 Q. So when we get to a point where there's a

19 coming from BTA Oil Producers. It looks like a
20 summary of a revenue check?

21 A. Right.

22 Q. Okay. I see that there's only this one
23 and it goes to the date back in 2004. Let me ask
24 this question about it: As you would do a flip
25 transaction, would there sometimes be a month or

0107

1 two when you would hold an interest so you would
2 have something like this where you'd have just a
3 one-time incoming payment before you turned around
4 and sold the interest to someone else?

5 A. Sometimes. I don't remember -- I have on
6 that deal. Sometimes, yes.

7 Q. Okay. The next folder we have is
8 "salvation Army Arlington Lease" folder. It looks
9 like an actual lease from Salvation Army where
10 they actually hold the land interest that Trinity
11 Fund is leasing, right?

12 A. Correct.

13 Q. The next one that we have, a pink folder
14 titled, "Gayle Sanders Lawsuit." And this appears
15 to have some connection with a purchase or sale
16 back and forth with Swan PCLP, right?

17 A. Correct. I think the lawsuit that that
18 particular one is talking about was one that the
19 Sanders was in with her son and --

20 Q. Okay. There was a transaction back and
21 forth between Trinity Fund and Swan, correct?

22 A. There were several.

23 Q. Okay. And Gayle Sanders has some sort of
24 an interest in that transaction?

25 A. Yes.

0108

1 Q. Okay. Next folder we have is Don Sneed.
2 Again, this appears to be a set of documents
3 relating to a leasing transaction including some
4 title work going quite a ways back?

5 A. Yeah. Trinity Fund still owns that
6 property.

7 Q. Okay. The next folder we have is titled,
8 "Glen Sodd." It's another lease file. It looks
9 like it was acquired in '06.

10 A. Okay.

11 Q. Right?

12 A. Yes.

13 Q. And do you know one way or another
14 whether Trinity still holds that one?

15 A. I think it's probably expired if it was
16 '06. They're usually a pretty good term. This
17 was actually -- yeah, it was a 12-month.

18 Q. So this is a lease that expired. It was
19 before --

20 A. Yeah, unless -- unless --

21 Q. -- 2008?

22 A. -- unless a well was drilled.

23 Q. How much was paid to acquire this
24 particular lease?

25 A. Man, I'd have to go back and look at bank

0109

1 records.

2 Q. Okay. Normally there would be something
3 that indicates how much the lease was acquired

15 Carizzo drilled them, but this Leon Wilson owned
16 several tracts. I don't remember if it was
17 Carizzo that drilled them or Star Texas. But,
18 anyway, Carizzo wanted to go back in and take a
19 new lease, I believe, from Leon Wilson and they
20 had -- you know, and I had a relationship with
21 them, so they sent me to do that. And I think
22 Trinity -- is that --

23 Q. Okay. Because it looks like the previous
24 lease might have been EOG Resources and the
25 subsequent lease was with Carizzo.

0112

1 A. I think it was just a transfer because
2 John -- he's the guy I originally bought the lease
3 from.

4 Q. Okay. So something that had been a
5 Trinity Fund asset --

6 A. Right.

7 Q. -- became a Carizzo asset in this
8 particular situation?

9 A. In a daisy-chain way, yes.

10 Q. Did Carizzo compensate Trinity Fund in
11 connection with that change of hands?

12 A. I believe they did.

13 Q. Okay. The next folder that we have in
14 sequence is called Windstar Development. Is this,
15 again, a leasing deal?

16 A. That was when we had our joint office
17 and Carizzo and I were supposed to be leasing
18 together.

19 Q. This is the office space?

20 A. It's not the office space.

21 Q. Okay.

22 A. That was an entity that we were -- we
23 were jointly supposed to be going out and taking
24 leases. This is kind of the property oil and gas
25 leases.

0113

1 Q. Okay.

2 A. That was something that actually would be
3 used in that lawsuit in Tarrant County.

4 Q. So this is a prospect. Did it ever
5 mature into actually flipping transactions?

6 A. Yes. Carizzo took the lease, but did not
7 compensate.

8 Q. Trinity Fund never got a piece of that
9 one?

10 A. Nope.

11 Q. Okay. The next folder is Wolsey Well
12 Service. And it looks like there was some
13 miscellaneous payments for some producing
14 interests, is that right?

15 A. Yes.

16 Q. Next one is Stouder Oil Company. It
17 looks like this is an actual proposal to buy and
18 sell crude?

19 A. Correct.

20 Q. That is considerably different from any
21 other transactions we've looked at so far?

22 A. It was.

23 Q. Did this ever mature into an actual deal?

24 A. It did not.

25 Q. Off the record.

11 together. Is that -- is that a bundle of mineral
12 transactions, again, like the others?
13 A. Lease --
14 Q. Similar to the others?
15 A. Yeah, leases.
16 Q. Okay. We're almost through.
17 The next one that we have is called
18 Hawthorne in a green folder. It looks like this
19 is a producer that was providing remittances off
20 of interests, is that right?
21 A. Yes.
22 Q. Some of these particular checks reference
23 Azalea Energy Partners. Can you tell me who
24 Azalea Energy was?
25 A. They were showing proof of their income.
0117
1 A lot of times, when we evaluated producing
2 properties, we would have them send us copies of
3 their --
4 Q. They were proving up their expenses
5 versus their sales, sounds like?
6 A. Correct.
7 Q. Okay. Next comes Hazbury, White and
8 Vanzant, LLP. And it looks like you engaged them
9 to handle some litigation with the City of
10 Corinth. Was that relating to oil and gas mineral
11 translations?
12 A. Yeah. It was actually -- I don't know if
13 it was litigation. I thought it was permitting
14 or --
15 Q. Okay. That was related to a -- to a
16 prospective transaction, though, right?
17 A. Well, actually, it -- it actually
18 happened.
19 Q. Okay.
20 A. 2001 Trinity Fund owned the lease and we
21 had to go prepare the service by a certain date
22 and just kind of had to do a rush thing with the
23 city to get it approved.
24 Q. Then we get to February 13th of 2009, a
25 promissory note in a file called "Gary
0118
1 Hennerfdorf?"
2 A. Okay.
3 Q. That's H-E-N-N-E-R-F-D-O-R-F?
4 A. Okay.
5 Q. That's a lot of F's.
6 On this particular one, you're borrowing
7 only 10,000, compared to the \$100,000 notes we
8 looked at, but you're doing it at 15 percent in
9 one month, is that right?
10 A. Yes.
11 Q. Okay. What caused you to believe that
12 that was a business prudent transaction at the
13 time?
14 A. At the time, at the -- I was making more
15 than 15 percent.
16 Q. The next folder we have is Hillwood
17 Alliance Operating Company. And it looks like
18 they took over for Wolsey Well Service that we saw
19 a folder for before. So this would be paying out
20 on some operating interest, right?
21 A. Looks like an overriding royalty, yeah.

7 A. -- paying back.
8 Q. So it'll be your testimony that he's not
9 owed anything else?
10 A. Not from Trinity Fund.
11 Q. This was a loan transaction that the
12 check related to?
13 A. Correct.
14 Q. Okay. Don Sneed received an \$8,850. And
15 I might -- by the way --
16 A. Yeah.
17 Q. -- don't -- don't be --
18 A. That sounds like a lease.
19 Q. Don't be thrown off, if I get up and
20 refresh my memory, too.
21 A. The reason that -- that was definitely
22 part of a lease purchase.
23 Q. Okay. And I want you to be able to
24 follow along with me.
25 A. Okay.
0122
1 Q. So you still have Exhibit 11 in front of
2 you here, right?
3 A. Right.
4 Q. So this particular check is on Page 169.
5 And I want to give you full proper credit for the
6 fact there's a memo right on this check that says,
7 "1.77 acres in Tarrant County."
8 A. Okay.
9 Q. So that tends to confirm what you
10 recalled.
11 A. Okay.
12 Q. So that's very encouraging.
13 Next check in the sequence is one written
14 to Jay Jackson for \$5,000 and the Memo simply
15 says, "Note."
16 A. I'll have to --
17 Q. Is it your belief that this was paying on
18 a borrowing debt that had been made in Trinity's
19 name?
20 A. I would say possibly.
21 Q. Okay. Do you know where this particular
22 Jay Jackson lives?
23 A. I think he's in Houston. It's been a
24 while. I don't have copies of all this stuff. So
25 if I had them, I could probably have figured it
0123
1 out.
2 Q. Okay. And while we're on that point,
3 part of what we've talked about involves you going
4 back through --
5 A. Well, I don't have copies of these checks
6 is my -- that's been one of the problems.
7 Q. The good news is you can have copies of
8 these checks because everything we touch today
9 will be part of what the court reporter can send
10 forward to you with the transcript.
11 A. Great.
12 Q. Okay. And, actually, when you go back
13 through the transcript, you can use that as your
14 road map for which checks you are going to check
15 out and look for the rest of the files for.
16 A. Okay.
17 Q. Okay?

3 was actually considered a leasehold bonus.
4 Q. Did Derrick have to turn around and pay
5 that to someone else or was that Derrick's money?
6 A. He paid the difference, I'm sure, between
7 this and whatever he paid, you know, negotiated
8 with the --
9 Q. Okay.
10 A. -- mineral owner.
11 Q. Okay.

12 MR. KIRSCHNER: May I interrupt for a
13 second? The -- of the things that I've realized
14 as we've been sitting here, is that some of the
15 documents that came from Jeff King's office to my
16 office, initially, had been produced to your
17 office. And that may be the most likely source,
18 if it came from a lawyer's office of whose law
19 office it came from.

20 MR. SWEDLOW: Right. I'll represent
21 that I've been through all the boxes that you've
22 provided today. And the vast majority of them are
23 just strictly Carizzo litigation, pleadings and
24 exhibits to motions and things like that and some
25 correspondence. But I acknowledge what you're

0127
1 saying.

2 MR. KIRSCHNER: I don't know the
3 source of these where you got these, but David
4 Payne and I went down early on in the case, very
5 early on, and were given several boxes. I don't
6 know whether you have all of them or not.

7 MR. SWEDLOW: Right. I know what
8 David Payne has received, and I know what
9 information he's inventoried that he's still
10 trying to get his hands on as well, so --

11 THE WITNESS: Let me add while we are
12 on that topic, one of the lawsuits, the office
13 lawsuit that I filed against Carizzo, is they kept
14 a lot of my files. I mean, a lot of them when
15 we -- and that was one of the things that we were
16 suing them over, so --

17 Q. (By Mr. Swedlow) Okay.

18 A. We had a full fledged office going there.

19 Q. Okay. So I'll take that as giving us
20 some supplementation to the answer about where the
21 records are located.

22 A. Right.

23 Q. Some of them may be -- let me see if I
24 can get through the whole list. Some of them may
25 still be in as the office in Norman?

0128
1 A. Right.

2 Q. Some of them may be at one or another of
3 the counsel's office where originals were turned
4 over and you didn't hang on to copies?

5 A. Right.

6 Q. Some of them may actually be in Carizzo's
7 possession?

8 A. Correct.

9 Q. And is that the whole universe of
10 possible dispositions to the extent you know?

11 A. To the extent I know.

12 MR. KIRSCHNER: Unless the bank kept
13 copies.

25 A. No, no.

0131

1 MR. KIRSCHNER: I can maybe help with
2 that a little bit, if I can think of the name. Do
3 you know the lawyer, Hugh Ray, who's a lawyer in
4 Houston? It's the same firm that Hugh Ray and
5 Edith --

6 THE WITNESS: Andrews Kurth.
7 MR. SWEDLOW: Yeah, I've seen their
8 invoices.

9 THE WITNESS: Yeah, okay. So I don't
10 know what all they turned over to K&L Gates.
11 But again when this is --

12 Q. (By Mr. Swedlow) I understand what
13 you're telling me.

14 A. Okay.

15 Q. And we can move beyond that.

16 A. All right.

17 Q. We're not -- this is not a fault --
18 finding --

19 A. No, no, I'm just --

20 Q. There are documents. Some of them are in
21 your control and some of them are not in your
22 control. I get that.

23 MR. KIRSCHNER: Okay.

24 Q. (By Mr Swedlow) And some of them are in
25 the control of counsel who you've had at various

0132

1 times. And so to that extent, there may be a
2 point in which you may need to go back and get
3 them back from those counsel to pass copies
4 along. But we'll cross that bridge a little bit
5 later.

6 So for now we're just going to deal
7 with what we have access to. And more than
8 anything else, what I really want is, what's up
9 here in your head in terms of the best that you
10 can remember.

11 A. If I have copies of these checks that
12 you're -- you know, I'll have something to go back
13 off of, you know what I mean, to try to match up.

14 Q. Indeed. Because if you had a firm grasp
15 or if we had a the document in front of you or if
16 you knew where the document was, I would probably
17 be asking you a question about how was the dollar
18 amount calculated --

19 A. Right.

20 Q. -- such like that. I'm going to skip
21 over that question right now, because I got the
22 impression that you would really need to look at
23 the underlying document. And you haven't seen it
24 lately.

25 A. Correct.

0133

1 Q. Understood. So now I want to move us
2 forward. I did tell you that we would pick up the
3 pace and go quicker after we got the initial kinks
4 worked out of the process, right? I want to move
5 you forward to what we've marked as Exhibit 12.
6 Notice I'm going to try to do a little bit in
7 chronological order.

8 You recognize this being the February
9 2008 statement for Trinity Funds bank account?

21 The question is, what account is that?
22 A. I have absolutely no clue right now. I
23 mean, it's something I'd have to investigate.
24 Q. Okay. There was a check paid, it's Index
25 Page 177, it will be about five or six pages

0136

1 further down in that exhibit.
2 A. Which one?
3 Q. Yeah, after the other exhibit, there is
4 going to be some of the transactions that were
5 done during that period. And what we're looking
6 for is Check No. 3562.
7 A. Okay.
8 Q. Do you know who Edgar Villalobos is?
9 A. Not off the top of my head, no.
10 Q. Do you know why the check of \$1200 was
11 paid where the memo line, "109 Mill Creek Drive?"
12 A. It looks like -- when was this note,
13 January '08?
14 Q. Right.
15 A. That was probably for -- to buy a lease.
16 It was in Arlington.
17 Q. So, at some point, there should be some
18 file locatable and there should be a mineral lease
19 deed --
20 A. This?
21 Q. -- or a mineral lease instrument?
22 A. A lot of this stuff going on in this
23 time, I kept all our files in Arlington because I
24 was spending more time down there.
25 Q. Okay.

0137

1 A. Yeah.
2 Q. Again, you don't have to tell me about
3 the difference between whether you were able to
4 bring them today or not. But your testimony is
5 there ought to be a file that had been maintained
6 somewhere, right?
7 A. I would think so, yes.
8 Q. Okay. The next in sequence, which is
9 Check No. 3571, it's page 178, looks like \$5,000
10 being paid to Jay Jackson. If we look back at the
11 wire transfer, the wire transfer originated by
12 Ruby Jay Jackson proceeds on behalf of Larry
13 Jackson is included in the description.
14 A. This is Jay Jackson. I'm going to kind
15 of guess that this is all kind of a --
16 Q. Do you know whether those transactions
17 are related or not?
18 A. I'm going to guess that they are; but,
19 again, I need to research it a little bit.
20 Q. Okay. The next check in sequence at
21 Index Page 179, it's Check No. 3574. It's a
22 \$2,000 check to John Arrowood. What's his
23 relationship to you?
24 A. He's my son.
25 Q. And was he actively employed in the

0138

1 business of Trinity Fund?
2 A. He did do work for Trinity Fund.
3 Q. How old is he?
4 A. He's 23.
5 Q. Is he in college?

17 the Trinity Fund bank account?
18 A. Right. Anything that was something like
19 that would have been counted as income for, you
20 know, either Cathy or I or -- you know what I
21 mean, if it wasn't business-related. That's
22 why --

23 Q. Okay.

24 A. -- a lot of it you don't see that many
25 checks written to me.

0141
1 Q. So let's go ahead and use this bank
2 statement as a for-example because it's --

3 A. Okay.

4 Q. -- it's almost all of it expense
5 transactions on this page and a half.

6 A. Okay.

7 Q. Just to give a summary rundown, there are
8 check card purchases at Mickey Mantle's,
9 Mr. Ooley's, Saltgrass, sooner West liquor,
10 Brookhaven, which I think is a grocery store or a
11 gas station, Colcord, which is probably the
12 restaurant there, the Apple store that we talked
13 about, Poop Deck Restaurant and the Sunglass
14 Shack. Is it your testimony that all of these,
15 what I would consider self-evidently not business
16 purchase transactions, but personal or family
17 purchases, all of those should have been --

18 A. Not all of them, no.

19 Q. -- added up?

20 A. Not all of those that you named, no.

21 Q. How can we tell the difference between
22 which ones should be counted in contract labor or
23 for -- or in some other way 1099'd to either you
24 or Cathy?

25 A. Well, I would have individually gone

0142
1 through them when we did our taxes. Like The
2 Colcord, that's one of the places we had to stay
3 in Houston, you know, in either a mediation or,
4 you know, something with that Carizzo litigation.

5 Q. I understand there's a Colcord in
6 Houston, but I know you can't stay there for 42.95
7 a night.

8 A. Okay. Are you talking about --

9 Q. So I'm thinking it's probably the
10 downtown Colcord Hotel here in Oklahoma City.

11 A. Again, I'd have to go back and look at
12 our taxes to answer that.

13 Q. So at some point during the year, in tax
14 season, you would actually sit down with the bank
15 statements and say --

16 A. Personal --

17 Q. -- personal, business --

18 A. -- business, personal business.

19 Q. Who's got those records now?

20 A. For '08? I mean, they were either
21 provided -- I mean, you all have all my original
22 bank statements or somebody does. And my
23 accountant should have, you know, a listing of
24 what was personal and what was -- you know, what
25 went toward salary -- or not salary --

0143
1 Q. Executive compensation?

13 Q. Right.
14 A. That's what it says, yes.
15 Q. Only one of those categories is limited
16 to 50 percent of the amount. So if --
17 A. Right.
18 Q. -- we compare this to the bank
19 statements, the bank statements over the course of
20 the year, everything, money paid to you and to
21 Cathy, money paid for services, which seems to be
22 the biggest category here, money paid to all
23 services should not exceed that 754 -- actually,
24 it shouldn't exceed 756-and-change, right?
25 A. As far as what now?
0146
1 Q. As far as the money spent out of Trinity
2 Fund on deductible business activities, right?
3 A. Well, no, because there are properties
4 that were bought and sold, so you would have to
5 add that in.
6 Q. All of those transactions would be
7 included in the Profits and Costs of Goods Sold,
8 right? Gross Receipts and Costs of Goods Sold?
9 A. Yeah, I don't have that.
10 Q. Which is 4 million in and 3.67 out --
11 A. Okay.
12 Q. -- on the first page of the return?
13 A. Okay.
14 Q. But what you've told me is that some of
15 your trip to Mickey Mantle Steakhouse are going to
16 be written off under one of these categories?
17 A. Correct.
18 Q. Where are the records of who you took to
19 dinner?
20 A. Well, Carizzo went there several times.
21 Q. Okay. Did you keep a record? Did you
22 keep the restaurant receipts showing how many
23 people were there?
24 A. No, we just kind of used our bank
25 statements as receipts. And, you know, everything
0147
1 was a lot better in my memory at the time that we
2 were, you know, doing these taxes and that was --
3 that was four years ago.
4 Q. Okay. Let's move forward in Exhibit 13.
5 There's a \$5,000 check. It's Index Page 183.
6 It's Check No. 3578 paying a bonus to Tiffany
7 Rimmer.
8 A. Got it.
9 Q. I didn't find a folder for her. Can you
10 recall what the purpose of that payment was?
11 A. I'm going to assume it was for a bonus,
12 but I -- I mean, again --
13 Q. There's no indication on here of what
14 property it related to, is there?
15 A. No. Tiffany actually worked for me or
16 for Trinity Fund on and off for quite some time.
17 But as far as this specific check right now, I
18 can't tell you exactly what it was for.
19 Q. Friend of your wife's?
20 A. Actually, Tiffany worked for me and
21 introduced me to my wife so she worked for me, I
22 mean, off and on probably 15 years.
23 Q. Was she actively employed in the business

9 other than that one note, your testimony would be
10 that the maximum amount of money owed between
11 those two entities would be the \$150,000?

12 A. That's the only claim that Arrowood
13 made. But Arrowood has, you know, I mean, since
14 then put out more money, so --

15 Q. If the balance of payments that were paid
16 from Trinity Fund to Arrowood after 9/11 of '09
17 was greater than 150,000, then Arrowood's claim
18 would be zero, right?

19 A. If what, now?

20 Q. If the money paid out from Trinity Fund
21 to Arrowood after 9/11 of '09 was greater than
22 150,000 Arrowood's claim amount, now, would be
23 zero because it would have been paid off, right?

24 A. Well, I don't know because I -- since
25 chapter 11 -- I need to talk to my counsel with

0151

1 Arrowood on that, but there has been other money
2 put out on behalf of Trinity Fund that didn't
3 derive from Trinity Fund.

4 Q. Like what?

5 A. The appeal. There's been over \$80,000
6 put out on it. I mean, people have been paid to
7 do certain things that were actually for Trinity
8 Fund and not for an entity. So I haven't drawn,
9 you know, a penny since the filing that we, you
10 know -- again, you know, we've never been in any
11 kind of bankruptcy or anything before, so --

12 Q. Okay. Go ahead and move forward a few
13 pages, you'll find Check No. 3586. It's Index
14 Page 194 and it might be upside down. \$33,000
15 paid to Larry Jackson and the memo line says,
16 "Note dated 3/29 of '08," right?

17 A. Yes.

18 Q. The date of the check is what?

19 A. 3/29/08.

20 Q. Can you explain how that could be?

21 A. I would say it's probably a typo. I
22 don't remember doing a one-day loan.

23 Q. Now, I believe that -- and I apologize if
24 this is a little redundant, but I believe you
25 indicated earlier that on these items where you're

0152

1 unable to provide a substantive answer, you are
2 willing to go and look for and homework down
3 further sources of records to see if you can
4 provide the answers in the immediate future,
5 right?

6 A. Yeah, is there a way to tell if this was
7 negotiated?

8 Q. Yeah. If you look at the bottom or if
9 you look at the impression of the check, you have
10 the face of the check, but then you also have a
11 copy of the backside with the endorsement. Do you
12 see that?

13 A. Yeah.

14 Q. And unfortunately this particular
15 endorsement is mirror-imaged. In other words, if
16 you look at the signature line across, if you
17 imagine looking at that in the mirror, it'll look
18 like Larry Jackson's signature, right?

19 A. Now, I will see this, sometimes and not

5 acquire leasehold interests and then as quickly as
6 possible turn around and sell those to a buyer who
7 is going to pay significantly more?

8 A. Correct.

9 Q. Is that right?

10 A. Correct.

11 Q. Especially in the Barnett Shale where,
12 whoever holds it, if they don't realize that this
13 is a shale fracking horizontal, whatever it is,
14 opportunity for somebody else, they'll sell for
15 less; and the people that can turn that back into
16 a producing field --

17 A. Right.

18 Q. -- can sell it for more -- I mean, would
19 buy it for a lot more, is that right?

20 A. Something like that, yeah.

21 Q. Okay. I'll represent the total number of
22 dollars spent out of the primary bank account in
23 January of '08 was 217,000 and change. That's all
24 withdrawals and debits, every check, every
25 transfer. Only \$32,000 was spent out of that

0156
1 account in February, 131 comes out of the account
2 in March. And then have I given you Exhibit 14
3 yet?

4 A. No.

5 Q. A little bit of an update, 211 comes out
6 of the account in April, right?

7 A. Yes.

8 Q. Now, we've gone through here and we've
9 identified several checks. Some of them for a few
10 thousand, 5,000 here, 10,000 there and \$32,000
11 check that we identified. So some of the money
12 that's going out of the account is repaying loans
13 that you've had from other people over a period of
14 time, right?

15 A. Yes.

16 Q. Okay. Some of the money that's being
17 spent in this four-month stretch is either
18 household or business depending on what you told
19 your accountant?

20 A. Correct.

21 Q. There's a couple of small lease
22 transactions where you were paying a bonus, the
23 checks to Derrick altogether total less than
24 \$50,000 by a long shot, right?

25 A. The checks?

0157
1 Q. Right.

2 A. I didn't calculate them, but --

3 Q. There was one for 4,800, one for 7,700
4 and one for 8,700 by my count.

5 A. Okay.

6 Q. Does that sound about right?

7 A. Yeah, I guess. I'm not that --

8 Q. Okay.

9 A. I thought I'd pay him a lot more.

10 Q. In this four-month stretch, I didn't see
11 anything where you were acquiring lease interests
12 for more than \$100,000 worth. If you want to take
13 a moment to browse back through them, what we're
14 looking for at any time did you buy up \$100,000
15 worth of anything?

1 Q. Okay. That would be an exception to the
2 usual, right?
3 A. Not in the Barnett. I first got in the
4 Barnett in 2001. You know, it's kind of like
5 there was a time period that -- I mean, I wasn't
6 the only one, you know, that were doing it. I
7 mean, you could make a huge return on your acreage
8 there.
9 Q. All right. Then let's do this, from
10 Exhibit 11 to Exhibit 14 --
11 A. Okay.
12 Q. -- identify purchases of interests that
13 were in May or June sold to Chesapeake.
14 A. Sold to Chesapeake?
15 Q. Yep.
16 A. I mean, Chesapeake would either -- most
17 of the time they would wire the money and
18 sometimes they would send a check.
19 Q. I understand that. That's what usually
20 happens when you sell something. To fully inform
21 you, I'm going to show you Exhibit 15. And I'm
22 going to show you that on the transactions
23 inbound, the deposits and credits, on 5/9
24 Chesapeake pays \$844,221; and a few days before
25 that, Rock Energy paid 225. So that's a million
0161
1 dollars, plus or minus, about a million dollars
2 over a three-day span.
3 A. Right.
4 Q. Okay. Show me acquisition of any of the
5 interests that were sold in those transactions.
6 A. On here?
7 Q. I would presume you would have to find it
8 in the previous month's statements, right?
9 A. I wouldn't assume that.
10 Q. Well, certainly couldn't be in subsequent
11 months?
12 A. I would say it would have to be this one.
13 If you look at the withdrawals and debits, you had
14 a million-plus --
15 Q. Okay.
16 A. -- debited that same month.
17 Q. What you're referring to -- what you're
18 referring to is the grand total of all
19 transactions in the account for the month, right?
20 A. Right.
21 Q. Amount of deposits, amount of withdrawals
22 on the front of the -- or the top of the
23 statement, right?
24 A. Right.
25 Q. Okay. Now, on that bank statement, the
0162
1 first significant outbound money is this \$730,000
2 OK teller transfer to checking account 4729, which
3 is the Arrowood company's account, isn't it?
4 A. Yes.
5 Q. So that's three quarters of the million
6 dollars that flowed out of the account.
7 A. Okay.
8 Q. So, now, please tell me where in any of
9 these five months now, where are the transactions
10 where Trinity Fund acquired any of the assets that
11 were then sold to Chesapeake or ROC?

23 Q. Okay. So -- but Chesapeake was, right?
24 A. Yes.
25 Q. All right. So Chesapeake is buying for
0165
1 844,000, right?
2 A. Right.
3 Q. I'm asking you to show me where anything
4 that Chesapeake bought had been acquired using the
5 funds of Trinity Fund. Because Trinity Fund
6 receives this money, so it would have had to have
7 incurred a cost of what it was selling.
8 A. Well, I'm trying to figure out what
9 Arrowood -- Arrowood wired the money out to Lomac,
10 which was -- okay, so that was the purchase.
11 Q. Actually I wanted to back up a couple of
12 steps from there --
13 A. Okay.
14 Q. -- cause that's a few days later. That's
15 May 12.
16 A. I understand that, but sometimes
17 Chesapeake would front the money based on the --
18 just depending on whatever agreement we had. I
19 mean, they did the same thing very frequently.
20 Q. So they pay you before you had title?
21 A. Well, they provide title, but before --
22 yeah, sometimes. I mean, you know, we just did a
23 big deal couple of years ago in Eagleford,
24 actually a year ago, not with Trinity Fund. But
25 they would, you know, fund a certain amount of the
0166
1 money to go get the leases and the leases would
2 still flow through me, so they'd tell me to go get
3 more leases. It's -- it's not uncommon in the
4 leasing industry. I know it sounds ridiculous,
5 but, I mean, it --
6 Q. So what did you buy from Lomac for
7 \$723,000?
8 A. It had to have been a lease.
9 Q. Where's the --
10 A. It may have been an Arrowood file since
11 Arrowood's the one that, you know, bought the
12 lease. Chesapeake --
13 Q. Okay. Well, this money flowed in to 2001
14 Trinity Fund --
15 A. I understand that.
16 Q. -- so we're going to consider it to be
17 that it had to have been an asset of Trinity Fund
18 that was sold?
19 A. Well, it was an asset that Trinity Fund
20 paid Arrowood Company for.
21 Q. Okay.
22 A. So it would have been no different than
23 Trinity Fund buying an asset from Mike Kirschner.
24 Q. Okay.
25 A. Arrowood Company is a separate entity and
0167
1 Arrowood Company is also in the business of
2 leasing.
3 Q. What county was it in so we can go track
4 down what was recorded?
5 A. I'm going to guess -- what did you say
6 the town was?
7 Q. I said the ROC, 1 ROC Energy has a

19 know, as you can see, I mean, there were churches,
20 I mean, there are all types of entities. So
21 again, I'll just have to go back and research
22 that.

23 MR. KIRSCHNER: I don't see that in
24 the electronic endorsement below. I don't see May
25 the 6th.

0170

1 MR. SWEDLOW: The check date is May
2 6th. It's up here.

3 THE WITNESS: Yeah, that's the one I
4 couldn't read.

5 MR. KIRSCHNER: Yeah, that's the one
6 that --

7 MR. SWEDLOW: The electronic
8 clearance is 5/8 and 5/9.

9 MR. KIRSCHNER: Yeah, it's not --

10 MR. SWEDLOW: Okay.

11 MR. KIRSCHNER: I agree with that,
12 but that didn't tell me the date --

13 MR. SWEDLOW: I'll tell you I've done
14 a little homework.

15 MR. KIRSCHNER: Okay.

16 Q. (By Mr. Swedlow) And I've discovered
17 that GN Diamond, LLC, of Philadelphia,
18 Pennsylvania doesn't own any property or any
19 mineral leases in Texas.

20 A. Okay.

21 Q. Did you buy a big piece of jewelry or
22 some --

23 A. I don't recall buying a big piece of
24 jewelry. I don't really recall this check. So,
25 again, it's something I'm going to have to go back

0171

1 and research.

2 Q. Is that your signature?

3 A. That looks like my signature, yes. I can
4 research it and find out.

5 Q. Turn forward with me to Page 52 of 162 on
6 the left lower or the Index Page 215 on the lower
7 right or it's the same as Check No. 3612. Can you
8 tell me where the Harley Davidson is today?

9 A. It's been sold.

10 Q. Who did you sell it to?

11 A. I have to go back and look.

12 Q. When did you sell it?

13 A. Actually, this was -- actually, I sent
14 that to Win. This was titled in Arrowood
15 Companies, and that would have been credited
16 toward -- yeah, I'm going -- looking back at this,
17 Win said something to me and I sent him a copy of
18 that registration.

19 Q. That's one of the two --

20 A. But this is -- this has been deducted
21 from the amount that was originally owed --

22 Q. Okay.

23 A. -- to Arrowood.

24 Q. Because I found another Harley Davidson
25 similar in price that was purchased directly out

0172

1 of the Arrowood bank account.

2 A. Right.

3 Q. Where is that one?

15 may have disclosed, I don't know. I don't
16 remember disclosing that to Ed.
17 Q. Did you talk to the people associated
18 with the Culinary School of Texas who provided
19 \$170,000 towards any reference to that
20 transaction?
21 A. These were all Richard Machina, 1 ROC's
22 people, that he brought in. And I don't -- again,
23 I just operated off of promissory notes. I'd have
24 to ask Richard.
25 Q. Take a look at -- take a look at check
0175
1 No. 1020, which is on Index Page 374 of this
2 exhibit. You'll have to go past the statement
3 pages and into the checks.
4 Do you see that? On the lower left, it's
5 going to say Page 50 of 215. On the lower right,
6 it'll say 274.
7 A. I'm sorry, I'm lost.
8 Q. That's all right, I'll help.
9 I'm going to give you my page since it
10 might not have gotten into yours.
11 These folks took \$140,000 out of their
12 investment account and noted on there that it was
13 going towards the old Saginaw Airport lease,
14 right?
15 A. Correct.
16 Q. As did Richard Machine himself,
17 personally, put \$30,000 in the deal?
18 A. Okay.
19 Q. Right?
20 A. Right.
21 Q. Okay. Then after that, a lease
22 acquisition was done where 500-and-something-
23 thousand dollars was paid to Saginaw Airport LP,
24 right?
25 A. I assume. I mean, I'm sorry I can't
0176
1 remember I ever little deal.
2 Q. That's all right. That's why the
3 documents help. They're helping refresh us. This
4 is on Exhibit 17, the first transaction on July
5 11th. It's a wire transfer outbound, right?
6 A. Yes.
7 Q. So that's where Trinity Fund is
8 purchasing lease interests, right?
9 A. Yes.
10 Q. That looks like there's on the same day a
11 related purchase from wildlife energy?
12 A. Wyldfire, probably.
13 Q. That's actually referring to Mercer lease
14 in --
15 A. That's --
16 Q. -- Mansfield, Texas, right?
17 A. That's a different --
18 Q. I also double-checked and that really is
19 wildlife. It's their bank account, right?
20 A. I mean, I've always called them
21 wyldfire. I've never known them as wildlife,
22 unless it's a totally different company I'm
23 thinking about.
24 Q. I'll represent to you that I think that
25 it's a totally different company.

11 sure that he's the one that brought that. I'm
12 just kind of guessing because I don't know how
13 these other people would even have a clue what
14 lease I was buying. I mean, everybody in the
15 Dallas/Fort Worth area, whether they're in oil and
16 gas or not, were getting in the oil and gas
17 business.

18 You know, either, you know, for
19 whatever -- I mean, there were people that have
20 never been in oil and gas going out and taking a
21 lease and I find out that's a good area.

22 Q. Let's take a look at another one. Lower
23 right of the page, this is now on Exhibit 18. I
24 want you to skip right ahead to Index Page 394.
25 It will be about eight or ten pages from the

0180
1 bottom. We're looking for a check from William or
2 Byrd, B-Y-R-D.

3 A. It's another one of Richard's people.

4 MR. KIRSCHNER: What does it say at
5 the bottom of the page?

6 MR. SWEDLOW: At the bottom of the
7 page? If I'm right, it'll be 394.

8 THE WITNESS: I've got it.

9 MR. SWEDLOW: It'll be 78 to 215.

10 MR. KIRSCHNER: He found it.

11 Q. (By Mr. Swedlow) There's no loan
12 referenced there, is there? Oil lease, Mansfield,
13 right?

14 THE WITNESS: Right.

15 Q. (By Mr. Swedlow) Okay. Over the course
16 of time you borrowed and paid back Enos Semore
17 quite a bit of money, right?

18 A. Correct.

19 Q. Okay. Was he a participant in the
20 Saginaw or Mansfield transactions?

21 A. I don't recall.

22 Q. Were Edward and Barbara Finstad
23 participants in the Saginaw --

24 A. Again, every one of these were based off
25 of promissory notes. It didn't mean that they

0181
1 were going to go into any particular transaction
2 and Finstad, Byrd, this culinary school, the other
3 one, they were all Richard Machina's people. And
4 I think even in their claim, they kind of all gone
5 together as an entity kind of with -- what's the
6 guy's name? That attorney, what's his name?

7 MR. KIRSCHNER: Rapp.

8 THE WITNESS: David Rapp.

9 MR. KIRSCHNER: Yeah, David Rapp.

10 THE WITNESS: So, again, I don't --

11 MR. SWEDLOW: So --

12 THE WITNESS: There weren't --

13 Q. (By Mr. Swedlow) Let me give you a
14 question.

15 So when we find a check to any one of
16 these people who provided money on the Saginaw
17 Airport lease --

18 A. Uh-huh.

19 Q. -- the outbound check is supposed to say
20 loan repayment?

21 A. They were probably different on different

7 you, in turn, turned around and sold that set of
8 leases for a profit, right?
9 A. For the profit I had built in, correct.
10 Q. And your reason for not paying them,
11 which is what they sued you over, was that you
12 didn't turn around and sell the Saginaw lease
13 interests as you were expected to, is that right?
14 A. Correct. Because the terms weren't what
15 they professed it to be, so I didn't have that --
16 the --
17 Q. Spread?
18 A. -- the spread. And, also, at the exact
19 same time this was going on, I had negotiated
20 another deal with Devon Energy to, you know, get a
21 farm out from them, but the same group had an
22 agreement to purchase. And, you know, kind of
23 left me hanging out on that deal. So it was kind
24 of a, you know, little circle deal. But they
25 didn't deliver the terms that they were supposed
0185
1 to deliver, so they didn't get paid the amount
2 that they -- in the agreement.
3 Q. Petrie is the controlling stake holder in
4 Lomac, right?
5 A. I would have to assume.
6 Q. I'll represent that to you, because I did
7 the homework, and I found that that was part of --
8 A. Okay.
9 Q. -- what's in the lawsuit that you had
10 going on with them.
11 A. Right.
12 Q. So was the \$723,000 related to Saginaw or
13 something else?
14 A. 723?
15 Q. That was paid back in May of 2008 on the
16 heels of receiving 844,000 from receiving
17 Chesapeake.
18 A. Again, I'll have to back and research.
19 You're asking me about numbers that are, you know,
20 almost five years old. Or at least four years
21 old, so --
22 Q. As you sit here today, you're saying
23 there was a separate transaction with Lomac?
24 A. Again, without having everything in front
25 of me, it's hard to -- I mean, I've done a ton of
0186
1 transactions, you know, in 2001 Trinity Fund and
2 different entities over the past several years and
3 it's -- I don't remember the details on every last
4 transaction. But I know that I didn't sit there
5 and, you know, tell everybody exactly what I was
6 doing. That just invites competition.
7 Q. Who is Energy Trends Global, Inc.?
8 A. You know, I'll have to check on that,
9 too.
10 Q. I'll -- I'm going to try to refresh your
11 memory. Let's go to Exhibit 17 and we'll go to
12 Page 65 of 162 in there.
13 There's a memo line and I'm hoping that
14 might trigger something for you.
15 A. That's Jackson. Yeah, he started his own
16 oil company.
17 Q. Jonathan Jackson, right?

3 contacted me because he knew I had a relationship
4 with a lot of the people in Jack County. And he
5 would tell me what they would pay and for me to go
6 get the leases. And they'd do all the title work
7 and all that stuff. So, basically, I was just
8 kind of a go-between. So it would all kind of
9 dictated on what leases that he told me to go get.

10 Q. Was there a transaction that got
11 unraveled with him -- with Swan rather?

12 I'll note this memo line in telling you
13 it's part of Exhibit 20. Index Page 244 states
14 that it's a lease reimbursement as opposed to
15 acquisition or payment or anything else. And if
16 you'll turn a couple of pages forward.

17 A. This way?

18 Q. Yeah, two pages deeper. You're going see
19 that there's a deposit where Swan PC paid 260,000
20 for 520 acres Jack County. I presume that that's
21 a lease acquisition price?

22 A. That would be a good assumption.

23 Q. So can you tell me why there was a
24 100,000 being reimbursed --

25 A. No.

0190

1 Q. -- a week later?

2 A. No, not without researching it.

3 Q. Okay. So this is the inbound check from
4 Swan on 9/25 of '08, and then Trinity Fund
5 reimburses 100 grand on 10/2 of '08. As you sit
6 here now, you can't recall why you were having to
7 reimburse 100,000 to Swan out of Trinity Fund?

8 A. Not right here, right now, I can't.

9 Q. Do you think the documents over here are
10 going --

11 A. Maybe.

12 Q. Here's the folder. We'll tag this as
13 Exhibit 100 just because we're talking about it on
14 the record. Here's the folder on Gayle Sanders'
15 lawsuit and it's the one that we found documents.

16 A. I don't think that will pertain to this
17 one.

18 Q. Well, except that I see the letter
19 agreement "by and among Sanders Oil, Sanders Oil
20 and Gas, Trinity Fund and Swan PCLP." So that's
21 the one folder we found that references Swan.

22 A. Well--

23 Q. Does it bear on this transaction?

24 A. There's going to have to be some other --
25 I can't tell you by looking at this.

0191

1 Q. What's the date on the transaction?

2 A. It's a check for 260,000. What was the
3 amount?

4 Q. 260,000.

5 A. Okay.

6 Q. In fact, it's the same check number,
7 22060.

8 A. Okay.

9 Q. So that is the check that we're looking
10 at here.

11 A. Right.

12 Q. Does that refresh your recollection about
13 that --

25 makes a copy of them.

0194

1 MR. SWEDLOW: What we usually do is
2 we'd send it out to a service and get it done
3 overnight.

4 MR. KIRSCHNER: Sure.

5 MR. SWEDLOW: But I think that we're
6 on the precipice of being under a little less
7 stress about the time factor.

8 MR. KIRSCHNER: Yes.

9 THE WITNESS: Yes.

10 Q. (By Mr. Swedlow) Okay. So let's flip
11 back to Exhibit 20 now.

12 (A brief recess was taken, after
13 which the following proceedings were
14 had:)

15 Q. (By Mr. Swedlow) Back on the record
16 after a short recess.

17 We've talked quite a bit about a number
18 of loans and in the last session we talked a bit
19 about the Saginaw lease thing. And if I
20 understand it right, you've said that that whole
21 transaction set was introduced to you by Machina
22 on one side of the transaction and by Barton and
23 Petrie on the other aspect of the transaction,
24 right?

25 A. No, what I said was I wasn't sure where

0195

1 the transaction came from. I do know that, I
2 mean, that after, again, some of the documents
3 that you showed me, that there was a dispute with
4 Petrie.

5 Q. We can call them Lomac for short?

6 A. With Lomac on one of the acquisitions
7 that were made. But, you know, again, this was a
8 hot, hot spot. There were probably -- on any one
9 of these acquisitions I made there were probably
10 20 to 30 people trying to make that exact same
11 acquisition, so --

12 Q. Let me pause and back up a step.

13 A. Okay.

14 Q. When we talked about the Saginaw Airport
15 lease transaction --

16 A. Right.

17 Q. -- cluster, you identified that most of
18 the people that put money into Trinity Fund right
19 around the time of that transaction had put
20 notations on their checks or their wire transfers
21 that it was specifically related to the Saginaw
22 lease transaction. I believe that what you
23 answered was that Richard Machina would have been
24 the one to have told them about that?

25 A. Correct.

0196

1 Q. It wouldn't have been you?

2 A. No, I didn't disclose. Now, Richard, I
3 would have disclosed to, again, because he was
4 almost like one of my landmen. I mean, he stills
5 to this day brings deals.

6 Q. Okay.

7 A. So --

8 Q. Did he bring in those people to provide
9 the money --

21 Q. Is that right? Okay.
22 Take a look with me in Exhibit 20
23 starting at Page 107 of 215. I've opened it to a
24 deposit slip.
25 A. Okay.

0199
1 Q. Is that your handwriting?
2 A. Looks like it, yes.
3 Q. And that's a deposit of 100,000 even,
4 right?
5 A. Yes.
6 Q. The date might be a little tough on the
7 lower end of the deposit slip where it is run
8 through a little computer printer. Do you see
9 10/14 of 2008?
10 A. Yes.
11 Q. Okay. Now, the next pages are the
12 instruments that are listed, the three instruments
13 that are assembled, in this one deposit that you
14 made. The first one is Thomas Rapp and Bronwyn
15 Rapp, 10/10/08. It's a check for 30,000, do you
16 see that?
17 A. Yes.
18 Q. Okay. What the memo line there?
19 A. I believe it says, "Investment?"
20 Q. And the next check?
21 A. Harold-something-Investment.
22 Q. Gernsbacher?
23 A. Okay. I --
24 Q. Does that sound right or is it Gernsbacher
25 maybe?

0200
1 A. I don't know.
2 Q. Okay. It's got somebody's name,
3 investment, right?
4 A. Right.
5 Q. That actually, also, out of a Rapp
6 account, but it's a David Rapp or Nikki Rapp, so
7 it's different Rapps than the other ones?
8 A. Correct.
9 Q. You had mentioned the Rapps previously.
10 which Rapp is the Rapp that you dealt with?
11 A. Both of these. I mean, David Rapp and
12 Thomas D. Rapp are the same.
13 Q. Look at the address on the checks.
14 A. Maybe not.
15 Q. One lives in Branson, Missouri and the
16 other lives in Fort Worth.
17 A. I'm wrong then.
18 Q. Does that help you?
19 A. Yeah, I don't -- the only Rapp I know is
20 David Rapp
21 Q. Okay. Do you know his wife, Nikki?
22 A. Nope.
23 Q. Do you know that he's married?
24 A. I do now. I haven't really --
25 Q. Let's look at the third check.

0201
1 A. Okay.
2 Q. James Barlow. \$60,000, does that name
3 ring a bell?
4 A. Yes.
5 Q. Who was James Barlow?

17 Q. Dated 10/10/08?
18 A. Correct.
19 Q. And it was negotiated through on October
20 14th, right?
21 A. Yes.
22 Q. You can see the computer lines at the
23 bottom?
24 A. Yes.
25 Q. All right. Now, that was just days after
0204
1 the Rapps put it -- the Rapps put in their
2 \$100,000 --
3 A. Okay.
4 Q. -- isn't it?
5 A. I guess, I mean --
6 Q. 10/8 of '08 are the other two slips that
7 we looked at.
8 A. What page was it? The deposit slip?
9 Q. The deposit slip is marked as Page 107 of
10 215.
11 A. Okay.
12 Q. Okay. Right there, yeah.
13 A. Okay.
14 Q. So you get in 100 grand on 10/8, you pay
15 out 26 to a different investor, lender, whatever
16 we're going to call him, two days later, is that
17 correct?
18 A. It appears to be correct, yes.
19 Q. And the next day, you've got the Earl
20 Ingram Trust that you're paying out an even
21 \$1,000. Is that loan payment?
22 A. It was, yes.
23 Q. And the Whitney Ingram Trust?
24 A. Same.
25 Q. And Energy Trends Global for 18,150. Was
0205
1 that paying --
2 A. That's something I need to totally
3 research. Those numbers don't sound right.
4 Q. So you're not sure about whether that was
5 a loan or something else?
6 A. The memos really confuses me.
7 Q. Okay.
8 A. So I --
9 Q. But several of these are payments out on
10 monies that had been borrowed from others?
11 A. Yes.
12 Q. I'm going to give you Exhibit 21. It's
13 the next month's statement so that would be
14 October of 2008, right?
15 A. Yes. Well, okay. Well, no it says 11/1
16 through --
17 Q. I'm sorry, November. We're up to
18 November. I'm going faster than I thought. We're
19 up to November of 2008?
20 So now Trinity Fund is paying back Bill
21 Byrd on this check that I've opened it up to,
22 Check No. 3646, \$115,000 based on a note that had
23 been executed just about 40 something days before,
24 is that right?
25 A. Without seeing the note, I can't -- I'm
0206
1 -- these memos --

13 Q. Okay --
14 A. -- 5 percent of --
15 Q. So in this particular case --
16 A. -- 110,000 --
17 Q. -- another 5,250?
18 A. Well, whatever 5 percent is of 110,250.
19 Q. Okay.
20 A. So that would be the most that they could
21 claim.
22 Q. Okay. Even if it took you --
23 A. A year.
24 Q. -- four years to finally pay it back?
25 A. Correct.

0209

1 Q. Same format you used with Bill Byrd?
2 A. Same format on everything. I mean, the
3 percentages may have been different for the
4 initial -- initial interest, but the 5 percent
5 penalty interest was the same.
6 Q. How well do you know Bill Byrd?
7 A. I've come to know him better, you know,
8 since these transactions. I didn't really -- I
9 mean, again, he's another one of Richard's
10 friends.
11 Q. I'm going to give you Exhibit 22 now,
12 which would be the December bank statement. Do
13 you see that?
14 A. Yes.
15 Q. What are one of the checks written out of
16 that bank statement, Check No. 3679 dated 12/8 of
17 2008. Who's the payee?
18 A. Cathy Arrowood.
19 Q. How much?
20 A. 5,000.
21 Q. And what's the memo?
22 A. There is no memo.
23 Q. Okay. Is it your testimony that that
24 will be incorporated in the 1099 that was issued
25 to her?

0210

1 A. I would have to verify that with the
2 taxes, but I would -- at this point in time, I'd
3 make that assumption, but I'm not 100 percent
4 sure.
5 Q. Are you the joint owner of the McClain
6 Bank bank account in which she deposited these
7 things?
8 A. I am not.
9 Q. If you go forward, you're going to find
10 another check and it will be referenced as Page
11 112 of 162. It'll be Check No. 3689. That's also
12 to Energy Trend Global, right?
13 A. Yes.
14 Q. Got the same memo as the one the previous
15 month?
16 A. Yes.
17 Q. Got the same dollar amount as the one in
18 the previous month?
19 A. Yes.
20 Q. Does that refresh your recollection as to
21 the purpose of this repeat payment of 18,150?
22 A. Starting to look like it might be some
23 kind of loan thing, but with him doing that oil

9 Q. Okay. And that, the check right behind
10 it, is from Swan PC, \$265,240?
11 A. Okay.
12 Q. Have I figured it out correctly, that
13 Swan bought the Turnipseed, Gowen, and one other
14 lease interest?
15 A. Yes.
16 Q. So if we can find where you bought
17 something from Fog [phonetic], we would have the
18 whole transaction?
19 A. Yes.
20 Q. As you sit here today, do you have any
21 recollection of when you acquired an interest from
22 someone named Fog?
23 A. I would think it would be sometime around
24 that same time or I may have already owned it.
25 Q. Okay. In Trinity Fund, did you ever hang
0214
1 onto a mineral lease interest for longer than a
2 year?
3 A. Yes.
4 Q. Do you know specifically which interests
5 you held on for that long?
6 A. Not -- I mean, there were several, but a
7 lot of them if they haven't been drilled, then
8 they've expired.
9 Q. So whatever the Fog lease was in December
10 of '08, it would have had to have been at least
11 within what amount of time?
12 A. A three-year prior --
13 Q. Okay.
14 A. Most of the leases were three-year
15 leases, so --
16 Q. It would be more typical that it would
17 just be acquired within a month or two or three
18 before you sold it, though, right?
19 A. That would be typical, but there were
20 some that I, you know, purchased just because they
21 were good deals, you know what I mean? And knew
22 that at some point in time we could sell.
23 Q. Can you explain why you initiated a
24 telephone transfer of \$10,000 to the Arrowood
25 Company bank account, 4729, on the day before
0215
1 Christmas Eve of 2008, 12/23/2008. And there --
2 you found it, it's page 116 of 162.
3 A. Yeah. Not without researching it, I
4 can't.
5 Q. What do you recall about Richard Rossell,
6 R-O-S-S-E-L-L? You won't find him on that
7 statement. You'll find him giving you \$100,000 by
8 wire transfer on the next one, January of '09.
9 A. That would have been a loan, another
10 promissory note.
11 Q. That's the one we have the example of or
12 is it?
13 A. Correct.
14 Q. But this one that we actually looked at
15 labeled as Exhibit 101 is for 105,000.
16 A. Okay.
17 Q. He only gave you 100,000 on January 9th?
18 A. What's the interest that was on that
19 one?

5 the -- what you called earlier -- the savings
6 account, on the 14th you transfer \$61,000 -- no,
7 actually, you were taking money out there. On the
8 12th and the 14th --

9 A. Wait a minute, there's a -- this shows a
10 deposit and credit of 61,000 --

11 Q. Yeah, I agree.

12 A. -- Trinity Fund.

13 Q. So you're borrowing 100 and you're
14 drawing 86 out of the Trinity Fund, what you
15 described as savings account, right?

16 A. If that's the 8380 account.

17 Q. Okay. On January 9, you put 90,000 and
18 10,000, so you put in an entire \$100,000 into
19 the --

20 A. Same account that it came out of.

21 Q. Into what you'd call the savings
22 account?

23 A. If that's the 8380, that's what it
24 appears happened.

25 Q. Okay. Now, on the 20th, you moved

0219
1 \$40,000 to Arrowood Companies.

2 A. That's the same 833 account.

3 Q. On this January 20th transfer?

4 A. Yeah.

5 Q. "Oklahoma teller transfer to Checking
6 4729." The 8333 refers to the branch at which the
7 transaction --

8 A. I'm sorry, sir, I'm looking at the
9 wrong --

10 Q. Yeah.

11 A. Where are the account numbers?

12 Q. Right there.

13 A. Okay.

14 Q. And, in fact, I've observed when it's
15 from one entity to different entity, it's always
16 that first line that tells you what the account
17 number, whether it's to or from, and the next line
18 tells you what branch it occurred at, and then
19 third line is a transaction confirmation number.

20 And, actually, I'll represent to you that
21 I kind of figured out how to do the matching
22 exercise, so we're not going to bother going
23 through it today, but I've got every one of the
24 transfers back and forth for '08 and '09 --

25 A. Okay.

0220
1 Q. -- and all the confirmation numbers.

2 A. I mean, this is something I'd literally
3 have to sit down and go back through again and
4 highlight it and, you know, make a column of, you
5 know, what checking account number is what, you
6 know what I mean? I'm not going to be able to --

7 Q. Between the date that you received the
8 \$100,000 from Rossell and the day that you moved
9 40,000 over to Arrowood Companies, you took about
10 \$500 in cash?

11 A. Okay.

12 Q. Paid Alex Brown \$1,000?

13 A. Right.

14 Q. And paid DHS \$400?

15 A. Correct.

1 A. Yeah.
2 Q. So other than incidental household-type
3 expenses, the only thing -- the first thing that
4 happened after getting this \$100,000 loan was
5 moving 40,000 over to Arrowood. Would you agree?
6 A. I don't know if that's the first thing
7 that happened. I mean, we're just looking at bank
8 records. I mean, they were, again, so many
9 different things going on. Period. This entire
10 timeframe -- I can't -- it's not as simple as
11 you're trying to make it.
12 Q. I appreciate that you've tried to make a
13 point of emphasizing to me today that when you
14 acquired money into Trinity Fund you gave out a
15 promissory note.
16 I am going to give you Exhibit 24.
17 There's a page missing out of it so I'm going to
18 hand you my copy, an extra page or two. This is
19 going to end up belonging in that exhibit.
20 A. Okay.
21 Q. It's an inbound check for \$140,000.
22 A. Okay.
23 Q. And what does the memo line indicate the
24 money is for?
25 A. It says, "Investment on a gas leak."
0224
1 Q. Do you have any idea what that means?
2 A. Absolutely no clue. Oil and gas leak.
3 This -- I mean, this is another one of Richard
4 Machina's entity people. I mean, one of the guys
5 that he --
6 Q. That's not Richard Machina's handwriting,
7 is it?
8 A. No, that's one of his people --
9 Q. Okay.
10 A. -- or his guys.
11 Q. And you continue to accept checks noting
12 that people were making investments by giving you
13 the money, right?
14 A. I felt comfortable -- well, I didn't look
15 at the memos, so, I mean, I felt comfortable
16 paying whatever the terms were on any promissory
17 note.
18 Q. Did you do the endorsement stamp on the
19 back of the check?
20 A. Probably not.
21 Q. Trinity Investment endorsement stamp?
22 A. I'm just telling you, I did not read the
23 memos.
24 Q. Is that your handwriting on the deposit
25 slip?
0225
1 A. That appears to be my handwriting, yes.
2 I mean, to me, memos aren't for the person
3 receiving the check. It's more for the person who
4 wrote the check on what they want to categorize
5 it.
6 Q. Right.
7 A. So --
8 Q. Here's one where even I can tell somebody
9 was loaning you the money. Hennersdorf gives you
10 a check. And what can you derive from the memo
11 line that he wrote?

23 Q. So of the \$120,000 put into your control
24 by James Strawn and Trinity Fund's account, 22,
25 33, 43, almost half of it goes elsewhere other

0228

1 than a Trinity Fund account, right?

2 A. That's what it appears, yes.

3 Q. Two weeks later another \$7,500 is moved
4 to Arrowood Companies, right?

5 A. Yes, correct.

6 Q. And also 24th another \$3,000 cash
7 withdrawal. Can you remember why you needed
8 \$13,000 in cash over a two-week period?

9 A. No.

10 Q. Okay.

11 A. I mean, not without going back and
12 looking.

13 Q. We're going to skip a couple, but we're
14 going to go ahead and carry them forward to let
15 you do the homework and research to help --

16 A. Okay.

17 Q. -- put some more detail on some of these,
18 even though I'm not going to bother asking you
19 about them today in the interest of time.

20 A. All right.

21 Q. I'm going forward to Exhibit 28.

22 \$150,000 wire transfer inbound from Lakewind,
23 LLC. If I understand it correctly, Lakewind
24 agreed to buy a fraction of the interests that
25 your -- not to be derogatory -- in cahoots with

0229

1 Carizzo about at Arlington?

2 A. Yes.

3 Q. Okay. At some point later, Lakewind
4 wanted to get out of that particular transaction,
5 is that right?

6 A. Correct.

7 Q. In the documents that you were able to
8 gather together, I think I found a couple of
9 pieces of correspondence relating to that. Did I
10 figure that out correctly?

11 A. Yes.

12 Q. I'm going to mark this Exhibit 102.
13 (Exhibit No. 101 marked for
14 identification.)

15 Q. (By Mr. Swedlow) Is it your recollection
16 that that money was returned to Lakewind?

17 A. It was not.

18 Q. What's your preference in terms of
19 marking these letters, which I see are the
20 originals versus making copies of them?

21 A. Do whatever you --

22 Q. Okay.

23 A. -- want to do.

24 Q. Once they're marked and become a part of
25 this record, you'll always have access to them

0230

1 through a transcript, so that's one way to make
2 sure they never get misplaced again, or misplaced
3 in the first place. I would assume that they
4 haven't misplaced yet because you were able to
5 find them.

6 In between August of '09 and the filing
7 of the bankruptcy petition, what transfers of

19 A. Correct.
20 Q. Okay. On July 6th there's a check
21 written for \$150,000. That's check 3757.
22 A. Where are we at?
23 Q. Scroll forward to it should say 162 of
24 162?
25 A. Correct.

0233

1 Q. All right. Is that your signature?
2 A. Yes.
3 Q. So notwithstanding the fact that the
4 Trinity Fund Company had zero income in July other
5 than 490 and two amounts for 8225, which I'm not
6 sure that that's actually income, because it says
7 return posted check -- you've paid out 150,000 to
8 whom?
9 A. Dusty Dvoracek.
10 Q. Was that repaying on a reasonably recent
11 loan that he had made?
12 A. That was an older one.
13 Q. Older? Okay. After that, it's my
14 understanding that you moved banking to
15 Coppermark?
16 A. Yeah. They closed my account, Bank of
17 America did.
18 Q. Paying Dusty actually ended up
19 effectively overdrawing the account by over
20 \$160,000, right?
21 A. Correct.
22 Q. After July 6th?
23 A. Yeah, the bank called when that deposit
24 was made and they were told by the other bank that
25 the check would clear.

0234

1 Q. Let's take a look at the rest of
2 the -- the rest of the transactions for that
3 month. Were those all automated transactions
4 because it looks like most of them failed?
5 A. Yes. I mean, in bank charges.
6 Q. Okay.
7 A. Looks like there were some airline
8 tickets.
9 Q. But those were purchased on the 6th,
10 which would be same day that you learned that the
11 Sucher money was bouncing, right?
12 A. Well, I didn't learn that day, but that's
13 -- yeah.
14 Q. All right. So you knew at that point
15 that the account was overdrawn so you stopped
16 writing any checks out of it, right?
17 A. Actually, I didn't find out that day. I
18 mean, it was a while before I found out. But I
19 think they were still trying to get it to clear
20 and all that kind of stuff but, yeah.
21 MR. KIRSCHNER: Still in 2008?
22 MR. SWEDLOW: No, we're in August of
23 '09 now.
24 THE WITNESS: August.
25 MR. KIRSCHNER: The one you were just

0235

1 talking about was July of '09?
2 MR. SWEDLOW: Yeah.
3 Q. (By Mr. Swedlow) You had established the
Page 97

15 A. Right. Yeah, I mean, I've deposited lots
16 of other company checks into Trinity.

17 Q. Okay.

18 A. It was just a --

19 Q. In August of 2009, which we have as
20 Exhibit -- Coppermark statement for Exhibit 42.
21 It shows that total activity for the month is you
22 had eight deposits totaling 39,000 and \$600 plus
23 or minus a little bit, right?

24 A. Yes.

25 Q. So this is -- at this point, this is

0238

1 quite unlike the activity that we looked at mid
2 2008 where you were, for example, received 850
3 grand from Chesapeake or \$100,000 loans at a time,
4 correct?

5 A. Correct.

6 Q. Okay. Remember I kept asking you about
7 Alex Brown?

8 A. Yes.

9 Q. Can you tell me why he got paid \$10,000
10 instead of \$1,000 in July of 2009? I'll take you
11 to -- it is the very first check from the August
12 statement. It's got a July 30th of 2009 date,
13 which bounced, by the way.

14 A. I'd have to go back and look. It may
15 have been his final payment, I really don't
16 remember. Looks like there's two or is that the
17 same?

18 Q. It was returned for insufficient funds
19 and you issued another check.

20 A. Okay.

21 Q. Or it was sent through a second time?

22 A. Okay.

23 Q. Who is Erica Robinette?

24 A. Someone who did some work for us.

25 Q. What kind of work?

0239

1 A. Still does. Runs errands, she does all
2 sorts of stuff.

3 Q. Would it be fair she's like an executive
4 assistant, slash, gopher for your wife?

5 A. More of a gopher, yeah.

6 Q. Primarily for your wife?

7 A. She does a lot of stuff for me and, I
8 mean, all sorts of stuff.

9 Q. What does Beth Johnson do?

10 A. She's more the executive assistant.

11 Q. What does Andrea Dillard do?

12 A. She was, you know, an office-type person,
13 too, but she left on maternity leave and hasn't
14 been back.

15 Q. Why have we not seen money paid out of
16 Trinity Fund before August of '09?

17 A. I'd have to go -- I don't know. I'd have
18 to go look.

19 Q. What landscaping does Lioni's Landscaping
20 and Trimming take care of?

21 A. I'd have to go back and look. \$1,500
22 doesn't seem like that was for landscaping.

23 Q. What does Lioni's Landscaping and
24 Trimming do?

25 A. All sorts of stuff. I mean, we -- I

11 officer compensation, was it?
12 A. No, it would have been on our 1099.
13 Q. Under what category?
14 A. I mean, I'd have to look. It was on the
15 10 -- I don't remember what the category was.
16 Q. Contract services or --
17 A. Probably contract services. I don't -- I
18 don't know. Again, I'm --
19 Q. Okay.
20 A. -- not the accountant or the one --
21 Q. Okay.
22 A. But I do know that it would have been
23 reflected on our 1099's, our personal ones.
24 Q. In order to confirm that, we would need
25 to see those 1099's, which ought to be with or

0243

1 attached to your tax returns for those years.
2 A. Yeah, our accountant --
3 Q. Would you agree to make those available
4 to us?
5 A. I'll try to get them from our accountant.
6 Q. Okay. And that would be for both you and
7 for Cathy.
8 A. Correct.
9 Q. Okay. Can you tell me the purpose of the
10 check from Earl and Karen Ingram August of 2009
11 for \$25,000?
12 A. Where are you?
13 Q. I'm -- Coppermark Bank Page 61.
14 A. Made to me personally?
15 Q. Oh, I see, it is written to you
16 personally and then deposited into Trinity Fund?
17 A. Correct.
18 Q. So can you tell me what the purpose of
19 that money was?
20 A. What the purpose of the money was?
21 Q. Yeah.
22 A. I'll have to go back and check, but, I
23 mean, it was -- I'll have to go back and check.
24 It was possibly a loan to me personally.
25 Q. So would it be true that you continued to

0244

1 solicit loans from people into essentially Trinity
2 Fund as late as August and September of 2009?
3 A. I did not solicit anything. Again, the
4 lawsuit with Carizzo, everyone was familiar with
5 it. Carizzo owed me a lot of money and people
6 felt comfortable, just as I did, loaning me money.
7 Q. So whether we call it seeking the loans
8 or people coming and knocking down your door in
9 order to loan you these funds, whichever way, you
10 were receiving money that you treated as loaned
11 money, borrowed money?
12 A. Again, I need to go back and check and
13 see how exactly how that was, but it was a
14 personal --
15 Q. Is it consistent with the other loan
16 amounts where it's all round numbers?
17 A. I mean, really, that was --
18 Q. 100,000 or 25,000?
19 A. I don't even remember that, so I'll have
20 to go back and check the records.
21 MR. KIRSCHNER: What month was this?

7 putting 100 grand in. We have 12 and a half-ish
8 from Finstad. All together \$150,000 goes in. And
9 notwithstanding that, Check No. 1032 written on
10 9/11/09 to Cathy Arrowood, \$20,000, is that right?

11 A. What page are we looking at?

12 Q. Index Page 75.

13 A. Yes.

14 Q. Why was Cathy paid \$20,000 in September
15 of 2009?

16 A. Again, I'd have to go back and look. I
17 I'm not going to be able to answer that off of
18 this.

19 Q. Also, in September of 2009, there's a
20 \$7,000 to Cathy on the next page.

21 A. Okay.

22 Q. \$500 check to you, another \$3000 check to
23 Cathy the same day as the \$7,000 one.

24 A. Okay.

25 Q. And \$1,000 to Arrowood Companies. I've

0248

1 heard you explain that there were always some sort
2 of a loan balance with Arrowood Companies.

3 A. Correct.

4 Q. I would expect that if you held a note
5 that you would have the instrument itself in your
6 possession in order to be able to collect it,
7 right?

8 A. Normally. I mean, if it was
9 some -- normally, yes.

10 Q. Okay. And 1,000 was paid to John
11 Arrowood. Was he still actively performing
12 services specifically for Trinity Fund?

13 A. Yeah, yes.

14 Q. As late as September of '09?

15 A. Yes.

16 Q. Other than the money that was being
17 invested by or borrowed from the Rapps, what
18 actual business -- what actual mineral lease
19 related transactions occurred during September of
20 2009 in Trinity Fund?

21 A. Those amounts that were put in, Trinity
22 Fund put up the -- that was that note and
23 everything with that group, mortgage and with the
24 Wrap Group, you know which one I'm talking about.

25 Q. Yes.

0249

1 A. That was just kind of, you know, an
2 increase in the loan amount but this time it
3 was --

4 Q. With security --

5 A. With security.

6 Q. -- given before?

7 A. Correct, correct.

8 Q. And after the Carizzo trial, instead of
9 repaying that because Trinity Fund had no money to
10 pay it?

11 A. Right.

12 Q. What did the Rapp Group investors
13 receive?

14 A. The properties.

15 Q. Okay. Which properties?

16 A. The overriding -- some of the overriding
17 -- royalties in Denton County.

3 Q. What that means is I'd like your
4 agreement to be able to reconvene at a later
5 reasonably convenient date. I expect we'd
6 probably need not more than two hours more.

7 A. Okay.

8 Q. Grand total. I want to try to respect
9 that. Because, normally, we try to keep the
10 depositions at one day, not more than six hours on
11 the record. And I know that I've gone a fair
12 amount of that already.

13 MR. KIRSCHNER: Yes.

14 Q. (By Mr. Swedlow) So what we're going to
15 go, we leave the record open. The court reporter
16 will prepare the transcript. We'll get the
17 exhibits forwarded to you because you've agreed to
18 do some follow-up to try to fill in some blanks on
19 things you weren't able to answer today.

20 A. Right.

21 Q. Understood?

22 A. Correct.

23 Q. Okay. We will most likely have more
24 questions for you about Arrowood. And if you can
25 tolerate it, I'd like to do just maybe two or

0253
1 three minutes broadbrush stroke on this. Because
2 that might be -- it might be the way to maybe
3 shortcut a lot of the need to come back again?

4 MR. KIRSCHNER: Do you mean right
5 now?

6 MR. SWEDLOW: Yeah. If you can
7 indulge me for a few minutes.

8 MR. KIRSCHNER: Two or three minutes.

9 THE WITNESS: Okay.

10 Q. (By Mr. Swedlow) okay. I'll represent
11 to you that I've examined all of the transfers
12 back and forth.

13 A. Okay.

14 Q. And overall, there's about \$1.9 million
15 in this two-year span that moves from Fund to
16 Arrowood.

17 A. Okay.

18 Q. Of that \$2 million, it appears that
19 nearly \$1 million of it was spent on the kind of
20 things that I touched on in some of these, movie
21 theaters, restaurants, clothing furniture, cars,
22 motorcycles.

23 A. All right.

24 Q. Okay. Is your accountant going to have
25 similar tick-mark documentation of what you

0254
1 declared of deductible out of Arrowood Companies
2 that really was business?

3 A. She -- yeah, I think it should all be,
4 you know, treated the same. I mean, I know that
5 -- like I said, there was one, what, three
6 quarters of a million dollars deal that Arrowood
7 obviously --

8 Q. Did you pay for trips to the Bahamas?

9 A. Out of Arrowood?

10 Q. Right.

11 A. I don't know. I'd have to go through and
12 look.

13 Q. Okay.

25 make corrections --

0257

1 THE WITNESS: Yes.
 2 MR. SWEDLOW: -- or things like that.
 3 MR. KIRSCHNER: Right.
 4 MR. SWEDLOW: Okay. All right. I
 5 know it can be a gruelling exercise, but,
 6 hopefully, you were at least a little ready for it
 7 because you've been through a few depositions
 8 before.

(Examination adjourned.)

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J U R A T

1
2
3 STATE OF _____)
4)
5 COUNTY OF _____)
6

7 I, ROBERT ARROWOOD, do hereby state under oath
 8 that I have read the above and forgoing deposition
 9 in its entirety and that the same is a full, true
 10 and correct transcription of my testimony so given
 11 at said time and place, except for the corrections
 12 noted.
 13

14
15 ROBERT ARROWOOD
 16 Subscribed and sworn before me, a Notary Public,
 17 in and for the State of Oklahoma by said witness,
 18 ROBERT ARROWOOD, on this the _____ day of
 19 _____ 2012.

20
21 Notary Public in and for the
 22 State of _____
 23 My Commission Expires: _____
 24 My Commission Number: _____
 25

0259

E R R A T A S H E E T

1
2 NAME: ROBERT ARROWOOD
 3 CASE: TRINITY FUND, INC.
 4 DATE: MAY 17, 2012
 5 REPORTER: CHRYSTAL H. VANCE, CSR
 6

7 PG/LN CORRECTION REASON FOR CORRECTION
 8
 9