

EXHIBIT 96

In The Matter Of:

MBIA INSURANCE CORPORATION

v.

COUNTRYWIDE HOME LOANS, INC

BRIAN T. MOYNIHAN - Vol. 1

May 2, 2012

HIGHLY CONFIDENTIAL

MERRILL CORPORATION

Legalink, Inc.

225 Varick Street
10th Floor
New York, NY 10014
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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

-----x

MBIA INSURANCE CORPORATION,

Plaintiff,

-against-

Index No.
08/602825

COUNTRYWIDE HOME LOANS, INC.
COUNTRYWIDE SECURITIES, CORP.
COUNTRYWIDE FINANCIAL CORP.
COUNTRY HOME LOANS SERVICING, LP
and BANK OF AMERICA, CORP.

Defendants.

-----x

May 2, 2012
1:14 p.m.

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Videotaped DEPOSITION of BRIAN T. MOYNIHAN, taken by Plaintiff, pursuant to Notice, at the offices of Quinn Emanuel Urquhart & Sullivan, 51 Madison Avenue, New York, New York, before William Visconti, a Shorthand Reporter and Notary Public within and for the State of New York.

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<p>1 2 APPEARANCES: 3 QUINN EMANUEL URQUHART & SULLIVAN LLP 4 Attorneys for Plaintiff 5 51 Madison Avenue 6 New York, New York 10018 7 BY: PETER E. CALAMARI, ESQ. 8 petercalamari@quinnemanuel.com 9 RENE E. B. BEA, ESQ. 10 reneebea@quinnemanuel.com 11 12 GOODWIN PROCTER, LLP 13 Attorneys for Defendants 14 620 Eighth Avenue 15 New York, New York 10018 16 BY: MARK HOLLAND, ESQ. 17 mholland@goodwinprocter.com 18 19 O'MELVENY & MYERS LLP 20 Attorneys for Bank of America 21 7 Times Square 22 New York, NY 10036 23 BY: JONATHAN ROSENBERG, ESQ. 24 jrosenberg@omm.com 25 JACQUELINE V. ROEDER, ESQ. jroeder@omm.com</p> <p>ALSO PRESENT: HARRIS TERAN, Videographer JONATHAN C. HARRIS, Deputy General Counsel MBIA CHRISTOPHER J. GARVEY, Associate General Counsel Bank of America</p>	<p>1 13:14:52 2 THE VIDEOGRAPHER: Good afternoon. 13:15:08 3 We are now on the record. My name is Harris 13:15:11 4 Tehran of Merrill Legal Solutions, 225 13:15:13 5 Varick Street, New York, New York 10014. 13:15:16 6 Today is May 2nd, 2012. The time is 13:15:19 7 currently 1:14 p.m. We are at the offices of 13:15:22 8 Quinn Emanuel, 51 Madison Avenue, New York 13:15:25 9 City to take the videotape deposition of 13:15:27 10 Mr. Brian Moynihan in the matter of MBIA 13:15:29 11 Insurance Corporation versus Countrywide Home 13:15:32 12 Loans Inc., et al. In the Supreme Court 13:15:35 13 State of New York for the County of New York 13:15:37 14 action number 08602825. 13:15:41 15 Will counsel present please identify 13:15:43 16 themselves for the record. 13:15:43 17 MR. CALAMARI: Peter Calamari from 13:15:45 18 Quinn Emanuel for MBIA. 13:15:48 19 MS. BEA: Renee Bea from Quinn 13:15:49 20 Emanuel for MBIA. 13:15:51 21 MR. HARRIS: Jonathan Harris Deputy 13:15:53 22 General Counsel MBIA. 13:15:54 23 MR. ROSENBERG: Jonathan Rosenberg 13:15:56 24 O'Melveny & Myers for Bank Of America 13:15:58 25 Corporation and Mr. Moynihan.</p>
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<p>1 2 IT IS HEREBY STIPULATED AND AGREED 3 by and between the attorneys for the 4 respective parties herein that filing and 5 sealing be and the same are hereby waived. 6 IT IS FURTHER STIPULATED AND AGREED 7 that all objections, except as to the form 8 of the question, shall be reserved to the 9 time of the trial. 10 IT IS FURTHER STIPULATED AND AGREED 11 that the within deposition may be signed 12 and sworn to before any officer authorized 13 to administer an oath with the same force and effect 14 as if signed and sworn to before the Court. 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 13:16:00 2 MS. ROEDER: Jackie Roeder, 13:16:02 3 O'Melveny & Myers for Bank Of America 13:16:03 4 Corporation and Mr. Moynihan. 13:16:04 5 MR. GARVEY: Chris Garvey, Bank Of 13:16:05 6 America Legal Department. 13:16:07 7 MR. HOLLAND: Mark Holland, Goodwin 13:16:10 8 Procter, for the Countrywide Defendants. 13:16:10 9 THE VIDEOGRAPHER: Our court reporter 13:16:11 10 is Bill Visconti and you may now swear the 13:16:12 11 witness. 13:16:12 12 BRIAN MOYNIHAN, 13:16:12 13 having been first duly sworn by the Notary Public, 13:16:12 14 was examined and testified as follows: 13:16:15 15 EXAMINATION CONDUCTED BY MR. CALAMARI: 13:16:15 16 Q. Mr. Moynihan, thank you for coming 13:16:25 17 here. You're the president and chief executive 13:16:29 18 officer of Bank Of America; is that correct? 13:16:29 19 A. Yes. 13:16:32 20 Q. And you have been in that role 13:16:33 21 since January of 2010? 13:16:35 22 A. Correct. 13:16:35 23 Q. And you're also a member of the 13:16:38 24 board of directors of Bank Of America? 13:16:39 25 A. Correct.</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:16:40 2 Q. And were you elected to the board	13:18:29 2 Q. Is that correct?
13:16:43 3 in January, 2010 as well?	13:18:31 3 A. We went through our regular
13:16:46 4 A. Correct.	13:18:32 4 disclosure process which is the production process
13:16:46 5 Q. You're also the president -- you	13:18:42 5 with legal.
13:16:49 6 also were the president of the Consumer And Small	13:18:42 6 Q. And when you say you went through
13:16:51 7 Business Banking from August, 2009 to December,	13:18:45 7 the regular production process, would you be
13:16:55 8 2009?	13:18:53 8 surprised if we did not receive in the course of
13:16:57 9 A. August -- that is correct, yes.	13:18:56 9 that production process any notes on any matters
13:17:00 10 Q. And you were the president of the	13:18:59 10 whatsoever?
13:17:03 11 Global Banking And Wealth Management division from	13:19:00 11 MR. ROSENBERG: Objection to the
13:17:07 12 January, 2009 to August, 2009?	13:19:00 12 form.
13:17:10 13 A. Yes.	13:19:01 13 A. I would be surprised because we
13:17:10 14 Q. And you were general counsel from	13:19:05 14 give them to the lawyers as part of the lawsuit
13:17:12 15 December of 2008 to January, 2009?	13:19:08 15 to produce. If I had anything, I don't recall.
13:17:14 16 A. Yes.	13:19:11 16 Q. Now, in the course of your
13:17:16 17 Q. And you were the president of the	13:19:17 17 employment as I described it, that period of time,
13:17:17 18 Global Corporate And Investment Banking from	13:19:19 18 I know you have a history with Bank Of America
13:17:21 19 October, 2007 to December, 2008?	13:19:22 19 beyond what I asked you about, but in the period
13:17:24 20 A. Yes.	13:19:25 20 that I asked you about, were you a member of the
13:17:26 21 Q. And you were the president of	13:19:30 21 credit risk committee?
13:17:28 22 Global Wealth And Investment Management from	13:19:31 22 MR. ROSENBERG: What period is that
13:17:30 23 April, 2004 to October, 2007; is that correct?	13:19:32 23 are you talking about?
13:17:30 24 A. Yes.	13:19:35 24 Q. Well I will confine it to October
13:17:37 25 Q. In the course of your work at Bank	13:19:39 25 2007 to the current.
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:17:38 2 Of America, do you take notes in personal	13:19:44 2 A. To the current. I'm not sure I'm
13:17:41 3 notebooks or journals?	13:19:46 3 technically a member anymore since I have been
13:17:44 4 A. Not generally, no. I take notes on	13:19:50 4 CEO. From October, 2007 to 2010 I was a member of
13:17:46 5 a piece of paper but not in notebooks.	13:19:53 5 the management credit risk committee.
13:17:49 6 Q. Do you have any method for	13:19:55 6 Q. I'm sorry, I just didn't hear. Can
13:17:50 7 routinely preserving notes that you might take?	13:20:04 7 tell me you were a member of the credit risk
13:17:53 8 A. I give them to my secretary to	13:20:07 8 committee at least starting with October, 2007; is
13:17:56 9 file.	13:20:07 9 that correct?
13:17:56 10 Q. So if you do take notes at a	13:20:14 10 A. Let's be clear. The credit risk
13:17:57 11 meeting or in connection with an important	13:20:15 11 committee what are you referring to.
13:18:00 12 transaction, you would give the notes to your	13:20:16 12 Q. Well, I will back up. Are you a
13:18:03 13 secretary?	13:20:19 13 member of committees -- were you a member of
13:18:04 14 MR. ROSENBERG: Objection to form.	13:20:23 14 committees in your various capacities at Bank Of
13:18:06 15 You can answer.	13:20:26 15 America?
13:18:06 16 A. They would be in the files, yes.	13:20:26 16 MR. ROSENBERG: Can we -- sorry
13:18:07 17 Q. And did you search those files for	13:20:28 17 Mr. Moynihan. Can you read back the answer a
13:18:11 18 purposes of deciding what documents would be	13:20:35 18 couple of answers ago. Beginning I'm not
13:18:13 19 produced in connection with this deposition?	13:20:37 19 sure technically.
13:18:16 20 A. Personally I didn't. We gave the	13:20:55 20 (Requested portion of the record read.)
13:18:19 21 relevant materials to the legal department.	13:20:55 21 A. I just want -- the management
13:18:21 22 Q. So you turned over your files with	13:20:59 22 committee, yes. There is a board committee also
13:18:24 23 any notes that you may have taken to the legal	13:21:01 23 called the credit risk committee that I'm not a
13:18:27 24 department?	13:21:04 24 member of. I just want to make that distinction.
13:18:27 25 MR. ROSENBERG: Objection to form.	13:21:04 25 Q. We will try to get it straight. I

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:21:06 2 don't want any confusion. There is a board</p> <p>13:21:09 3 committee called the credit risk committee?</p> <p>13:21:12 4 A. The credit committee or something</p> <p>13:21:13 5 like that. Yes, there is a credit committee of</p> <p>13:21:15 6 the board which I'm not a member of and there is a</p> <p>13:21:17 7 management committee which I think you're</p> <p>13:21:22 8 referring to that I am a member of.</p> <p>13:21:23 9 Q. Let's start with the credit</p> <p>13:21:25 10 committee of the board. Who is on that committee?</p> <p>13:21:29 11 A. When? It's a standing committee.</p> <p>13:21:33 12 The board has different members at different</p> <p>13:21:36 13 periods of time.</p> <p>13:21:37 14 Q. Let's focus on the period since you</p> <p>13:21:39 15 became president and chief executive officer that</p> <p>13:21:43 16 is January, 2010 and you were elected to board.</p> <p>13:21:48 17 A. Right.</p> <p>13:21:48 18 Q. At the time that you were elected</p> <p>13:21:50 19 to the board were you on the credit risk committee</p> <p>13:21:52 20 of the board?</p> <p>13:21:53 21 A. I have never been on the credit</p> <p>13:21:56 22 risk committee of the board.</p> <p>13:21:56 23 Q. What is the function of the credit</p> <p>13:21:58 24 risk committee of the board?</p> <p>13:21:59 25 A. It has a charter. It is one of the</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:22:52 2 A. Risk committee, audit committee,</p> <p>13:22:57 3 compensation committee, governance committee and</p> <p>13:22:59 4 credit committee and there is the executive</p> <p>13:23:00 5 committee but it really doesn't ever meet.</p> <p>13:23:05 6 Q. Putting aside -- well, before</p> <p>13:23:16 7 putting aside board committees, with regard to the</p> <p>13:23:19 8 audit committee, which you mentioned, has the</p> <p>13:23:22 9 board -- has the audit committee, to your</p> <p>13:23:26 10 knowledge, considered any aspects of the</p> <p>13:23:27 11 Countrywide transaction? Again from the moment</p> <p>13:23:29 12 you got on to the board until the present.</p> <p>13:23:36 13 MR. ROSENBERG: Objection to the</p> <p>13:23:37 14 form.</p> <p>13:23:37 15 A. I joined the board in January,</p> <p>13:23:40 16 2010.</p> <p>13:23:40 17 Q. That's correct.</p> <p>13:23:41 18 A. So, again, I -- you have to get the</p> <p>13:23:44 19 detail -- you have to get the minutes of audit</p> <p>13:23:47 20 committee as to what they considered. Which I</p> <p>13:23:49 21 don't recall any specific discussion about it.</p> <p>13:23:50 22 Q. And just so the record is clear,</p> <p>13:23:54 23 when you say you don't recall any specific</p> <p>13:23:56 24 discussion about it, that includes the time during</p> <p>13:23:59 25 which you were on the board?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:22:01 2 five committees that the board has. It focuses on</p> <p>13:22:03 3 the credit risk in the company.</p> <p>13:22:05 4 Q. Are there minutes of that</p> <p>13:22:09 5 committee?</p> <p>13:22:10 6 A. Yes.</p> <p>13:22:11 7 Q. And did that committee consider any --</p> <p>13:22:16 8 did that committee consider any aspects of the</p> <p>13:22:18 9 Countrywide transaction from the date you first</p> <p>13:22:22 10 signed the agreement to acquire Countrywide right</p> <p>13:22:27 11 up to the current date?</p> <p>13:22:28 12 MR. ROSENBERG: Objection,</p> <p>13:22:29 13 foundation.</p> <p>13:22:30 14 A. I don't have -- you need to get the</p> <p>13:22:33 15 minutes and other things.</p> <p>13:22:34 16 Q. We would need the minutes to tell</p> <p>13:22:36 17 what the credit risk committee did in connection</p> <p>13:22:38 18 with the Countrywide transaction; is that right?</p> <p>13:22:39 19 MR. ROSENBERG: Objection to form.</p> <p>13:22:41 20 A. If they are relevant. I don't</p> <p>13:22:45 21 know. I would have to have somebody else look at</p> <p>13:22:47 22 the minutes.</p> <p>13:22:48 23 Q. You said there were five committees</p> <p>13:22:50 24 of the board. What are the other four committees</p> <p>13:22:52 25 of the board?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:24:00 2 A. Yes. The audit committees I don't</p> <p>13:24:04 3 attend a lot of them because there is other</p> <p>13:24:06 4 people, executives, so you have to get the</p> <p>13:24:07 5 minutes.</p> <p>13:24:08 6 Q. You do attend them from time to</p> <p>13:24:12 7 time; is that right?</p> <p>13:24:13 8 A. A little bit, some, it depends on</p> <p>13:24:16 9 the schedule and what the topics are.</p> <p>13:24:18 10 Q. Do you recall ever attending one</p> <p>13:24:20 11 where the topic was any aspect of the Countrywide</p> <p>13:24:22 12 transaction?</p> <p>13:24:23 13 MR. ROSENBERG: Objection to form.</p> <p>13:24:27 14 What do you mean by the Countrywide</p> <p>13:24:28 15 transaction?</p> <p>13:24:29 16 Q. In the broadest conceivable sense,</p> <p>13:24:31 17 do you recall ever attending an audit committee</p> <p>13:24:33 18 meeting where the word Countrywide or any aspect</p> <p>13:24:36 19 of the Countrywide transaction was ever discussed?</p> <p>13:24:40 20 MR. ROSENBERG: Objection to the</p> <p>13:24:42 21 form.</p> <p>13:24:42 22 A. I don't know how to answer that</p> <p>13:24:45 23 question. I mean we talk about a lot of things.</p> <p>13:24:47 24 I don't recall in the audit committee sense. You</p> <p>13:24:50 25 have to look at the minutes.</p>

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13:24:50 2 Q. We would have to look at the	13:27:06 2 have met once a month or so.
13:24:52 3 minutes in order to --	13:27:11 3 Q. Were those meetings -- were there
13:24:53 4 A. Yes, you have to get somebody that	13:27:16 4 agendas prepared for those meetings?
13:24:55 5 is on the audit committee.	13:27:18 5 A. Yes, there would be agendas, yes.
13:24:56 6 Q. Is there a management committee of	13:27:20 6 Q. Those agendas would be circulated
13:24:59 7 the audit committee?	13:27:23 7 in advance of the meetings?
13:25:03 8 A. No, I don't recall -- there is not	13:27:25 8 A. Yes, yes, they would be circulated
13:25:07 9 a management committee of the audit committee.	13:27:27 9 in advance of the meetings, yes.
13:25:08 10 Q. Or a management audit committee, is	13:27:28 10 Q. Would the presentation or materials
13:25:11 11 that a separate committee?	13:27:30 11 that the committee was to look at?
13:25:13 12 A. No, there is nothing like that.	13:27:33 12 MR. ROSENBERG: Objection to form.
13:25:14 13 Q. Focusing on the period starting	13:27:34 13 A. Yes, there would be materials to
13:25:19 14 with October, 2007 to the time when you joined the	13:27:38 14 look at.
13:25:31 15 board, you mentioned that there were other	13:27:39 15 Q. Do you know who keeps the records
13:25:34 16 committees, one of which was a management risk	13:27:40 16 of those meetings?
13:25:37 17 committee; is that correct?	13:27:43 17 A. It would be -- which meetings are
13:25:40 18 A. I said a credit risk committee.	13:27:48 18 we talking about now?
13:25:42 19 Q. Sorry, you're right. I misspoke.	13:27:49 19 Q. Sorry, the meetings of the credit
13:25:46 20 There was a credit risk committee	13:27:51 20 risk committee.
13:25:48 21 and you were a member of that committee?	13:27:53 21 A. It would be either the risk team or
13:25:50 22 A. I was, yes.	13:27:56 22 the legal team depending on the committee. But
13:25:52 23 Q. Did that committee take minutes?	13:28:01 23 some --
13:25:56 24 A. Yes, think they do, I don't recall.	13:28:02 24 Q. As best you can remember the
13:26:02 25 You have to get the documents of the committee.	13:28:03 25 minutes at least of those committee meetings would
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:26:07 2 They do take minutes of meetings, as best I can	13:28:06 2 be preserved?
13:26:10 3 recall. I'm not sure.	13:28:06 3 A. The administration of those
13:26:11 4 Q. Do you recall any instances where	13:28:07 4 committees are in the risk function.
13:26:16 5 the Countrywide transaction, again in the broadest	13:28:11 5 Q. Those minutes would be preserved?
13:26:18 6 conceivable sense, were discussed at that	13:28:13 6 MR. ROSENBERG: Objection to form.
13:26:22 7 committee?	13:28:14 7 A. You have to get the people in here
13:26:22 8 A. I don't recall specific instances	13:28:17 8 that keep the minutes and stuff, it is not
13:26:28 9 of discussion.	13:28:18 9 something --
13:26:28 10 MR. ROSENBERG: Objection to form.	13:28:18 10 Q. Can you think of any reason that
13:26:28 11 Q. But if there were minutes, the	13:28:20 11 they would be destroyed?
13:26:28 12 minutes would reflect such discussions?	13:28:21 12 MR. ROSENBERG: Objection to form.
13:26:29 13 MR. ROSENBERG: Objection to form.	13:28:22 13 A. You have to get the people here to
13:26:31 14 A. Yes. The minutes would speak for	13:28:24 14 take a look at it. To answer the questions. It
13:26:35 15 themselves, you have to look at them.	13:28:26 15 is not my job to keep them.
13:26:37 16 Q. Were these committees, did the	13:28:29 16 Q. Now, in addition to the credit risk
13:26:47 17 management risk committee meet regularly?	13:28:35 17 committee, was there also an asset and liability
13:26:51 18 MR. ROSENBERG: Objection to form.	13:28:38 18 committee?
13:26:52 19 A. The credit risk committee.	13:28:39 19 A. There is -- there is a committee
13:26:53 20 Q. Sorry, I said that again, that is	13:28:45 20 that people call the asset and liability
13:26:55 21 the second time I did that, I will probably do it	13:28:49 21 committee. It is called the ALCO. It had
13:26:58 22 for the whole deposition. Yes, did the credit	13:28:51 22 different titles, but yes, there is a committee
13:27:00 23 risk committee meet regularly?	13:28:52 23 like that.
13:27:01 24 MR. ROSENBERG: Objection to form.	13:28:52 24 Q. What was the function of that
13:27:03 25 A. The credit risk committee would	13:28:53 25 committee?

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13:28:54 2 A. They focus on -- the management	13:30:32 2 A. Not a formal role, that I recall.
13:28:57 3 committee, it focuses on the asset and liability	13:30:36 3 Q. Do you recall participating
13:28:59 4 position of the company, interest rate risk and	13:30:53 4 yourself in any discussions in connection with
13:29:02 5 things like that.	13:30:58 5 committee meetings, whether it was the credit risk
13:29:02 6 Q. And you were a member of that	13:31:04 6 committee or the asset and liability committee, do
13:29:04 7 committee?	13:31:08 7 you recall participating in any discussions
13:29:04 8 A. I was, yes.	13:31:11 8 respecting Countrywide matters?
13:29:05 9 Q. And do you recall any discussions	13:31:13 9 MR. ROSENBERG: Objection to form.
13:29:06 10 about Countrywide transaction in connection with	13:31:16 10 A. Now I'm lost with the question.
13:29:09 11 the meetings of that committee?	13:31:19 11 What is the question again?
13:29:11 12 MR. ROSENBERG: Objection to form.	13:31:20 12 Q. Do you recall participating
13:29:12 13 A. I don't recall any specific	13:31:23 13 yourself in any discussions in connection with
13:29:13 14 discussions about it in that committee.	13:31:26 14 committee meetings, whether it was the credit risk
13:29:16 15 Q. Do you recall that subject ever	13:31:30 15 committee or the asset and liability committee, do
13:29:18 16 being discussed at that committee?	13:31:33 16 you recall participating in any discussions
13:29:19 17 A. I don't recall. I don't recall the	13:31:36 17 respecting Countrywide matters?
13:29:22 18 subject being discussed.	13:31:38 18 MR. ROSENBERG: Same objection.
13:29:23 19 Q. Is that the kind of subject that	13:31:39 19 A. When?
13:29:24 20 would have been discussed at that committee?	13:31:39 20 Q. Any time while you were on those
13:29:26 21 MR. ROSENBERG: Objection to form.	13:31:41 21 committees.
13:29:28 22 A. I think, sir, the minutes of the	13:31:43 22 A. I don't recall. I mean, I don't
13:29:29 23 committee, the topic would speak for itself and	13:31:52 23 recall those committees talking about it. We had
13:29:33 24 it's a committee of the company. And so, I don't	13:31:54 24 a steering committee for the integration, we had -- in
13:29:35 25 recall any specific discussion.	13:31:59 25 subsequent I spent a lot of time talking about the
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:29:36 2 Q. Well, this was a multi billion	13:32:02 2 Countrywide acquisition with counsel as part of
13:29:41 3 dollar acquisition, was it not?	13:32:04 3 our litigation strategy. So, as the CEO of the
13:29:42 4 MR. ROSENBERG: Objection to form.	13:32:07 4 company and that is what we do.
13:29:45 5 A. It was a multi billion dollar	13:32:10 5 Q. Is the answer that you don't recall
13:29:48 6 acquisition, yes.	13:32:12 6 discussing the transaction at these committee
13:29:48 7 Q. Is that the kind of acquisition	13:32:15 7 meetings?
13:29:49 8 that would have presented issues for the	13:32:16 8 A. I don't recall discussion of the
13:29:52 9 committee?	13:32:18 9 transaction at the committee meetings.
13:29:53 10 MR. ROSENBERG: Objection to form.	13:32:27 10 Q. You mentioned just now the steering
13:29:53 11 A. Not necessarily.	13:32:30 11 committee, can you tell me what the steering
13:29:56 12 Q. What committees within Bank Of	13:32:41 12 committee is?
13:30:01 13 America would have focused on a transaction of	13:32:41 13 A. When a decision was made to acquire
13:30:03 14 this sort?	13:32:41 14 a company, the way that we operate is we begin the
13:30:05 15 MR. ROSENBERG: Objection. No	13:32:43 15 merger integration of the two companies, to figure
13:30:07 16 foundation, time period.	13:32:46 16 out how we are going to operate the companies and
13:30:10 17 A. The process -- the decisions to buy	13:32:48 17 things like that. There is usually is committee
13:30:14 18 or sell a company were basically were embedded in	13:32:51 18 of management put together to oversee the team's
13:30:16 19 the CEO, in the corporate strategy group, those	13:32:55 19 work. So we when buy US Trust or MBNA or
13:30:20 20 were the people that worked on the finance group	13:33:00 20 Countrywide or Fleet or Merrill Lynch we have a
13:30:23 21 and other people. They weren't approved by	13:33:03 21 similar process that we do for years.
13:30:25 22 committees of the management.	13:33:04 22 Q. Let me go backwards one little bit,
13:30:26 23 Q. Did the committees have any role in	13:33:07 23 did you cease to become a member of the asset and
13:30:30 24 connection with those kinds of transactions?	13:33:11 24 liability committee and the credit risk committee
13:30:31 25 MR. ROSENBERG: Objection to form.	13:33:13 25 when you became a member of the board and became

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:33:16 2 CEO? 13:33:18 3 A. The only question -- I go to the 13:33:21 4 asset and liability meetings. I'm not sure that 13:33:23 5 I'm technically a member when I'm CEO, just the 13:33:26 6 way the committees are constructed. 13:33:28 7 Q. You still go to the meetings? 13:33:29 8 A. Yes, the ALCO I go to many of them, 13:33:31 9 the credit risk not as much. 13:33:33 10 Q. And you still go to some of the 13:33:36 11 credit risk? 13:33:37 12 A. Occasionally. I just don't know if 13:33:42 13 I'm technically on the committee. 13:33:46 14 Q. You were describing the steering 13:33:48 15 committee. You were a member of the steering 13:33:52 16 committee in connection with the Countrywide 13:33:54 17 transaction? 13:33:55 18 A. That committee was basically all 13:33:58 19 the direct reports Ken Lewis at the time. That 13:34:05 20 was the committee basically. 13:34:06 21 Q. What was the function of that 13:34:07 22 committee? 13:34:08 23 A. We have an integration process that 13:34:10 24 goes on. We look at the operations of the 13:34:12 25 businesses, and so you take the company, so, if</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:35:35 2 I was one of the eight or nine members and that 13:35:37 3 was the role. 13:35:38 4 Q. Were all eight or nine members had 13:35:42 5 identical roles? 13:35:42 6 MR. ROSENBERG: Objection to form. 13:35:43 7 A. I'm not sure -- as to the role in 13:35:46 8 the steering committee yes, but when a business 13:35:48 9 reports to somebody, they are driving the process 13:35:53 10 ultimately of getting the things done. 13:35:55 11 Q. What business reported to you? 13:35:57 12 A. At the time the global corporate 13:36:00 13 investment bank. 13:36:01 14 Q. Is it fair to say that you were 13:36:04 15 driving the process of getting things done with 13:36:05 16 regard to the global corporate investment 13:36:09 17 business? 13:36:09 18 MR. ROSENBERG: Objection to the 13:36:10 19 form. 13:36:10 20 A. No I would say we had people 13:36:11 21 working on the process and part of the global 13:36:16 22 investment bank was about this much, so the 13:36:17 23 process was really driven by the consumer teams 13:36:22 24 and the operations and technology terms. This was 13:36:22 25 not a much a transaction for the GCIB.</p>
<p>Page 23</p> <p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:34:21 2 the companies are A and B you take look at what A 13:34:24 3 does and what B does and how you're going to put 13:34:27 4 them together. The brand and how you're going to 13:34:29 5 market and how you're going to run the functions. 13:34:30 6 And that work is done by teams of people and 13:34:33 7 steering committee they report to periodically 13:34:36 8 about that. 13:34:37 9 Q. Following a steering committee 13:34:38 10 meeting, would you then have a credit risk 13:34:44 11 committee meeting that excluded any members 13:34:49 12 Countrywide from the discussion? 13:34:51 13 A. I don't think the two are linked 13:34:55 14 together. The steering committee was the steering 13:34:57 15 committee. 13:35:10 16 Q. What was your role on the 13:35:11 17 Countrywide steering committee? 13:35:13 18 A. I was one of the members. There is 13:35:16 19 eight or nine members. The business reported to a 13:35:19 20 fellow named Bruce Hammon who is another member of 13:35:22 21 the committee and also reported to Liam McGee, but 13:35:25 22 I was one of the eight or nine members. 13:35:27 23 Q. Did you have a particular role in 13:35:31 24 connection with that? 13:35:33 25 A. In terms of the steering committee</p>	<p>Page 25</p> <p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:36:25 2 MR. ROSENBERG: For the record the 13:36:27 3 witness had his fingers apart by a little 13:36:29 4 less than an inch. 13:36:29 5 A. It was a very small part of 13:36:35 6 everything that went on. 13:36:35 7 MR. CALAMARI: There is a video I 13:36:36 8 might point out, so if you're going to 13:36:37 9 interrupt, please limit to objection. 13:36:39 10 MR. ROSENBERG: I didn't think I was 13:36:40 11 interrupting, counsel. 13:36:44 12 Q. We will come back to that. Let me 13:36:46 13 ask you this in your role as a member of the 13:36:48 14 board, do you review and approve the board 13:36:52 15 minutes? 13:36:53 16 A. Yes. 13:36:54 17 MR. ROSENBERG: Objection to the 13:36:56 18 form. 13:36:56 19 A. As a board member we -- as one of 13:36:59 20 the agenda items is we approve the minutes. 13:37:01 21 Q. Were issues to your recollection 13:37:10 22 respecting the Countrywide transaction ever 13:37:12 23 discussed at the board level? 13:37:14 24 MR. ROSENBERG: Objection to form. 13:37:16 25 A. We discussed issues about the risk</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:37:21 2 and mortgage with counsel and others at the board 13:37:26 3 level, yes, inside the CEO. That is 2010. 13:37:34 4 Q. And the board minutes would reflect 13:37:35 5 those discussions? 13:37:37 6 A. They would stand for themselves, 13:37:40 7 yes. 13:37:41 8 Q. They would reflect what was said? 13:37:44 9 A. The board minutes reflected that 13:37:46 10 there is a discussion, yes. 13:37:46 11 Q. Are the board minutes that Bank Of 13:37:49 12 America prepares substantive? 13:37:53 13 MR. ROSENBERG: Objection to the 13:37:54 14 form. 13:37:54 15 A. I don't know how to answer that 13:37:55 16 question. I think if you want to -- you would be 13:37:59 17 better to ask the corporate secretary and the 13:38:01 18 people that prepare the minutes, but they are 13:38:02 19 minutes of board meetings, yes. 13:38:04 20 Q. What I'm getting at is do they 13:38:06 21 reflect the discussions at the board meetings or 13:38:08 22 simply the conclusions of what the board 13:38:11 23 concluded? 13:38:13 24 MR. ROSENBERG: Objection to the 13:38:13 25 form.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:39:04 2 of Bank Of America, you understand the importance 13:39:07 3 ever telling the truth in public statements? 13:39:09 4 MR. ROSENBERG: Objection to form. 13:39:11 5 A. Yes. 13:39:11 6 Q. And Bank Of America makes public 13:39:17 7 filings with the SEC? 13:39:21 8 A. Yes, we do. 13:39:21 9 Q. And you issue press releases from 13:39:25 10 time to time regarding important developments in 13:39:27 11 Bank Of America's business? 13:39:28 12 MR. ROSENBERG: Objection to form. 13:39:28 13 A. Yes, we do. 13:39:29 14 Q. And it is important for those 13:39:32 15 documents and disclosures to be accurate, isn't 13:39:34 16 it? 13:39:35 17 A. It is important for them to be 13:39:37 18 accurate. 13:39:38 19 Q. And Bank Of America makes a 13:39:41 20 significant effort to make sure that those kinds 13:39:44 21 of statements are correct? 13:39:46 22 A. Yes, we do. 13:39:47 23 Q. You have them vetted before they 13:39:52 24 are released? 13:39:52 25 MR. ROSENBERG: Objection to the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:38:13 2 A. I think you could read the minutes 13:38:15 3 and you would have your view. They reflect what 13:38:17 4 we do at the board meetings, yes. 13:38:19 5 Q. Can you think of any reason why the 13:38:21 6 board minutes weren't produced to us in this 13:38:23 7 transaction? 13:38:24 8 MR. ROSENBERG: Objection. 13:38:26 9 A. You would have to ask counsel. 13:38:28 10 Q. You didn't give any direction not 13:38:36 11 to produce board minutes, did you? 13:38:36 12 A. In these processes it goes through 13:38:36 13 the legal team and they are in charge of that. 13:38:38 14 Q. Do you consider yourself a truthful 13:38:45 15 person? 13:38:46 16 MR. ROSENBERG: Objection to the 13:38:47 17 form. 13:38:47 18 A. Yes. 13:38:49 19 Q. As part of your role as a CEO of 13:38:52 20 Bank Of America, one of your responsibilities is 13:38:55 21 to address the public regarding the status of Bank 13:38:59 22 Of America's business; isn't that correct? 13:39:01 23 A. Yes. 13:39:01 24 MR. ROSENBERG: Objection to form. 13:39:02 25 Q. As a lawyer, former general counsel</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 13:39:52 2 form. 13:39:52 3 A. We have a deep disclosure process 13:39:55 4 that we go through, yes. 13:39:56 5 Q. And that is because you know the 13:40:00 6 public relies on those statements to assess B of A's -- I'm 13:40:06 7 sorry, to assess Bank Of America's business 13:40:08 8 prospects? 13:40:09 9 MR. ROSENBERG: Objection to form. 13:40:10 10 A. It is our view to inform the 13:40:12 11 shareholders through the filings of what is going 13:40:15 12 on in the company and we do that. 13:40:16 13 Q. It's not just the shareholders 13:40:17 14 though; is that correct, it is all constituents 13:40:19 15 that need to know about Bank Of America? 13:40:21 16 MR. ROSENBERG: Objection to form. 13:40:21 17 A. It depends on the event for lack of 13:40:27 18 a better term or the discussion who the audience 13:40:30 19 is. 13:40:30 20 Q. Regulators? 13:40:31 21 A. Yes, sir. 13:40:33 22 Q. And customers? 13:40:34 23 A. Sure. 13:40:34 24 Q. Creditors? 13:40:36 25 A. Sure.</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:40:36 2 MR. ROSENBERG: Objection to form.	13:42:15 2 Q. Did it help you recall the events
13:40:38 3 Q. And you're personally concerned	13:42:17 3 that --
13:40:41 4 with the truth of what you say; is that correct?	13:42:18 4 A. I'm not sure what events you're
13:40:43 5 MR. ROSENBERG: Objection to form.	13:42:20 5 talk about, but.
13:40:44 6 A. Yes.	13:42:20 6 Q. The events that are the subject of
13:40:45 7 Q. You don't speak off the top of your	13:42:22 7 this deposition.
13:40:48 8 head, you speak carefully?	13:42:24 8 MR. ROSENBERG: Objection to form.
13:40:50 9 MR. ROSENBERG: Objection to the	13:42:25 9 A. They would have helped me recall
13:40:50 10 form.	13:42:26 10 the events in the documents because the documents --
13:40:51 11 A. I speak carefully and make sure I	13:42:28 11 I have looked at the documents.
13:40:54 12 say what I mean.	13:42:31 12 Q. Do you recall any particularly that
13:41:00 13 Q. Would you say you have a good	13:42:33 13 helped refresh your recollection?
13:41:01 14 memory?	13:42:35 14 A. The ones that were there, I mean.
13:41:02 15 MR. ROSENBERG: Objection to form.	13:42:38 15 Q. Which ones were they?
13:41:03 16 A. I would -- I could remember things,	13:42:40 16 A. I think that is between us working
13:41:08 17 yes, I have a good memory.	13:42:43 17 with my counsel in the case.
13:41:09 18 Q. Is there any reason why your memory	13:42:45 18 Q. I'm afraid it is not. Because if
13:41:11 19 of the transactions regarding Countrywide might be	13:42:47 19 it refreshed your recollection I'm entitled to
13:41:13 20 impaired?	13:42:49 20 know it.
13:41:13 21 MR. ROSENBERG: Objection to form.	13:42:49 21 MR. ROSENBERG: Mr. Moynihan, if you
13:41:15 22 A. My memory is not impaired, no.	13:42:51 22 can recall any documents that specifically
13:41:19 23 Q. There no particular obstacle or	13:42:54 23 refreshed your recollection, you can tell him
13:41:22 24 reason why you wouldn't recollect events that most	13:42:56 24 that.
13:41:25 25 people would recollect?	13:42:57 25 A. One document that I recall, they
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:41:26 2 MR. ROSENBERG: Objection to form.	13:42:59 2 had the steering committee documents that were
13:41:27 3 A. I'm not sure what you're talking	13:43:01 3 presented. That reminded me who was on the
13:41:29 4 about -- asking about.	13:43:06 4 committee and we met.
13:41:31 5 Q. Have you talked to anyone other	13:43:06 5 Q. Anything else?
13:41:38 6 than your lawyers in connection with this	13:43:07 6 A. Not particularly.
13:41:40 7 deposition?	13:43:13 7 Q. You mentioned preparing for the
13:41:43 8 MR. ROSENBERG: Objection to the	13:43:15 8 deposition, how long did you prepare?
13:41:45 9 form.	13:43:17 9 A. A few hours.
13:41:45 10 A. Not that I recall.	13:43:20 10 Q. When was that?
13:41:45 11 Q. Did you speak with anybody to	13:43:21 11 A. Yesterday.
13:41:48 12 refresh your recollection?	13:43:22 12 Q. What time?
13:41:49 13 A. I talked to my lawyers.	13:43:23 13 A. Yesterday afternoon.
13:41:52 14 Q. Only your lawyers?	13:43:26 14 Q. Between when and when?
13:41:53 15 A. Yes.	13:43:28 15 A. I don't know exactly. Yesterday
13:41:54 16 Q. Did you review any documents to	13:43:30 16 afternoon.
13:41:56 17 refresh your recollection?	13:43:30 17 Q. Well, did you start at 1 o'clock?
13:41:57 18 A. The lawyers gave me some documents	13:43:35 18 A. I don't know exactly. I think it
13:41:59 19 to look at yesterday.	13:43:37 19 was 3 o'clock, if I remember, something like that.
13:42:00 20 Q. Did any of them refresh your	13:43:40 20 Q. What time did you finish?
13:42:02 21 recollection about events?	13:43:41 21 A. Around five.
13:42:03 22 A. They would have -- they had the	13:43:42 22 Q. Have you done anything else to
13:42:09 23 events depicted in them, yes. I mean some of the	13:43:44 23 prepare for this deposition other than that
13:42:12 24 stuff was not relevant to anything that I ever	13:43:46 24 meeting?
13:42:14 25 seen before. And other stuff --	13:43:47 25 A. No.

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:43:48 2 Q. Who was present at that meeting?	13:46:10 2 might have been a little confusing. I was trying
13:43:49 3 A. Counsel.	13:46:12 3 to find out if there are any other committees
13:43:51 4 Q. Which counsel?	13:46:14 4 other than the committees that we have identified
13:43:52 5 A. The two gentleman right here.	13:46:17 5 that would be involved in a significant
13:43:57 6 MR. HOLLAND: The record should	13:46:20 6 transaction that was entered into by Bank Of
13:43:58 7 reflect that he is pointing to Mr. Garvey and	13:46:24 7 America?
13:44:00 8 the O'Melveny lawyers.	13:46:24 8 MR. ROSENBERG: Objection to form.
13:44:04 9 MR. ROSENBERG: Mr. Rosenberg and	13:46:25 9 A. I gave you all the committees of
13:44:05 10 Mr. Garvey.	13:46:27 10 the board.
13:44:07 11 Q. Have you given any testimony	13:46:28 11 Q. You mentioned the committees of the
13:44:10 12 regarding Countrywide in any proceedings other	13:46:29 12 board. What about management committees?
13:44:18 13 than this one?	13:46:31 13 A. I gave you the credit -- they are
13:44:28 14 MR. ROSENBERG: Objection to form.	13:46:35 14 not involved in the approval of specific
13:44:28 15 A. In the context -- I testified in	13:46:37 15 transactions.
13:44:28 16 front of congress. There was a question about	13:46:38 16 Q. Well, not just the approval, but
13:44:28 17 mortgage business. But not that I recall	13:46:41 17 the implementation of a transaction, would there
13:44:32 18 particularly about Countrywide.	13:46:44 18 be any other committees involved in that?
13:44:32 19 Q. No testimony in any case involving	13:46:46 19 MR. ROSENBERG: Objection to form.
13:44:35 20 Countrywide? In any lawsuit I should say	13:46:47 20 A. The steering committee is the one.
13:44:38 21 involving Countrywide?	13:46:48 21 I talked about them.
13:44:39 22 A. Not involving Countrywide, I don't	13:46:49 22 Q. That would be for Countrywide
13:44:43 23 recall.	13:46:50 23 transaction?
13:44:43 24 Q. Have you testified before any	13:46:50 24 A. Yes.
13:44:50 25 regulatory entities involving Countrywide?	13:46:58 25 Q. Any others?
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:44:52 2 A. I haven't done it.	13:46:59 2 A. Not particularly.
13:44:54 3 Q. Have you been interviewed by the	13:47:01 3 Q. Is it fair to say that Bank Of
13:44:56 4 SEC involving Countrywide?	13:47:03 4 America purchased Countrywide Financial Corp. and
13:44:57 5 A. No.	13:47:05 5 all of its subsidiaries through a stock for stock
13:45:03 6 Q. In connection with your appearance	13:47:09 6 swap with Countrywide shareholders?
13:45:07 7 here today, did you review any testimony of any	13:47:11 7 MR. ROSENBERG: Objection to the
13:45:09 8 other witnesses in this case?	13:47:12 8 form.
13:45:10 9 A. No.	13:47:12 9 A. You have to get the form document.
13:45:28 10 Q. Is there any other committee of	13:47:13 10 I wasn't involved in the exact form of the
13:45:29 11 Bank Of America that considers transactions with	13:47:13 11 transaction. We acquired Countrywide, the exact
13:45:36 12 high significance besides the committees that you	13:47:19 12 form you would have to get the documents.
13:45:40 13 mentioned?	13:47:20 13 Q. It is fair to say that you acquired
13:45:40 14 MR. ROSENBERG: Objection to form.	13:47:22 14 Countrywide?
13:45:42 15 A. I'm not sure I mentioned what the	13:47:23 15 A. It is fair to say.
13:45:43 16 other committees did. There is a policy of what	13:47:23 16 Q. That much you know?
13:45:48 17 the board approves in terms of acquisition, if	13:47:25 17 A. Yes.
13:45:51 18 you're talking about an acquisition, a	13:47:27 18 Q. And then were you aware that after
13:45:53 19 transaction.	13:47:29 19 the transaction closed, Bank Of America entered
13:45:53 20 Q. That is a good example.	13:47:32 20 into a series of transactions with Countrywide
13:45:54 21 A. Some policies in place from time to	13:47:35 21 Financial Corp. by which assets of Countrywide
13:46:00 22 time would dictate who approves what. It's a	13:47:38 22 Financial Corp. were transferred to other Bank Of
13:46:02 23 board approval typically. If there is an	13:47:40 23 America companies in return for certain
13:46:06 24 approval, it requires a board approval.	13:47:43 24 consideration?
13:46:07 25 Q. I'm not quite sure, my question	13:47:44 25 A. I'm aware that -- generally aware

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:47:47 2 of that because I have had discussions with</p> <p>13:47:50 3 counsel about those after I became CEO and after</p> <p>13:47:53 4 we talked about the various litigation rights.</p> <p>13:47:56 5 Q. You were also a member of the</p> <p>13:47:59 6 steering committee at the time that these</p> <p>13:48:00 7 transactions took place; is that right?</p> <p>13:48:04 8 A. I could have been aware of the</p> <p>13:48:04 9 transaction. I don't know what specific</p> <p>13:48:06 10 transaction you're referring to.</p> <p>13:48:06 11 Q. Were you on the board of BANA?</p> <p>13:48:10 12 A. Yes, I was.</p> <p>13:48:10 13 Q. And in that capacity, didn't you</p> <p>13:48:13 14 sign various documents in connection with those</p> <p>13:48:15 15 transactions?</p> <p>13:48:16 16 A. We had authorized transactions,</p> <p>13:48:19 17 yes.</p> <p>13:48:19 18 Q. So you know about those</p> <p>13:48:20 19 transactions?</p> <p>13:48:21 20 MR. ROSENBERG: Objection to form.</p> <p>13:48:22 21 What transactions?</p> <p>13:48:24 22 MR. CALAMARI: You're correct. Let me</p> <p>13:48:26 23 rephrase the question.</p> <p>13:48:26 24 Q. Do you know about the transactions</p> <p>13:48:29 25 by which assets were move from Countrywide to Bank</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:49:27 2 A. We have several thousand legal</p> <p>13:49:29 3 entities. I could tell you what we were doing in</p> <p>13:49:32 4 the mortgage business. Exactly what subsidiary</p> <p>13:49:35 5 took place is not what you do as the CEO. That is</p> <p>13:49:37 6 other people's jobs to make sure.</p> <p>13:49:38 7 Q. Do you ever come to learn what CFC</p> <p>13:49:43 8 was doing?</p> <p>13:49:43 9 MR. ROSENBERG: Objection to form.</p> <p>13:49:44 10 A. I'm not sure that I recall exactly</p> <p>13:49:45 11 what CFC was doing versus other parts.</p> <p>13:49:46 12 Q. CFC no longer originated any loans;</p> <p>13:49:49 13 is that correct?</p> <p>13:49:52 14 MR. ROSENBERG: Objection to the</p> <p>13:49:52 15 form.</p> <p>13:49:52 16 A. As I said, there are people that</p> <p>13:49:53 17 take care of that. We originate mortgage loans at</p> <p>13:49:55 18 Bank Of America. Which enterprise it went through</p> <p>13:49:59 19 there would be people closer to it that ran the</p> <p>13:50:02 20 mortgage business and stuff.</p> <p>13:50:02 21 Q. What is your view? I realize there</p> <p>13:50:05 22 might be people closer to it, do you know of any</p> <p>13:50:13 23 loans that were being originated through CFC?</p> <p>13:50:13 24 MR. ROSENBERG: Objection to form.</p> <p>13:50:13 25 A. I don't recall one way or the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:48:33 2 Of America?</p> <p>13:48:33 3 MR. ROSENBERG: Objection to the</p> <p>13:48:34 4 form.</p> <p>13:48:34 5 A. You asked -- what I would say is I</p> <p>13:48:36 6 know there were transactions and BANA approved</p> <p>13:48:38 7 them. You have to ask me about the specific</p> <p>13:48:39 8 transactions.</p> <p>13:48:40 9 Q. Believe me, I will. I want to make</p> <p>13:48:43 10 sure that you have general knowledge about them.</p> <p>13:48:44 11 A. We had knowledge as a board</p> <p>13:48:46 12 approved them, yes.</p> <p>13:48:49 13 Q. By January 1st, 2010 when you</p> <p>13:48:51 14 became the CEO of Bank Of America, CFC and I'm</p> <p>13:49:01 15 using the initials CFC, Countrywide Financial</p> <p>13:49:06 16 Corporation, itself was no longer engaged in any</p> <p>13:49:08 17 revenue producing activities; is that right?</p> <p>13:49:11 18 MR. ROSENBERG: Objection to form.</p> <p>13:49:12 19 A. I wouldn't be the best person to</p> <p>13:49:15 20 ask about that because I don't know.</p> <p>13:49:17 21 Q. Sir, you don't know, you were CEO</p> <p>13:49:21 22 of Bank Of America in January, 2010 but you don't</p> <p>13:49:23 23 know what Countrywide Financial Corporation was</p> <p>13:49:25 24 doing at that time?</p> <p>13:49:26 25 MR. ROSENBERG: Objection to form.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>13:50:13 2 other.</p> <p>13:50:13 3 Q. It no longer serviced any loans;</p> <p>13:50:16 4 isn't that correct?</p> <p>13:50:16 5 MR. ROSENBERG: Objection to form.</p> <p>13:50:17 6 A. Again, I don't recall exactly what</p> <p>13:50:18 7 it was doing. We serviced loans as a company and</p> <p>13:50:20 8 made loans as a company. The legal entities is up</p> <p>13:50:24 9 to the teams that work on those structures.</p> <p>13:50:29 10 Q. Did CFC continue to issue insurance</p> <p>13:50:39 11 after July 1, 2008?</p> <p>13:50:40 12 MR. ROSENBERG: Objection, no</p> <p>13:50:42 13 foundation. Asked and answered.</p> <p>13:50:42 14 A. Again I don't know the specific</p> <p>13:50:43 15 entities. It is one of several subsidiaries in</p> <p>13:50:46 16 the company and we could get the people that know</p> <p>13:50:48 17 that.</p> <p>13:50:48 18 Q. Did CFC trade any securities?</p> <p>13:50:52 19 MR. ROSENBERG: Same objection.</p> <p>13:50:53 20 A. Again, I'm not saying -- I don't</p> <p>13:50:56 21 recall. I don't have knowledge. We could get the</p> <p>13:50:57 22 people in here to talk to you about what CFC did</p> <p>13:51:00 23 versus other subsidiaries.</p> <p>13:51:01 24 Q. You were on the steering committee,</p> <p>13:51:03 25 right, that worked on these transactions?</p>

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13:51:05 2 MR. ROSENBERG: Objection to form.	13:53:15 2 that; isn't that right?
13:51:07 3 A. I was on the steering committee for	13:53:16 3 A. Again, the exact -- that is -- I
13:51:11 4 the transition, yes.	13:53:20 4 don't know if that is a trade name that you're
13:51:13 5 Q. Do you recall that Countrywide Bank	13:53:23 5 referring to a legal entity name you're referring
13:51:17 6 was eventually moved from CFC to BANA?	13:53:24 6 to. Again I could tell what Bank Of America does
13:51:22 7 MR. ROSENBERG: Objection to the	13:53:25 7 because that is they do the team running the
13:51:22 8 form.	13:53:26 8 thing. They use the name Bank Of America Home
13:51:22 9 A. It could very well have been, I	13:53:29 9 Loans today. It's one -- whether it is a legal
13:51:24 10 don't recall specifically.	13:53:32 10 entity or not I would have to have somebody.
13:51:24 11 MR. ROSENBERG: Objection to form.	13:53:34 11 Q. It doesn't matter to you whether
13:51:25 12 Q. You don't recall any of that?	13:53:36 12 it's a legal entity are not?
13:51:26 13 A. I don't recall specifically if it	13:53:37 13 MR. ROSENBERG: Objection to form.
13:51:28 14 was moved. When it was moved. It could have	13:53:39 14 A. We have 280,000 people, we have
13:51:30 15 been.	13:53:41 15 people spending a lot of time making sure that all
13:51:30 16 Q. Let me ask you, not to think about	13:53:41 16 gets done right. That is my job to have the
13:51:35 17 recalling what was going on -- not to think about	13:53:43 17 people do it.
13:51:47 18 recalling what was going on in July of 2008, but	13:53:43 18 Q. As far as you're concerned as long
13:51:52 19 your current knowledge as you sit here today as	13:53:45 19 as it is running the business, that is what you
13:51:55 20 the CEO of Bank Of America, you have no idea what	13:53:48 20 care about?
13:52:00 21 CFC is doing?	13:53:49 21 MR. ROSENBERG: Objection to the
13:52:01 22 A. I'm telling you that the -- you're	13:53:49 22 form.
13:52:04 23 asking about specific activities of one of the	13:53:49 23 A. I have a team that runs the
13:52:07 24 3,000 subs of Bank Of America, and my job is to	13:53:51 24 mortgage business that works for a couple of
13:52:07 25 lead the company and we lead it through activities	13:53:54 25 levels down in the organization and they make sure
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
13:52:11 2 and lines of business. What a particular activity	13:53:57 2 they do it right.
13:52:13 3 that goes on in a particular entity I would have -- to the	13:53:58 3 Q. And you don't care what the legal
13:52:15 4 extent that I don't have the knowledge of that at	13:53:59 4 entity is?
13:52:17 5 my fingertips. It is not the way to run the	13:54:00 5 MR. ROSENBERG: Objection to the
13:52:21 6 company.	13:54:01 6 form.
13:52:23 7 Q. Have you ever heard of Bank Of	13:54:01 7 A. It is not my job to work the legal
13:52:43 8 America Home Loans?	13:54:04 8 entities. My job is to set the strategy, drive
13:52:43 9 A. Yes, I heard of that.	13:54:06 9 the company, other people we have do care a lot
13:52:45 10 Q. What is Bank Of America Home Loans?	13:54:09 10 about exactly which legal entities and how it
13:52:47 11 A. It's one of the divisions that we	13:54:11 11 works and that is their job.
13:52:51 12 have in the company.	13:56:21 12 MR. CALAMARI: I'm going to put in an
13:52:52 13 Q. It's a pretty big division, isn't	13:56:23 13 exhibit, the exhibit only is a spreadsheet,
13:52:54 14 it?	13:56:26 14 it only one page. We could put the entire
13:52:54 15 MR. ROSENBERG: Objection to form.	13:56:32 15 spreadsheet up on the screen so if you want
13:52:56 16 A. It is one of the divisions that we	13:56:39 16 to see any other aspect of it you're welcome
13:52:57 17 have in the company.	13:56:41 17 to.
13:52:57 18 Q. What does Bank Of America Home	13:56:58 18 MR. ROSENBERG: Peter could we take
13:53:00 19 Loans do?	13:56:59 19 break for a second so that we can reset the
13:53:01 20 A. Again, in the mortgage business,	13:57:00 20 Livenote?
13:53:03 21 Bank Of America we make mortgage loans to	13:57:00 21 MR. CALAMARI: That is not fixed yet,
13:53:05 22 consumers and we service mortgage loans for	13:57:03 22 that's fine.
13:53:07 23 consumers. And those mortgage loans that we	13:57:07 23 THE VIDEOGRAPHER: We are off the
13:53:12 24 originate we sell to investors.	13:57:11 24 record the time is 1:56 p.m.
13:53:13 25 Q. And Bank Of America Home Loans does	13:57:14 25 (Recess taken.).

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:00:40 2 THE VIDEOGRAPHER: Back on the record	14:03:23 2 A. That is what the spreadsheet says,
14:00:45 3 the time is 2 p.m.	14:03:25 3 yes.
14:00:48 4 (Exhibit 3357 for identification,	14:03:27 4 Q. If you go to the first column under
14:00:48 5 E-mail. Subject is LCFC Equity Roll Forward	14:03:29 5 provision you see salaries and wages?
14:00:48 6 Bates stamp number is 009591.)	14:03:34 6 A. Yes.
14:00:48 7 (Exhibit 3357A for identification,	14:03:34 7 Q. And it shows third quarter 2008 a
14:00:49 8 CD.)	14:03:39 8 number of 156 and that drifts down to one and
14:00:49 9 MR. CALAMARI: Let me identify for	14:03:43 9 stays constant at one?
14:00:50 10 the record the written document is an e-mail.	14:03:44 10 A. The columns say 156, 5, 1, 1, 1,
14:00:58 11 Subject is LCFC Equity Roll Forward. And	14:03:48 11 1,1,1
14:01:09 12 it's a list of the -- I'm having trouble	14:03:53 12 Q. If you get down to the bottom it
14:01:13 13 describing what this document is, but the	14:03:57 13 shows income before taxes. The columns show
14:01:16 14 Bates stamp number is 009591. And it appears	14:04:03 14 losses 909,753 to the end of first quarter again
14:01:24 15 to be a record of a meeting that was held on	14:04:11 15 of '10 line 50?
14:01:31 16 Thursday, January 13th, 2011 and the	14:04:11 16 MR. ROSENBERG: Objection to form.
14:01:36 17 importance from my perspective at least is it	14:04:12 17 A. The line says income before taxes
14:01:39 18 attaches an exhibit, which is a spreadsheet,	14:04:13 18 and it has a series of numbers, I could read them
14:01:44 19 page one of that spreadsheet is -- doesn't	14:04:16 19 again.
14:01:50 20 have a Bates stamp number on it, but the	14:04:16 20 Q. You don't have to read the numbers,
14:01:54 21 Bates stamp of the placeholder is 09593. And	14:04:18 21 they all show losses; is that correct?
14:02:02 22 that has been marked as Exhibit 3357.	14:04:22 22 A. The spreadsheet --.
14:02:10 23 Q. Mr. Moynihan, first let me ask you,	14:04:22 23 Q. They show negative numbers?
14:02:15 24 do you recognize this document?	14:04:23 24 A. The spreadsheet has negative
14:02:16 25 A. I don't recall ever seeing it.	14:04:24 25 numbers on it, yes.
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:02:18 2 Q. Can you turn to the spreadsheet.	14:04:26 2 Q. Does that refresh your recollection
14:02:29 3 Do you recognize that spreadsheet as an income	14:04:28 3 about whether Countrywide was doing any business
14:02:32 4 statement of Countrywide which is CFC that Bank Of	14:04:32 4 after the transactions that took place in the
14:02:38 5 America prepared?	14:04:38 5 summer and fall of 2008?
14:02:38 6 A. I can only -- I have never seen the	14:04:40 6 MR. ROSENBERG: Objection.
14:02:40 7 document. I could read you what the document	14:04:41 7 A. Again, it doesn't refresh my
14:02:43 8 says. Do you want me to do that for you?	14:04:44 8 recollection.
14:02:43 9 Q. Yes.	14:04:44 9 Q. Let me show you another document.
14:02:43 10 A. It says Bank Of America Countrywide	14:04:44 10 (Exhibit 3358 for identification,
14:02:49 11 Consolidated Income Statement Quarterly Trend.	14:05:58 11 Capstone report.)
14:02:52 12 Q. You notice that the first line	14:05:58 12 Q. I show you a document that has been
14:02:53 13 shows mortgage banking income?	14:06:24 13 marked as 3358. It's a report with a logo
14:02:56 14 A. The first line -- the first line?	14:06:32 14 Capstone on it about Countrywide Financial Corp.
14:02:58 15 Q. Under interest income.	14:06:36 15 prepared by a company called Capstone Valuation
14:02:59 16 A. Under net interest income it says	14:06:39 16 Services LLC. Do you see that document?
14:03:02 17 mortgage banking income, yes.	14:06:42 17 A. I see the document yes.
14:03:03 18 Q. It shows it starts from the third	14:06:43 18 Q. Did you ever see that document
14:03:05 19 quarter of '08 and goes all the way to first	14:06:44 19 before?
14:03:08 20 quarter of 2010?	14:06:45 20 A. I don't recall seeing it before.
14:03:13 21 A. The column are labeled third	14:06:47 21 MR. ROSENBERG: Peter, excuse me, I'm
14:03:15 22 quarter '08, fourth quarter '08, first quarter	14:06:49 22 going to -- I note that this document doesn't
14:03:15 23 '09, second quarter '09, third quarter '09, fourth	14:06:51 23 have a Bates number. And I'm going to object
14:03:20 24 quarter '09, first quarter '10.	14:06:56 24 to the use of any documents that don't have a
14:03:20 25 Q. It shows losses?	14:06:59 25 Bates number and therefore haven't been

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:07:00 2 produced in this litigation.	14:08:18 2 instructing the witness not to answer, on
14:07:01 3 I will note that this document was --	14:08:20 3 this one you said no. Let me ask my
14:07:05 4 that there attempt to use this document in	14:08:21 4 questions.
14:07:08 5 another deposition so I will allow	14:08:22 5 Q. Are you aware that Bank of New York
14:07:10 6 questioning on this version, but I'm going	14:08:26 6 Mellon filed an expert report authored by Capstone
14:07:12 7 to, just so know I'm going to object.	14:08:30 7 opining on the maximum economic value that could
14:07:15 8 MR. CALAMARI: You can object all you	14:08:33 8 be recovered from CFC as of March, 2011?
14:07:16 9 want.	14:08:36 9 MR. ROSENBERG: Objection to form.
14:07:16 10 MR. ROSENBERG: -- to the use of any	14:08:37 10 A. I'm aware that they filed a report.
14:07:18 11 document in a deposition and not allow of any	14:08:40 11 I didn't know -- just in the reports about the
14:07:21 12 questioning of any document in a deposition	14:08:43 12 case.
14:07:22 13 that don't have Bates number on it.	14:08:44 13 Q. You were involved in the settlement
14:07:24 14 MR. CALAMARI: Do you have a basis	14:08:45 14 that this report was filed in connection with,
14:07:25 15 for the objection?	14:08:48 15 weren't you?
14:07:25 16 MR. ROSENBERG: Yes, because --	14:08:48 16 MR. ROSENBERG: Objection to form.
14:07:25 17 MR. CALAMARI: Do you have a case	14:08:49 17 A. Yes.
14:07:26 18 that you can cite.	14:08:49 18 Q. You actually approved the
14:07:26 19 MR. ROSENBERG: The discovery process	14:08:51 19 settlement, didn't you?
14:07:27 20 that the judge put in place was document	14:08:53 20 A. I approved the settlement with the
14:07:30 21 discovery and then depositions. You have a	14:08:56 21 rest of management.
14:07:32 22 universe of millions of documents to use in	14:08:57 22 Q. You participated in negotiations
14:07:35 23 this case and there is no reason to plop	14:08:58 23 regarding that settlement, didn't you?
14:07:38 24 documents off the Internet and use them	14:09:00 24 MR. ROSENBERG: Objection to the
14:07:40 25 instead. If you want to do that, then all	14:09:00 25 form.
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:07:42 2 you have to do is slap a Bates number on them	14:09:00 2 A. You know, I think this -- in terms
14:07:46 3 and produce them before the deposition. But	14:09:05 3 of my participation in this, it was with my
14:07:47 4 if you're not going to do that --	14:09:08 4 counsel and my -- in preparation for it, I didn't
14:07:47 5 MR. CALAMARI: Why should I produce	14:09:12 5 negotiate directly in the transaction.
14:07:49 6 documents that I want use at a deposition	14:09:14 6 Q. But you knew about the report?
14:07:52 7 before a deposition. The only question is	14:09:16 7 A. I knew there was an expert report,
14:07:52 8 did you ask for this document from us? Is	14:09:18 8 I didn't know -- I was aware there was an expert
14:07:56 9 this a document that we should have produced	14:09:27 9 report. I had never seen it.
14:07:58 10 to you?	14:09:27 10 Q. You were aware that the purpose of
14:07:58 11 MR. ROSENBERG: Peter, I'm not going	14:09:27 11 the report was to support the \$8.5 billion
14:07:59 12 to argue with you.	14:09:28 12 settlement that you made with certain -- with Bank
14:07:59 13 MR. CALAMARI: I don't want to argue.	14:09:34 13 of New York on behalf of certain investors?
14:08:01 14 I going to ask my question. If you tell the	14:09:36 14 MR. ROSENBERG: Objection to the
14:08:02 15 witness not to answer I will take it to the	14:09:37 15 form.
14:08:04 16 judge.	14:09:37 16 A. I'm aware they that they filed
14:08:04 17 MR. ROSENBERG: I'm giving you notice	14:09:39 17 evidence to support the settlement. Any
14:08:05 18 that I am going to do that for future	14:09:44 18 particular part, I don't know about this report.
14:08:07 19 documents that don't have a Bates number. I	14:09:46 19 I know they filed things in support of the
14:08:08 20 will allow questioning on this.	14:09:48 20 settlement.
14:08:10 21 MR. CALAMARI: You can do whatever	14:09:50 21 Q. Did you have any reason to believe
14:08:11 22 you want. I only want to know one thing.	14:09:51 22 this report is inaccurate?
14:08:14 23 MR. ROSENBERG: I'm not asking for	14:09:53 23 MR. ROSENBERG: Objection to form.
14:08:15 24 permission, Peter.	14:09:53 24 No foundation.
14:08:16 25 MR. CALAMARI: I want know if you're	14:09:53 25 A. It is not a report -- I don't have

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:09:56 2 any reason to believe about anything that it says.	14:12:27 2 a comparable investment to any of the publicly
14:09:59 3 I didn't prepare it.	14:12:30 3 traded financial services firms that would be used
14:10:00 4 Q. So it could be inaccurate?	14:12:32 4 to develop market multiples."
14:10:03 5 MR. ROSENBERG: Objection to form.	14:12:36 5 It goes on to say Capstone is not
14:10:03 6 A. I didn't say that, sir.	14:12:38 6 aware of any plans for CFC to restart these
14:10:04 7 Q. Well, do you have any reason to	14:12:41 7 operations in any capacity or to participate in
14:10:05 8 believe that it is inaccurate?	14:12:44 8 any activities beyond the contractual obligations
14:10:06 9 MR. ROSENBERG: Objection, asked and	14:12:47 9 related to discontinued operations."
14:10:07 10 answered.	14:12:51 10 And then it goes on to say,
14:10:07 11 A. I think I answered your question.	14:12:52 11 "Similarly applying the income approach to CFC is
14:10:10 12 Q. You think you answered my question?	14:12:55 12 not possible due to a lack of cash flow projections
14:10:12 13 A. I answered your question.	14:12:59 13 because CFC has no operations that by themselves
14:10:18 14 Q. If you look at the last sentence on	14:13:02 14 are economically viable on a go forward basis the
14:10:19 15 page three of the report it says, "Based on	14:13:05 15 value of CFC's assets is best reflected in the
14:10:30 16 analysis performed by Capstone as described below,	14:13:09 16 fair market value in the financial and the real
14:10:32 17 it is our opinion that the value of the assets of	14:13:12 17 assets it owns." Do you see that?
14:10:35 18 CFC would enable a maximum recovery of no more	14:13:15 18 A. You just read the document, yes.
14:10:39 19 than 4.8 billion as of the valuation date	14:13:16 19 Q. Yes. Now, do you believe that what
14:10:43 20 excluding any liquidation costs required to	14:13:23 20 is said there is correct?
14:10:46 21 convert all loans, leases and other assets to	14:13:24 21 MR. ROSENBERG: Objection to form.
14:10:49 22 cash." Do you see that?	14:13:25 22 A. I didn't prepare the document.
14:10:50 23 A. You just read the statement, yes	14:13:26 23 Q. I didn't ask you if you prepared
14:10:53 24 Q. Do you see it on the page?	14:13:28 24 it. I asked you if you believe what is stated
14:10:55 25 A. I see it on the page.	14:13:30 25 there is correct?
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:10:56 2 Q. That is referring to Countrywide	14:13:31 2 A. I told you I didn't prepare the
14:10:58 3 Financial Corp., is it not?	14:13:32 3 document.
14:10:59 4 MR. ROSENBERG: Objection to the	14:13:32 4 Q. You have no opinion one way or the
14:11:00 5 form.	14:13:34 5 other?
14:11:00 6 A. It is referring to CFC.	14:13:34 6 A. I have no opinion.
14:11:01 7 Q. Yes, which is Countrywide Financial	14:13:35 7 Q. Are you aware of any facts that
14:11:03 8 Corp.?	14:13:36 8 would suggest that that is not correct?
14:11:03 9 A. That is what they define it as in	14:13:38 9 MR. ROSENBERG: Objection to form.
14:11:06 10 the report, yes.	14:13:38 10 A. I don't have any opinion. I didn't
14:11:06 11 Q. Do you have any reason to believe	14:13:39 11 prepare the document. I don't know -- it wasn't
14:11:07 12 that that conclusion is wrong?	14:13:42 12 prepared for -- I didn't prepare it.
14:11:08 13 MR. ROSENBERG: Objection to the	14:14:07 13 Q. This document was prepared with
14:11:09 14 form.	14:14:09 14 Bank Of America's approval, was it not?
14:11:09 15 A. I didn't prepare this analysis.	14:14:11 15 MR. ROSENBERG: Objection, no
14:11:11 16 You have to ask the people that prepared it.	14:14:11 16 foundation.
14:11:42 17 Q. Let me turn you attention to page	14:14:11 17 A. I have no idea.
14:11:44 18 seven of this report. You see the heading	14:14:31 18 Q. Turn to Exhibit A of the document
14:12:06 19 Selection Of Valuation Approach?	14:14:33 19 which it follows page 12.
14:12:08 20 A. Yes, I see the words on the page,	14:14:45 20 A. Yes.
14:12:10 21 yes, sir.	14:14:47 21 Q. Do you see that. You see a list of
14:12:10 22 Q. You see starting with second	14:14:50 22 documents considered by Capstone, and you see a
14:12:16 23 sentence in that paragraph it says, "As of the	14:14:56 23 list of, among other things, "Countrywide
14:12:19 24 valuation date, CFC does not originate, securitize	14:15:07 24 Financial Corporation selected consolidated
14:12:24 25 or service real estate loans, and therefore is not	14:15:08 25 financial information unaudited". And then it

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:15:12 2 gives a series of dates. There are about four of</p> <p>14:15:15 3 them?</p> <p>14:15:16 4 A. That is what the page says, yes,</p> <p>14:15:18 5 sir.</p> <p>14:15:18 6 Q. You see that?</p> <p>14:15:20 7 A. Yes.</p> <p>14:15:20 8 Q. Is there any way that Capstone</p> <p>14:15:22 9 could have acquired these documents without them</p> <p>14:15:24 10 coming from Bank Of America?</p> <p>14:15:25 11 MR. ROSENBERG: Objection to form.</p> <p>14:15:26 12 A. You have to talk to the counsel and</p> <p>14:15:29 13 stuff that worked on this case. I didn't have</p> <p>14:15:32 14 anything to do with it. I don't know how it</p> <p>14:15:34 15 worked.</p> <p>14:15:36 16 Q. If you look at page three again of</p> <p>14:15:42 17 the document, you see the sentence that, the</p> <p>14:15:58 18 second paragraph second sentence, "We prepared our</p> <p>14:16:01 19 analysis with access to the information contained</p> <p>14:16:03 20 in Exhibit A as well as information gathered from</p> <p>14:16:07 21 discussions with certain senior members of CFC</p> <p>14:16:10 22 management without independent verification." Do</p> <p>14:16:14 23 you see that?</p> <p>14:16:14 24 A. That is what the page says, yes,</p> <p>14:16:16 25 sir.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:17:09 2 authored it.</p> <p>14:17:10 3 Q. I'm asking you you can say no or</p> <p>14:17:12 4 yes.</p> <p>14:17:12 5 A. I have no opinion.</p> <p>14:17:16 6 Q. It is equally possible that this</p> <p>14:17:17 7 could be wrong as it is right, is your true?</p> <p>14:17:19 8 MR. ROSENBERG: Objection.</p> <p>14:17:21 9 A. I have no opinion.</p> <p>14:17:34 10 Q. As you sit here today you have no</p> <p>14:17:36 11 knowledge of what CFC as an entity is doing?</p> <p>14:17:39 12 MR. ROSENBERG: Objection.</p> <p>14:17:40 13 A. As I said before, we have people</p> <p>14:17:43 14 taking care what legal entities do and that is</p> <p>14:17:46 15 their job. My job is to run this company and that</p> <p>14:17:48 16 is not one of day-to-day tasks.</p> <p>14:17:53 17 Q. But you conduct earnings reviews,</p> <p>14:18:07 18 do you not?</p> <p>14:18:09 19 MR. ROSENBERG: Objection to form.</p> <p>14:18:10 20 A. I don't know what you're talking</p> <p>14:18:15 21 about. I don't know what you mean by that</p> <p>14:18:17 22 statement.</p> <p>14:18:17 23 Q. You get together with the press and</p> <p>14:18:21 24 discuss developments on earnings from time to time</p> <p>14:18:25 25 at Bank Of America?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:16:16 2 Q. How were they given access to</p> <p>14:16:20 3 senior members of CFC management?</p> <p>14:16:22 4 MR. ROSENBERG: Objection,</p> <p>14:16:22 5 foundation.</p> <p>14:16:22 6 A. Again you have to ask the people</p> <p>14:16:24 7 that worked on the case and they could tell you.</p> <p>14:16:27 8 I don't know. It wasn't my --</p> <p>14:16:29 9 Q. Could they get access to those</p> <p>14:16:39 10 members of management without B of A's permission?</p> <p>14:16:39 11 A. You have to ask the people that</p> <p>14:16:39 12 worked on them. They could tell you what</p> <p>14:16:39 13 happened. I didn't work on -- I didn't have</p> <p>14:16:40 14 anything to do with this.</p> <p>14:16:55 15 Q. So you have no basis to agree or</p> <p>14:16:58 16 disagree with anything in this report?</p> <p>14:17:00 17 MR. ROSENBERG: Objection to the</p> <p>14:17:00 18 form.</p> <p>14:17:00 19 A. I think I answered that before. I</p> <p>14:17:02 20 don't have any reason -- I didn't prepare the</p> <p>14:17:04 21 report. I don't have any basis to have an</p> <p>14:17:06 22 opinion.</p> <p>14:17:06 23 Q. You don't know whether it is right</p> <p>14:17:07 24 or whether it is wrong?</p> <p>14:17:08 25 A. You have to ask the people that</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:18:26 2 A. We do an earnings announcement,</p> <p>14:18:28 3 yes, once a quarter.</p> <p>14:18:29 4 Q. During those earnings announcements</p> <p>14:18:32 5 you have talked in great deal about reserves for</p> <p>14:18:34 6 representation and warranty liabilities; is that</p> <p>14:18:34 7 correct?</p> <p>14:18:38 8 A. We have -- we presented materials</p> <p>14:18:40 9 to the analysts about reserves that we have, yes.</p> <p>14:18:42 10 Q. And you spend a good deal of time</p> <p>14:18:45 11 on it; isn't that correct?</p> <p>14:18:46 12 MR. ROSENBERG: Objection to the</p> <p>14:18:47 13 form.</p> <p>14:18:47 14 A. My financial team spends a good</p> <p>14:18:50 15 deal of time on it, yes.</p> <p>14:18:51 16 Q. You actually make the presentations,</p> <p>14:18:53 17 don't you?</p> <p>14:18:53 18 A. No typically it is mostly the chief</p> <p>14:18:56 19 financial officer makes the presentation. I</p> <p>14:18:57 20 provide some color commentary for lack of a better</p> <p>14:19:00 21 term.</p> <p>14:19:01 22 Q. And you're there and you hear what</p> <p>14:19:03 23 he says?</p> <p>14:19:03 24 A. Yes.</p> <p>14:19:04 25 Q. And you listen to what he says?</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:19:05 2 A. Yes.	14:21:37 2 Q. You would combine the IT platforms?
14:19:05 3 Q. You don't ignore it?	14:21:40 3 MR. ROSENBERG: Objection to form.
14:19:06 4 A. I don't ignore it, no.	14:21:41 4 A. Among other things, yes.
14:19:08 5 Q. If he says something that is wrong,	14:21:42 5 Q. The workforce would not be one of
14:19:09 6 you would point it out?	14:21:44 6 those things?
14:19:10 7 MR. ROSENBERG: Objection to the	14:21:44 7 A. It potentially could be. Again you
14:19:11 8 form.	14:21:46 8 have to --
14:19:11 9 A. Again, if -- I don't know -- that	14:21:47 9 Q. You don't remember whether it was
14:19:14 10 is a theoretical question if he said something	14:21:48 10 or wasn't in this particular case?
14:19:18 11 that is wrong and it had be corrected, it would be	14:21:50 11 MR. ROSENBERG: Objection to the
14:19:21 12 corrected.	14:21:50 12 form.
14:19:51 13 Q. Were you aware as a result of your	14:21:50 13 A. We ultimately put the operations of
14:19:53 14 role on the steering committee that the goal of	14:21:53 14 the two companies together. The operations. How
14:19:57 15 the Countrywide acquisition was to combine the	14:21:54 15 we went to market and how we served clients.
14:20:01 16 businesses of Bank Of America and the businesses	14:22:20 16 MR. CALAMARI: Mark this as
14:20:04 17 of Countrywide?	14:22:22 17 Exhibit 3359.
14:20:06 18 MR. ROSENBERG: Objection to form.	14:22:22 18 (Exhibit 3359 for identification,
14:20:08 19 A. I mean, I'm not sure what the	14:22:36 19 Document Bates stamped BAC 71724.)
14:20:13 20 context of the question. The goal of the steering	14:22:36 20 Q. This is a fairly thick document,
14:20:16 21 committee was to the team was working on how to	14:22:50 21 I'm actually only going to ask questions about one
14:20:18 22 put the two operations of the companies together	14:22:53 22 or two pieces of it. But it starts with an e-mail
14:20:20 23 to go out and conduct our business. It was what	14:22:58 23 from George it looks like Salch dated Monday,
14:20:23 24 they presented. That is what we do in the	14:23:07 24 July 21st, 2008 and that in turn encloses several
14:20:24 25 transition process. That is how we run the	14:23:29 25 documents. Let me get to the one including a
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:20:26 2 transition process.	14:23:40 2 document that is a few tabs in entitled Bank Of
14:20:28 3 Q. And you wanted to combine the	14:23:46 3 America Countrywide Transition Execution Kickoff.
14:20:30 4 workforces?	14:23:51 4 And that Bates stamp is 71724. BAC I should say
14:20:32 5 MR. ROSENBERG: Objection to the	14:24:04 5 71724. Do you see that document?
14:20:33 6 form.	14:24:08 6 A. Yes.
14:20:33 7 A. It is not that anybody wanted to do	14:24:16 7 Q. Do you recognize this document?
14:20:36 8 anything. We let the teams do the work and the	14:24:16 8 A. I don't recall seeing this
14:20:38 9 results came out of that work.	14:24:18 9 document.
14:20:39 10 Q. That was the goal to combine the	14:24:21 10 Q. This was a document supplied to
14:20:40 11 workforces?	14:24:23 11 members of the steering committee; is that right?
14:20:41 12 MR. ROSENBERG: Objection, asked and	14:24:25 12 A. I'm not sure that it was. This may
14:20:42 13 answered.	14:24:34 13 be for the teams working on it as opposed to the
14:20:42 14 A. There is -- the work of the	14:24:34 14 steering committee just judging by the name of it.
14:20:46 15 steering committee is to have the teams do the	14:24:55 15 Q. Let me ask you to look at page,
14:20:48 16 work and then they present to you what they think	14:24:57 16 actually the e-mail -- let me ask you to look at
14:20:51 17 the best outcome to operate the company going	14:25:31 17 page Bates stamp 71718, so it is a few pages
14:20:54 18 forward.	14:25:38 18 earlier than what you're looking at, well it may
14:21:27 19 Q. Do you recall any effort to combine	14:25:40 19 be what you're looking at now?
14:21:28 20 the IT platforms?	14:25:42 20 A. You said to look at the e-mail.
14:21:31 21 MR. ROSENBERG: Objection to the	14:25:43 21 Q. Yes, 71718. The third page.
14:21:32 22 form.	14:25:47 22 A. Okay.
14:21:32 23 A. It would have been one of things	14:25:47 23 Q. You will see a statement then
14:21:35 24 that we looked at to figure out how to combine the	14:25:49 24 Communication To Change Execution Kickoff. You
14:21:37 25 operations of company.	14:26:06 25 will see that there is a sentence under the

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:26:08 2 heading "communication to change execution</p> <p>14:26:11 3 kickoff" second sentence it starts "The change</p> <p>14:26:14 4 execution kickoff meeting will introduce our</p> <p>14:26:17 5 execution teams to all details regarding</p> <p>14:26:21 6 structural and staffing alinement, in-depth</p> <p>14:26:24 7 overviews regarding execution plans along with all</p> <p>14:26:30 8 strategic direction for project management,</p> <p>14:26:31 9 project tracking and portfolio governance required</p> <p>14:26:34 10 for each initiative. These foundations will be</p> <p>14:26:38 11 the cornerstones to integrate", that is the</p> <p>14:26:40 12 sentence that what I want you focus on. "These</p> <p>14:26:42 13 foundations will be cornerstones to integrate all</p> <p>14:26:45 14 people, processes and technology pieces for a</p> <p>14:26:48 15 successful merger, along with introducing</p> <p>14:26:51 16 processes and procedures for hundreds of projects</p> <p>14:26:54 17 that need to be completed during the execution</p> <p>14:26:58 18 phase."</p> <p>14:26:58 19 Is that a fair statement of the</p> <p>14:27:00 20 function -- of the plan with regard to this</p> <p>14:27:02 21 merger?</p> <p>14:27:03 22 MR. ROSENBERG: Objection to the</p> <p>14:27:04 23 form.</p> <p>14:27:05 24 A. That is what this page says and</p> <p>14:27:09 25 that is what it says.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:28:00 2 yes.</p> <p>14:28:00 3 Q. That's right, and you wanted a</p> <p>14:28:02 4 profitable banking operation as well, right?</p> <p>14:28:05 5 A. We want to make a profit at Bank of</p> <p>14:28:07 6 America. We want to serve our customers well.</p> <p>14:28:08 7 And we want to provide returns to our shareholders</p> <p>14:28:11 8 and we want to manage risk well, and we want do to</p> <p>14:28:14 9 a lot of things.</p> <p>14:28:30 10 Q. I ask you to turn to 71716. Bates</p> <p>14:28:33 11 stamp 71716. Or 71877, sorry, 71877. Do you have</p> <p>14:29:36 12 that page? The top left-hand corner it says that</p> <p>14:29:59 13 "The overall goal" -- it says, "Goal, integrate</p> <p>14:30:20 14 CFC and BAC into a single entity in the minds of</p> <p>14:30:25 15 our associates, shareholders, customers, and key</p> <p>14:30:29 16 influencers." Do you see that sentence?</p> <p>14:30:31 17 A. Are we on the same -- I want to</p> <p>14:30:34 18 make sure that we are on the same page.</p> <p>14:30:36 19 Q. It starts with Bank Of America CFC</p> <p>14:30:38 20 execution kickoff is the title in the left-hand</p> <p>14:30:41 21 corner?</p> <p>14:30:41 22 A. In the right corner it stays</p> <p>14:30:42 23 marketing corporate affairs?</p> <p>14:30:42 24 Q. Yes.</p> <p>14:30:47 25 A. Okay, we are on the same page. So</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:27:09 2 Q. And do you have any reason to</p> <p>14:27:11 3 disagree with that?</p> <p>14:27:13 4 MR. ROSENBERG: Objection to form.</p> <p>14:27:13 5 A. Operationally we looked at teams to</p> <p>14:27:15 6 put the things together.</p> <p>14:27:17 7 Q. You wanted to put it together?</p> <p>14:27:18 8 MR. ROSENBERG: Objection to form.</p> <p>14:27:18 9 A. So it could operate, yes, sir.</p> <p>14:27:21 10 Q. Not just to operate, but you wanted</p> <p>14:27:23 11 it to operate efficiently?</p> <p>14:27:25 12 MR. ROSENBERG: Objection to the</p> <p>14:27:26 13 form.</p> <p>14:27:26 14 A. We operate the company, and this</p> <p>14:27:34 15 was to help with the operation, it is together and</p> <p>14:27:36 16 so it could go to market and have products and</p> <p>14:27:39 17 serve our customers. That is what I said before.</p> <p>14:27:41 18 Q. You want a profitable operation,</p> <p>14:27:43 19 didn't you?</p> <p>14:27:44 20 MR. ROSENBERG: Objection to form.</p> <p>14:27:45 21 A. I want a profitable Bank Of</p> <p>14:27:49 22 America. That's is no question.</p> <p>14:27:50 23 Q. And certainly you wanted a</p> <p>14:27:52 24 profitable mortgage operation?</p> <p>14:27:54 25 A. In parts that we have that today,</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:30:54 2 I don't have the question if there is a question.</p> <p>14:30:56 3 Q. Do you see that -- the only</p> <p>14:30:58 4 question is do you see that sentence?</p> <p>14:30:59 5 A. I see the sentence.</p> <p>14:30:59 6 Q. Does that reflect the goal of the</p> <p>14:31:02 7 combination as best you understand it?</p> <p>14:31:04 8 MR. ROSENBERG: Objection to form.</p> <p>14:31:06 9 A. That reflects the goal of the</p> <p>14:31:07 10 marketing corporate group's page. That is what</p> <p>14:31:10 11 they wrote on the page.</p> <p>14:31:11 12 Q. Is there any difference with regard</p> <p>14:31:13 13 to other aspects of the transaction?</p> <p>14:31:16 14 A. Our goal was to operate the company</p> <p>14:31:18 15 in the way that was beneficial to our customers,</p> <p>14:31:25 16 and shareholders.</p> <p>14:31:40 17 Q. What was your thinking with regard</p> <p>14:31:47 18 to creditors of Countrywide Financial Corporation?</p> <p>14:31:52 19 MR. ROSENBERG: Objection to the</p> <p>14:31:53 20 form.</p> <p>14:31:53 21 A. I don't understand the context of</p> <p>14:31:54 22 the question.</p> <p>14:31:57 23 MR. ROSENBERG: Do you have a time</p> <p>14:31:57 24 period on this question?</p> <p>14:31:59 25 MR. CALAMARI: No.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:32:01 2 Q. In putting the combined entities</p> <p>14:32:09 3 together, in putting the two entities together,</p> <p>14:32:14 4 what was your thinking with regard to what would</p> <p>14:32:16 5 happen to CFC creditors?</p> <p>14:32:18 6 MR. ROSENBERG: Objection to the</p> <p>14:32:20 7 form.</p> <p>14:32:20 8 A. I didn't -- you're asking me what</p> <p>14:32:22 9 those goals said. I said the goal was to combine</p> <p>14:32:25 10 the company operation. It is the goal of all</p> <p>14:32:28 11 integrations. In terms of the question that</p> <p>14:32:29 12 you're asking me I was not -- you have to talk to</p> <p>14:32:31 13 the people that worked on the transaction.</p> <p>14:32:32 14 Q. You didn't think about creditors?</p> <p>14:32:34 15 MR. ROSENBERG: Objection to the</p> <p>14:32:34 16 form.</p> <p>14:32:34 17 A. I think about creditors as the CEO</p> <p>14:32:37 18 of the company. But that was not the role that I</p> <p>14:32:39 19 was in at this time. I ran a different business.</p> <p>14:33:10 20 Q. In your role as the president of</p> <p>14:33:19 21 the Global Corporate And Investment Banking, was</p> <p>14:33:23 22 the Countrywide Securities operation going to be</p> <p>14:33:28 23 folded into that division?</p> <p>14:33:31 24 MR. ROSENBERG: Objection to form.</p> <p>14:33:32 25 A. The Countrywide Securities, they</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:35:10 2 in your capacity as a member of the steering</p> <p>14:35:11 3 committee?</p> <p>14:35:11 4 A. Yes, it would have been.</p> <p>14:35:12 5 Q. And if you turn to page 26 of the</p> <p>14:35:16 6 document, I will give you the Bates stamp. 61369.</p> <p>14:35:35 7 It is talking about the targeted environment</p> <p>14:35:38 8 executive summary and this is for capital markets.</p> <p>14:35:41 9 That was your area?</p> <p>14:35:44 10 A. Yes, that was one of the multiple</p> <p>14:35:48 11 areas that I had for the company.</p> <p>14:35:49 12 Q. And you will see on the left-hand</p> <p>14:36:07 13 side there are a couple of subheadings, one says</p> <p>14:36:11 14 Merged Businesses?</p> <p>14:36:14 15 A. I think it says Merged Business.</p> <p>14:36:16 16 Q. I'm sorry, merge business, you're</p> <p>14:36:18 17 correct. It says "CFC business wholly absorbed in</p> <p>14:36:21 18 parallel existing BAC business."</p> <p>14:36:23 19 A. Yes that is what it says.</p> <p>14:36:25 20 Q. And you will see a little further</p> <p>14:36:27 21 down it says Sunset Businesses?</p> <p>14:36:28 22 A. Yes.</p> <p>14:36:29 23 Q. And those are businesses that you</p> <p>14:36:30 24 were going to exit from?</p> <p>14:36:32 25 A. It says, "CFC businesses will</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:33:37 2 had a small business that was part of the</p> <p>14:33:40 3 discussion for the GCIB thing, a very small part</p> <p>14:33:45 4 of the company.</p> <p>14:33:46 5 Q. What was the plan with regard to</p> <p>14:33:48 6 that business?</p> <p>14:33:48 7 A. I think most of it got shut down</p> <p>14:33:55 8 ultimately. We already had a business engaged in</p> <p>14:33:55 9 that, we just shut it down, I think.</p> <p>14:33:55 10 Q. You shut it down?</p> <p>14:33:55 11 A. I don't recall specifically. I'm</p> <p>14:33:57 12 not sure, but it wasn't much to do with the</p> <p>14:33:59 13 transaction.</p> <p>14:33:59 14 Q. Did you merge any portions of it</p> <p>14:34:01 15 into Bank Of America?</p> <p>14:34:02 16 MR. ROSENBERG: Objection to form.</p> <p>14:34:03 17 A. I don't recall the structure of</p> <p>14:34:04 18 what happened, but basically it was a minor part</p> <p>14:34:06 19 of the matter.</p> <p>14:34:18 20 Q. This is previously marked as 2787.</p> <p>14:34:59 21 Do you recognize this document?</p> <p>14:35:00 22 A. Yes. I mean this is a steering</p> <p>14:35:04 23 committee presentation to Bank Of America</p> <p>14:35:07 24 Countrywide transition steering committee.</p> <p>14:35:08 25 Q. That is something that you received</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:36:43 2 transition into BAC only temporarily to be shut</p> <p>14:36:47 3 down or divested."</p> <p>14:36:53 4 Q. Now, does any of that refresh your</p> <p>14:36:56 5 recollection about what happened to Countrywide's</p> <p>14:37:00 6 securities business?</p> <p>14:37:03 7 A. That is what the team had put in</p> <p>14:37:06 8 and I assume that is what ultimately happened, yes</p> <p>14:37:08 9 Q. You don't remember?</p> <p>14:37:09 10 A. I don't recall. It was a very</p> <p>14:37:10 11 small part of this thing.</p> <p>14:37:16 12 Q. But you do believe that that is</p> <p>14:37:18 13 what ultimately happened, namely CFC's businesses</p> <p>14:37:21 14 disappeared?</p> <p>14:37:22 15 MR. ROSENBERG: Objection to form.</p> <p>14:37:23 16 A. I think it says some of the</p> <p>14:37:25 17 businesses operationally were put together and</p> <p>14:37:27 18 some were transitioned out. I think that</p> <p>14:37:29 19 ultimately happened depending on business. There</p> <p>14:37:32 20 is list of business.</p> <p>14:37:32 21 Q. None were left with CFC; is that</p> <p>14:37:34 22 right?</p> <p>14:37:34 23 MR. ROSENBERG: Objection to the</p> <p>14:37:35 24 form.</p> <p>14:37:35 25 A. That, I don't know. This is what</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:37:38 2 the document says.</p> <p>14:37:43 3 Q. You were in charge of the</p> <p>14:37:44 4 transition, at least as far as this issue was</p> <p>14:37:47 5 concerned?</p> <p>14:37:48 6 MR. ROSENBERG: Objection.</p> <p>14:37:49 7 A. No. Somebody reported to somebody</p> <p>14:37:52 8 that reported to me would have been the people</p> <p>14:37:53 9 working on this. This is very small part of what</p> <p>14:37:56 10 they did. I was on the steering committee, I was</p> <p>14:37:59 11 one of the direct reports, but it was not</p> <p>14:38:02 12 something that I was involved in day-to-day.</p> <p>14:38:29 13 Q. Do you recall if there were minutes</p> <p>14:38:30 14 of steering committee meetings?</p> <p>14:38:31 15 A. As I said before, I don't recall.</p> <p>14:38:40 16 Q. Is it fair to say that Bank Of</p> <p>14:38:46 17 America saw significant strategic value in the</p> <p>14:38:49 18 purchase of Countrywide?</p> <p>14:38:50 19 MR. ROSENBERG: Objection to form.</p> <p>14:38:54 20 A. I would say that our public records --</p> <p>14:38:56 21 our public statements when we bought the company</p> <p>14:38:58 22 speak for themselves in terms of what we were</p> <p>14:39:00 23 doing. I wasn't the CEO. I didn't make the</p> <p>14:39:05 24 decision -- you could find the public records.</p> <p>14:39:06 25 Q. What was your understanding?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:39:48 2 platform in the country, yes.</p> <p>14:39:49 3 Q. And you ended up with a terrific</p> <p>14:39:59 4 sales force?</p> <p>14:40:00 5 A. Yes, we did. Five percent market</p> <p>14:40:02 6 share retail, yes.</p> <p>14:40:03 7 Q. Did you believe that Countrywide</p> <p>14:40:04 8 had positioned Bank Of America in the mortgage</p> <p>14:40:06 9 business on an unprecedented scale?</p> <p>14:40:09 10 MR. ROSENBERG: Objection to form.</p> <p>14:40:10 11 A. I think you would have -- I would</p> <p>14:40:13 12 say that we -- I could tell you what we have today</p> <p>14:40:16 13 which is a very strong mortgage business.</p> <p>14:40:18 14 Q. Did you believe that Bank Of</p> <p>14:40:20 15 America acquired the best mortgage servicing</p> <p>14:40:21 16 platform in the country?</p> <p>14:40:23 17 MR. ROSENBERG: Objection to form.</p> <p>14:40:24 18 A. Again, we acquired another large</p> <p>14:40:28 19 servicer and we had a number one position and we</p> <p>14:40:31 20 have been working through it from there.</p> <p>14:40:41 21 Q. At least some of the value in this</p> <p>14:40:45 22 combined entity that was value obtained from</p> <p>14:40:49 23 Countrywide, was it not?</p> <p>14:40:50 24 MR. ROSENBERG: Objection to form.</p> <p>14:40:51 25 A. The value -- I don't know in what</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:39:08 2 A. It made us number one in the</p> <p>14:39:12 3 mortgage business which is a core product with</p> <p>14:39:15 4 consumers.</p> <p>14:39:15 5 Q. Would it be fair to say that the</p> <p>14:39:17 6 Countrywide acquisition positioned the bank in the</p> <p>14:39:19 7 mortgage business on a scale it had not previously</p> <p>14:39:22 8 achieved?</p> <p>14:39:23 9 MR. ROSENBERG: Objection to form.</p> <p>14:39:25 10 Foundation.</p> <p>14:39:25 11 A. That would be -- yes, we increased</p> <p>14:39:27 12 or market share. If that is what you mean.</p> <p>14:39:31 13 Q. Would it fair to say there have</p> <p>14:39:33 14 been losses and lawsuits but we are looking for.</p> <p>14:39:35 15 We acquired the best mortgage servicing platform</p> <p>14:39:38 16 in the country?</p> <p>14:39:39 17 MR. ROSENBERG: Objection to the</p> <p>14:39:40 18 form.</p> <p>14:39:40 19 A. I don't know. Is that a statement</p> <p>14:39:41 20 that I made? Is that what you're --</p> <p>14:39:42 21 Q. I'm just asking you if that is fair</p> <p>14:39:45 22 to say?</p> <p>14:39:45 23 MR. ROSENBERG: Objection to the</p> <p>14:39:45 24 form.</p> <p>14:39:45 25 A. We ended up with largest servicing</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>14:40:56 2 context you're asking the question. The value of</p> <p>14:40:58 3 the combined enterprise represents the operational</p> <p>14:41:01 4 benefits of having a larger capability. I don't</p> <p>14:41:06 5 know what else I could say.</p> <p>14:41:07 6 Q. It has a larger revenue generation</p> <p>14:41:07 7 capacity as of today?</p> <p>14:41:12 8 A. No, it actually generate less</p> <p>14:41:13 9 revenue now than it probably did.</p> <p>14:41:14 10 Q. Well, that is not the same</p> <p>14:41:16 11 question. What it actually generates is different</p> <p>14:41:23 12 from whether or not the combination has a larger</p> <p>14:41:23 13 capacity?</p> <p>14:41:23 14 MR. ROSENBERG: Objection.</p> <p>14:41:23 15 A. I'm not going to wordsmith would</p> <p>14:41:24 16 you. The answer is if you have revenue of X and</p> <p>14:41:27 17 revenue of Y and you add them together it would be</p> <p>14:41:29 18 bigger, yes.</p> <p>14:41:33 19 Q. Countrywide Bank, what was your</p> <p>14:41:35 20 understanding at the time of the transaction to</p> <p>14:41:39 21 acquire Countrywide Bank of the importance of</p> <p>14:41:42 22 Countrywide Bank's operation?</p> <p>14:41:44 23 A. I don't recall. I don't have an</p> <p>14:41:46 24 opinion about Countrywide Bank. It was part of</p> <p>14:41:48 25 the enterprise.</p>

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1	BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1	BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
14:41:49 2	Q. Do you recall that Countrywide Bank	15:01:58 2	has a clause that says contribution agreement. It
14:41:50 3	had one \$118 million -- \$118 billion in deposits?	15:02:01 3	says resolved.
14:41:57 4	A. I don't recall the exact figure,	15:02:02 4	Q. I could read it. Can you describe
14:41:58 5	no.	15:02:04 5	it in your own words?
14:41:58 6	Q. Do you recall that Countrywide Bank	15:02:05 6	A. It's an approval of the board of
14:42:00 7	essentially originated all loans at Countrywide?	15:02:08 7	these resolutions to authorize this transaction.
14:42:03 8	A. I don't recall that, no.	15:02:11 8	Q. What is the nature of the
14:42:17 9	THE WITNESS: Do you want to take	15:02:12 9	transaction?
14:42:19 10	break here?	15:02:13 10	MR. ROSENBERG: Objection to the
14:42:20 11	MR. CALAMARI: Sure.	15:02:13 11	form.
14:42:20 12	THE VIDEOGRAPHER: We are off the	15:02:13 12	A. The approval of the contribution of
14:42:22 13	record, the time is 2:41 p.m.	15:02:16 13	securities and the approval of the contribution
14:42:28 14	(Recess taken.)	15:02:17 14	agreement.
14:59:56 15	THE VIDEOGRAPHER: We are back on the	15:02:19 15	Q. You have no knowledge of this
14:59:58 16	record the time is 2:59 p.m. and this is	15:02:20 16	transaction outside what you're reading here?
15:00:04 17	going to be the start of tape number two.	15:02:23 17	MR. ROSENBERG: Objection to the
15:00:08 18	BY MR. CALAMARI:	15:02:23 18	form.
15:00:08 19	Q. I will give you an exhibit,	15:02:23 19	A. It was a resolution authorizing the
15:00:36 20	previously marked as 3126.	15:02:27 20	contribution of securities. As a board we had
15:00:54 21	(Witness reviewing document.)	15:02:31 21	management team that did the work and it was
15:00:54 22	Q. I have handed you what has been	15:02:33 22	recommended by them to do it. It was a transfer
15:00:57 23	previously marked as Exhibit 3126 and it's a Bank	15:02:36 23	between the bank, the contribution by the bank of
15:01:04 24	Of America National Association Action By	15:02:39 24	the securities. In terms exactly of which
15:01:06 25	Unanimous Written Consent Of Directors In Lieu Of	15:02:41 25	securities I have to go back and check the record.
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1	BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1	BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
15:01:09 2	Meeting Of Directors. Do you see that?	15:02:46 2	I don't know.
15:01:10 3	A. Yes.	15:02:46 3	Q. This is dated July 1st, 2008, do
15:01:12 4	Q. And that is your signature on the	15:02:49 4	you recall this as being part of series transfers
15:01:14 5	document?	15:02:52 5	that occurred on that date?
15:01:14 6	A. Yes.	15:02:53 6	A. It very well could have been.
15:01:15 7	Q. And it is dated July 1st, 2008?	15:02:56 7	Q. But you don't recall?
15:01:17 8	A. Yes.	15:02:57 8	A. I don't recall the specific
15:01:19 9	Q. Tell me, what was this document	15:03:00 9	elements of it.
15:01:23 10	executed in connection with?	15:03:00 10	Q. Do you recall that this was an
15:01:24 11	A. It was an approval by the board of	15:03:02 11	asset transfer from Countrywide Financial to BANA?
15:01:29 12	directors an action of BANA.	15:03:06 12	MR. ROSENBERG: Objection to the
15:01:30 13	Q. What was that action?	15:03:07 13	form.
15:01:31 14	A. You can see in annex A it was the	15:03:07 14	A. I recall, but the transactions went
15:01:37 15	resolutions, approve the resolutions.	15:03:10 15	through and this is one of them. I have to look
15:01:39 16	Q. What did those resolutions	15:03:13 16	at the resolutions again to remember what the
15:01:43 17	accomplish?	15:03:14 17	transactions were.
15:01:43 18	A. There is a contribution of	15:03:15 18	Q. Do you recall having any
15:01:43 19	securities it says, "Resolved, that the	15:03:19 19	conversations or conferences about the
15:01:45 20	contribution by the company of the bank of the	15:03:21 20	transactions?
15:01:46 21	securities is defined in certain contribution	15:03:22 21	MR. ROSENBERG: Objection to the
15:01:49 22	agreement dated July 2nd, 2008 by and between the	15:03:23 22	form.
15:01:52 23	company and the bank. The contribution agreement	15:03:24 23	A. I don't recall any, no.
15:01:53 24	has a volunteering and unconditional addition to	15:03:25 24	Q. Do you recall whether there was any
15:01:55 25	paid in capital is hereby approved." And then it	15:03:28 25	assessment of the impact of these transfers on

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
15:03:32 2 Countrywide's capital condition?	15:05:07 2 MR. ROSENBERG: Objection to the
15:03:35 3 MR. ROSENBERG: What transfers, Peter	15:05:08 3 form.
15:03:36 4 are you talking about?	15:05:08 4 A. I don't recall.
15:03:37 5 MR. CALAMARI: The transfers --	15:05:08 5 Q. You know that now, though?
15:03:39 6 A. On this exhibit?	15:05:11 6 MR. ROSENBERG: Objection to the
15:03:39 7 Q. Yes.	15:05:12 7 form.
15:03:41 8 A. I don't recall that. I don't	15:05:12 8 A. I know there is -- there is
15:03:44 9 recall any of that.	15:05:19 9 representations and warranties and liabilities for
15:03:45 10 Q. Do you recall whether or not there	15:05:19 10 our company, yes, we had to approve reserves and
15:03:46 11 was any assessment of the impact of the transfers	15:05:19 11 things, yes.
15:03:48 12 on Countrywide's creditors?	15:05:19 12 Q. When you say for our company, you
15:03:50 13 A. I didn't make it, I don't recall	15:05:22 13 mean for Bank Of America?
15:03:51 14 whether there was one. You would have to ask the	15:05:23 14 MR. ROSENBERG: Objection to form.
15:03:54 15 people who work on the financial side of the	15:05:24 15 A. For Bank Of America.
15:03:56 16 transaction.	15:05:27 16 Q. Those include rep and warranty
15:03:57 17 Q. Who were those people?	15:05:30 17 liabilities of Countrywide?
15:03:58 18 A. Joe Price the CFO and his team.	15:05:31 18 MR. HOLLAND: Objection.
15:04:01 19 Q. Joe Price would know this?	15:05:31 19 MR. ROSENBERG: Objection to form.
15:04:02 20 MR. ROSENBERG: Objection to form.	15:05:34 20 A. They include reserves for
15:04:03 21 A. I don't know if he would know it	15:05:38 21 representation and warranties of legacy
15:04:04 22 but he was the -- he handled the finances of	15:05:41 22 Countrywide, yes.
15:04:06 23 company.	15:05:42 23 Q. But those reserves are held at Bank
15:04:07 24 Q. You just signed it based on a	15:05:45 24 Of America; is that right?
15:04:09 25 recommendation?	15:05:45 25 MR. ROSENBERG: Objection to form.
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
15:04:10 2 MR. ROSENBERG: Objection to the	15:05:46 2 A. The exact legal entity booking, you
15:04:11 3 form.	15:05:49 3 have to get somebody. Again, we run the company
15:04:11 4 A. As a director we have a process and	15:05:51 4 from the top not from the legal entity basis.
15:04:13 5 we are approving the process and transfer. That	15:05:56 5 Q. Do you recall receiving any
15:04:16 6 is what we were asked to do.	15:05:58 6 independent asset valuation in connection with
15:04:17 7 Q. Did do any personal investigation?	15:06:01 7 this transaction?
15:04:19 8 MR. ROSENBERG: Objection to the	15:06:01 8 A. I don't recall.
15:04:20 9 form.	15:06:03 9 MR. ROSENBERG: Objection to the
15:04:20 10 A. I didn't do a personal	15:06:03 10 form.
15:04:21 11 investigation other than the transaction what was	15:06:03 11 Q. Do you recall receiving any
15:04:25 12 described in the minutes. What it says here.	15:06:09 12 fairness opinion in connection with this
15:04:30 13 Q. Were there any negotiations, to	15:06:11 13 transaction?
15:04:42 14 your knowledge, with anybody at Countrywide?	15:06:11 14 MR. ROSENBERG: Objection to the
15:04:44 15 MR. ROSENBERG: Objection to form.	15:06:12 15 form.
15:04:45 16 A. I'm not aware of any.	15:06:12 16 A. I don't recall receiving it.
15:04:47 17 Q. You did know at the time of this	15:06:17 17 Q. Would you have expected an analysis
15:04:52 18 transaction that Countrywide had creditors, did	15:06:20 18 of that sort to have been performed in connection
15:04:54 19 you not?	15:06:23 19 with the transaction?
15:04:55 20 MR. ROSENBERG: Objection to form.	15:06:23 20 MR. ROSENBERG: Objection to form.
15:04:56 21 A. I don't recall specifically, but	15:06:25 21 A. I'm not sure I would have expected
15:04:58 22 they probably would have had creditors. I don't	15:06:27 22 it, but I don't recall one being done. You have
15:05:00 23 recall exactly.	15:06:29 23 to talk to people in the finance team that worked
15:05:01 24 Q. Did you recall if they had rep and	15:06:31 24 on the transaction.
15:05:04 25 warranty liabilities?	15:06:32 25 Q. Let me ask you to go to the next

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:06:37 2 exhibit which is -- let me ask you to turn to page</p> <p>15:07:34 3 39 of this exhibit. Let me ask you to look at</p> <p>15:07:44 4 what has previously been marked as Exhibit 3117</p> <p>15:07:55 5 which starts off with an e-mail from Joe Price to</p> <p>15:08:00 6 David Belk, and encloses an e-mail from</p> <p>15:08:07 7 Countrywide TPO, it looks like to several people</p> <p>15:08:14 8 including you. And it attaches several documents</p> <p>15:08:23 9 one of which is at Bates stamp page 6468 called</p> <p>15:08:35 10 BAC Countrywide transition Tollgate One Current</p> <p>15:08:38 11 Environment. Dated March 14th, 2008. Do you have</p> <p>15:08:42 12 that document?</p> <p>15:08:46 13 A. Yes.</p> <p>15:08:47 14 Q. Can you turn to page 39 of the</p> <p>15:08:52 15 document?</p> <p>15:08:52 16 A. 39.</p> <p>15:08:54 17 Q. 39 of the document.</p> <p>15:08:55 18 MR. ROSENBERG: Are you using Bates</p> <p>15:08:57 19 numbers?</p> <p>15:08:57 20 MR. CALAMARI: I will give you the</p> <p>15:08:58 21 Bates number. But it is easier to see the</p> <p>15:09:00 22 regular numbers and the Bates number is 6506.</p> <p>15:09:04 23 Q. Are you on that page?</p> <p>15:09:11 24 A. Yes.</p> <p>15:09:11 25 Q. Would you like a magnifying glass?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:10:42 2 see that?</p> <p>15:10:42 3 A. I could see where you are, yes.</p> <p>15:10:43 4 Q. And I don't know if I could read</p> <p>15:10:46 5 that, after that.</p> <p>15:10:49 6 MR. ROSENBERG: Where are you, Peter?</p> <p>15:10:51 7 THE WITNESS: I think he is in this</p> <p>15:10:53 8 block right there.</p> <p>15:10:59 9 MS. BEA: The requirement description</p> <p>15:11:01 10 reads, "Assess the capital adequacy and</p> <p>15:11:04 11 liquidity level for each CFC legal entity</p> <p>15:11:09 12 (Countrywide Financial Corp, Countrywide Home</p> <p>15:11:12 13 Loans, Countrywide Securities Corp.,</p> <p>15:11:13 14 Countrywide Bank and Balboa Insurance) that</p> <p>15:11:17 15 will exist after Legal Day One and insure</p> <p>15:11:21 16 adequate capital levels."</p> <p>15:11:23 17 Q. Do you see that?</p> <p>15:11:24 18 A. That is what the document says, at</p> <p>15:11:26 19 least as best I could tell.</p> <p>15:11:29 20 Q. Do you know if that happened?</p> <p>15:11:41 21 MR. ROSENBERG: Objection to form.</p> <p>15:11:43 22 A. I don't recall specifically if it</p> <p>15:11:45 23 happen, it was assigned to the CFO group, so, I</p> <p>15:11:48 24 assume it happened. Or, but I don't know.</p> <p>15:11:50 25 Q. You don't know one way or the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:09:13 2 A. I think I could read it.</p> <p>15:09:15 3 Q. You're much better than me. You</p> <p>15:09:17 4 see an entry that -- see a chart, list of all LD</p> <p>15:09:23 5 One critical requirements, what was LD One?</p> <p>15:09:25 6 A. Legal Day One. It says it in the</p> <p>15:09:28 7 top right corner.</p> <p>15:09:29 8 Q. That was -- yes, you're correct.</p> <p>15:09:31 9 That was the day at which the closing would occur</p> <p>15:09:36 10 of the --</p> <p>15:09:36 11 A. Typically that is what it</p> <p>15:09:38 12 described, yes.</p> <p>15:09:39 13 Q. And you will see a series of</p> <p>15:09:41 14 columns. One of the columns is listed, I'm not</p> <p>15:09:50 15 sure that I could read it even with the magnifying</p> <p>15:09:53 16 glass. Renee can you read this one? CR Ref</p> <p>15:10:00 17 number.</p> <p>15:10:04 18 A. I think I know which column you're</p> <p>15:10:06 19 talking about.</p> <p>15:10:06 20 Q. And then the second column is --</p> <p>15:10:14 21 Renee you will have to read them. Read them and I</p> <p>15:10:17 22 will repeat it. Submitting team and the third</p> <p>15:10:22 23 column, prioritization. And if you come down to</p> <p>15:10:26 24 the third one from the bottom, you will notice</p> <p>15:10:30 25 it's CR 21 and it is listed as critical. Do you</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:11:52 2 other?</p> <p>15:11:52 3 A. It was a task assigned to the CFO</p> <p>15:11:56 4 group. So, I think they would know. I assume it</p> <p>15:11:58 5 did.</p> <p>15:11:58 6 Q. In your role as a member of the</p> <p>15:12:00 7 steering committee did you ever see an analysis of</p> <p>15:12:01 8 that sort?</p> <p>15:12:02 9 A. As I said before, I don't recall</p> <p>15:12:03 10 seeing an analysis.</p> <p>15:12:04 11 Q. As of Legal Day One, did you know</p> <p>15:12:12 12 anything about the capital adequacy of</p> <p>15:12:15 13 Countrywide?</p> <p>15:12:15 14 MR. ROSENBERG: Objection to form.</p> <p>15:12:16 15 A. Again, I don't recall seeing</p> <p>15:12:18 16 anything.</p> <p>15:12:50 17 Q. In connection with this</p> <p>15:12:51 18 transaction, did you have a plan to strip all of</p> <p>15:12:55 19 the assets of Countrywide and leave the creditors</p> <p>15:13:00 20 of Countrywide holding the bag?</p> <p>15:13:02 21 MR. ROSENBERG: Objection to form.</p> <p>15:13:03 22 A. Sir, I didn't -- we had -- I'm not</p> <p>15:13:09 23 aware of any plan to do anything like that. So</p> <p>15:13:11 24 you would have to talk to -- I just have no</p> <p>15:13:14 25 knowledge of that.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:13:14 2 Q. You never heard of anything like</p> <p>15:13:16 3 that?</p> <p>15:13:16 4 A. I never heard it.</p> <p>15:13:23 5 Q. Is it correct that in or about</p> <p>15:13:25 6 February, 2012 Bank Of America announced that it</p> <p>15:13:29 7 would pay one billion to settle claims that</p> <p>15:13:31 8 Countrywide defrauded the FHA by making loans to</p> <p>15:13:35 9 unqualified buyers?</p> <p>15:13:36 10 MR. ROSENBERG: Objection to form.</p> <p>15:13:38 11 MR. HOLLAND: Objection.</p> <p>15:13:39 12 A. I'm not sure that that -- the</p> <p>15:13:40 13 settlement -- I'm not sure what you're referring</p> <p>15:13:48 14 to, sir. Are you referring to FHA settlement?</p> <p>15:13:48 15 Q. Yes, I am.</p> <p>15:13:48 16 A. We settled with the FHA. The</p> <p>15:13:51 17 document are public.</p> <p>15:13:54 18 Q. You don't know why you settled with</p> <p>15:13:56 19 the FHA?</p> <p>15:13:57 20 A. We settled a bunch of claims</p> <p>15:13:59 21 regarding the origination practices of all the</p> <p>15:14:03 22 entities and the servicing practice.</p> <p>15:14:07 23 Q. The bulk of that was for</p> <p>15:14:09 24 Countrywide?</p> <p>15:14:09 25 MR. ROSENBERG: Objection to form.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:15:11 2 A. I'm not sure that I agree to your</p> <p>15:15:14 3 characterization, but it had a loan modification</p> <p>15:15:17 4 program.</p> <p>15:15:17 5 Q. And that money was paid by Bank Of</p> <p>15:15:19 6 America; is that right?</p> <p>15:15:20 7 MR. ROSENBERG: Objection to form.</p> <p>15:15:21 8 A. I could speak for Bank Of America.</p> <p>15:15:23 9 We settled the case. The legal entities that made</p> <p>15:15:26 10 distributions of cash you would have to get the</p> <p>15:15:27 11 people to go through the debits and credits.</p> <p>15:15:31 12 Q. Did Countrywide have money to make</p> <p>15:15:35 13 a payment like that?</p> <p>15:15:36 14 MR. ROSENBERG: Objection to form.</p> <p>15:15:36 15 A. I'm not -- again, I'm talking about</p> <p>15:15:39 16 Bank Of America settled. You asked the question</p> <p>15:15:41 17 and you asked how we distributed cash. And the</p> <p>15:15:44 18 other entities, you have to talk the people that</p> <p>15:15:45 19 work on the accounting for it.</p> <p>15:15:46 20 Q. You don't know?</p> <p>15:15:47 21 A. I wouldn't --</p> <p>15:15:48 22 Q. Nobody ever talked to you about it?</p> <p>15:15:49 23 A. They wouldn't have -- it is not my</p> <p>15:15:53 24 responsibility in a sense. It is the job of the</p> <p>15:15:54 25 CFO and people working for the CFO.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:14:10 2 A. I'm not sure that I understand, the</p> <p>15:14:13 3 word bulk of, but it was for Bank Of America and</p> <p>15:14:16 4 its entities settled.</p> <p>15:14:24 5 Q. Let me see if I understand, you</p> <p>15:14:26 6 settled the claims with the FHA, what was your</p> <p>15:14:31 7 understanding of what those claims were?</p> <p>15:14:35 8 A. There is claims regarding</p> <p>15:14:36 9 origination and servicing activities of the</p> <p>15:14:38 10 company.</p> <p>15:14:40 11 Q. And that is the combined company?</p> <p>15:14:41 12 MR. ROSENBERG: Objection.</p> <p>15:14:43 13 A. Depends on the timeframe. Some of</p> <p>15:14:45 14 them are before we owned Countrywide some of them</p> <p>15:14:47 15 were after. Some were the servicing elements. It</p> <p>15:14:50 16 was a Bank Of America settlement for all of its</p> <p>15:14:52 17 entities.</p> <p>15:14:53 18 Q. Bank Of America of settlement for</p> <p>15:14:56 19 all of its entities. The settlement contemplated</p> <p>15:14:58 20 a payment of cash of \$500 million?</p> <p>15:15:02 21 A. In terms of settlement it</p> <p>15:15:05 22 contemplated a payment of cash and rights to earn</p> <p>15:15:07 23 other payments, yes.</p> <p>15:15:07 24 Q. A loan modification program worth</p> <p>15:15:10 25 \$500 million?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:15:57 2 Q. Who is going to administer the loan</p> <p>15:16:01 3 modification program?</p> <p>15:16:01 4 A. The team that works on the legacy</p> <p>15:16:04 5 asset servicing.</p> <p>15:16:05 6 Q. The servicing group?</p> <p>15:16:05 7 A. Yes.</p> <p>15:16:05 8 Q. Is that correct?</p> <p>15:16:07 9 A. Yes.</p> <p>15:16:07 10 Q. And that's the service group that</p> <p>15:16:08 11 is run under the, what is the name of entity, well</p> <p>15:16:13 12 what is the entity that that servicing group</p> <p>15:16:15 13 works?</p> <p>15:16:15 14 A. Legacy Asset And Servicing.</p> <p>15:16:17 15 Q. Did CFC have reserves to cover that</p> <p>15:16:30 16 payment?</p> <p>15:16:30 17 MR. ROSENBERG: Objection to the</p> <p>15:16:30 18 form.</p> <p>15:16:30 19 A. Again, we could get the people that</p> <p>15:16:34 20 worked on that. Bank Of America had the cash and</p> <p>15:16:37 21 we made the payment and settled the case.</p> <p>15:16:41 22 Q. All you know is Bank Of America</p> <p>15:16:42 23 made the payment; is that right?</p> <p>15:16:43 24 MR. ROSENBERG: Objection to the</p> <p>15:16:44 25 form.</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
15:16:44 2 A. I know that our company made the	15:18:27 2 We could get somebody.
15:16:46 3 payment. Somewhere in the legal entities, again,	15:18:28 3 Q. When you say you're not going to
15:16:49 4 it is not something that I track down the specific	15:18:32 4 venture a guess, you have to understand
15:16:51 5 legal entity.	15:18:32 5 whatsoever?
15:16:55 6 Q. Did Bank Of America vigorously	15:18:34 6 A. I don't have an understanding.
15:16:57 7 contest the claim before it settled?	15:18:34 7 Q. And you have no basis for making an
15:16:58 8 MR. ROSENBERG: Objection to the	15:18:36 8 estimate?
15:16:59 9 form.	15:18:36 9 MR. ROSENBERG: Objection to form.
15:16:59 10 A. Of course we did, yes.	15:18:37 10 A. I could ask somebody to make an
15:17:06 11 Q. But you eventually paid it; isn't	15:18:39 11 estimate. Somebody may have made an estimate. I
15:17:10 12 that right?	15:18:43 12 run a company 280,000 people 50 million customers
15:17:10 13 MR. ROSENBERG: Objection to form.	15:18:46 13 and this is not my job to figure out the legal
15:17:11 14 A. We settled the case.	15:18:49 14 entity accounting four levels deep in this
15:17:12 15 Q. And you felt that settlement was in	15:18:51 15 company.
15:17:19 16 the best interests of your shareholders?	15:18:51 16 Q. I'm not asking for legal entity
15:17:20 17 A. Yes, we did.	15:18:52 17 accounting, but if you settle a claim for a
15:17:21 18 Q. And that was even though the	15:18:54 18 billion dollars I would think that you would know
15:17:24 19 liability itself was a legacy Countrywide	15:18:55 19 where the potential liability came from.
15:17:27 20 liability?	15:18:58 20 MR. ROSENBERG: Is that a question or
15:17:28 21 MR. HOLLAND: Objection.	15:18:59 21 a statement?
15:17:29 22 MR. ROSENBERG: Objection to the	15:19:00 22 MR. CALAMARI: It's a question.
15:17:30 23 form.	15:19:01 23 MR. ROSENBERG: Objection to the
15:17:30 24 A. Again, the liabilities came from	15:19:01 24 form.
15:17:32 25 different parts of the companies. We could have	15:19:11 25 A. We settled on behalf of Bank Of
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
15:17:35 2 somebody take you through all different places.	15:19:11 2 America and the related entities. All its
15:17:36 3 Q. Why don't you tell me what your	15:19:11 3 related entities.
15:17:37 4 understanding was?	15:19:11 4 Q. And you don't know where the
15:17:38 5 A. It goes to legacy Countrywide	15:19:11 5 underlying liability came from?
15:17:41 6 origination activities and servicing activities of	15:19:11 6 MR. ROSENBERG: Objection, asked and
15:17:45 7 all the enterprises and origination. So it's a	15:19:12 7 answered.
15:17:47 8 broader settlement than legacy Countrywide only.	15:19:12 8 A. I don't recall specific percentages
15:17:57 9 It is not a mystery. We could go get the papers	15:19:15 9 and things that you're asking about.
15:17:59 10 and hand them to you. It is public record.	15:19:37 10 Q. Is it also correct that on or about
15:18:00 11 Q. I would love to see the papers if	15:19:40 11 June 11th -- well, I'm sorry. Is it also correct
15:18:02 12 you handed it to me, but I don't think your lawyer	15:19:45 12 that on or about December, 2011 Bank Of America
15:18:04 13 will hand us any papers. They haven't handed us	15:19:50 13 announced that it would pay 335 million to settle
15:18:09 14 much of anything?	15:19:52 14 a lawsuit alleging Countrywide engaged in
15:18:09 15 MR. ROSENBERG: Move to strike the	15:19:54 15 discriminatory lending practices?
15:18:13 16 gratuitous obnoxious remarks.	15:19:56 16 MR. ROSENBERG: Objection to the
15:18:13 17 A. It's approved court approved	15:19:57 17 form.
15:18:14 18 settlement. The court in DC I don't think --	15:19:57 18 A. We settled a claim, but I -- the
15:18:15 19 Q. I'm coming back to how much of that	15:20:04 19 exact claims and stuff we could, again, it's a
15:18:17 20 liability, what percent of the liability was	15:20:06 20 public settlement, we could get you the papers.
15:18:19 21 attributable to legacy Countrywide activities?	15:20:08 21 Q. What was your understanding of what
15:18:22 22 A. I don't have specific knowledge of	15:20:09 22 the claim was?
15:18:23 23 what percent.	15:20:10 23 A. It was a settlement of a fair
15:18:24 24 Q. Was it 70 or 80 percent?	15:20:11 24 lending claim.
15:18:26 25 A. I'm not going to venture a guess.	15:20:12 25 Q. And do you know what the underlying

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:20:16 2 allegation was?</p> <p>15:20:18 3 A. I don't know what the underlying</p> <p>15:20:20 4 allegation technically was, no. It was -- it was</p> <p>15:20:24 5 a claim for -- it had a fair lending issue and we</p> <p>15:20:28 6 settled with the appropriate authorities.</p> <p>15:20:32 7 Q. Does the claim that Countrywide was</p> <p>15:20:36 8 charging higher fees to minorities ring a bell?</p> <p>15:20:40 9 MR. ROSENBERG: Objection to the</p> <p>15:20:41 10 form.</p> <p>15:20:41 11 A. Again, we will get you the papers</p> <p>15:20:43 12 and give it to you. I'm not going to sit here and</p> <p>15:20:45 13 speculate about what the terms of the settlement.</p> <p>15:20:47 14 Q. I'm not asking you to speculate.</p> <p>15:20:48 15 You have absolutely no memory whatsoever you can</p> <p>15:20:51 16 tell me?</p> <p>15:20:52 17 MR. ROSENBERG: Objection to the</p> <p>15:20:52 18 form.</p> <p>15:20:52 19 A. I don't recall exactly the claims.</p> <p>15:20:54 20 Q. I don't care if you don't recall</p> <p>15:20:58 21 exactly. Do you have any recollection whatsoever?</p> <p>15:20:59 22 A. I don't recall the specific claims,</p> <p>15:21:00 23 no.</p> <p>15:21:02 24 Q. See if you recall this one. On or</p> <p>15:21:06 25 about June 11th, did you agree in principle to</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:21:51 2 A. The claims were a series of claims</p> <p>15:21:55 3 about representation and warranties about</p> <p>15:21:59 4 servicing.</p> <p>15:22:00 5 Q. In other words claims that</p> <p>15:22:02 6 Countrywide had failed to honor repurchase and</p> <p>15:22:05 7 warranty obligations?</p> <p>15:22:07 8 MR. ROSENBERG: Objection to the</p> <p>15:22:07 9 form.</p> <p>15:22:07 10 MR. HOLLAND: Objection.</p> <p>15:22:09 11 A. I'm not sure that -- there were</p> <p>15:22:12 12 claims about obligations to buy back loans and</p> <p>15:22:15 13 claims about how loans were serviced, and I'm sure</p> <p>15:22:18 14 other claims too. But those are the big ones.</p> <p>15:22:21 15 Q. How big were the claims?</p> <p>15:22:23 16 A. We settled them for \$8 1/2 billion.</p> <p>15:22:26 17 Q. Do you know what the actual value</p> <p>15:22:28 18 of the claims were?</p> <p>15:22:28 19 A. \$8 1/2 billion we had --</p> <p>15:22:30 20 Q. That is the settlement value.</p> <p>15:22:35 21 A. That is the settlement.</p> <p>15:22:36 22 Q. Were the claims for in excess that</p> <p>15:22:37 23 amount. In other words did you settle for lower</p> <p>15:22:38 24 than face of the claims?</p> <p>15:22:40 25 A. We settled for \$8 1/2 billion.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:21:08 2 settle \$8.5 billion to resolve Countrywide</p> <p>15:21:13 3 mortgage repurchase and servicing claims?</p> <p>15:21:15 4 MR. ROSENBERG: Objection to form.</p> <p>15:21:16 5 A. We settled with Bank of New York</p> <p>15:21:19 6 and -- actually, we agreed to settle with Bank of</p> <p>15:21:22 7 New York and the various parties to that</p> <p>15:21:24 8 agreement.</p> <p>15:21:25 9 Q. And that was for \$8.5 billion.</p> <p>15:21:27 10 A. Correct it was, yes, sir.</p> <p>15:21:30 11 Q. Did you work on that settlement.</p> <p>15:21:31 12 A. Again, I had teams that worked on</p> <p>15:21:32 13 it, yes.</p> <p>15:21:33 14 Q. And they reported to you?</p> <p>15:21:34 15 A. Some of the people report to me and</p> <p>15:21:36 16 some people report to those people that worked on</p> <p>15:21:38 17 it.</p> <p>15:21:38 18 Q. And you kept apprised of the</p> <p>15:21:39 19 progress of the settlement discussion?</p> <p>15:21:41 20 A. Yes.</p> <p>15:21:41 21 Q. And what was the nature the claims</p> <p>15:21:44 22 being settled there?</p> <p>15:21:45 23 A. The claims were around the private</p> <p>15:21:47 24 label securitization trusts of Countrywide.</p> <p>15:21:50 25 Q. What were the claims?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:22:42 2 Q. You don't know if that was lower</p> <p>15:22:43 3 than the face amount of the claims or that was</p> <p>15:22:46 4 exactly the face amount of the claim?</p> <p>15:22:48 5 A. I don't know what you mean by a</p> <p>15:22:49 6 claim.</p> <p>15:22:50 7 Q. What was the exposure of Bank Of</p> <p>15:22:53 8 America with regard to that --</p> <p>15:22:55 9 A. That was the debate, sir.</p> <p>15:22:58 10 Q. Well, I understand that that was</p> <p>15:23:00 11 the debate. What did you regard the exposure as</p> <p>15:23:02 12 being?</p> <p>15:23:03 13 A. We regarded \$8 1/2 billion to be a</p> <p>15:23:05 14 fair settlement for our shareholders.</p> <p>15:23:07 15 Q. I heard that, I asked you what was</p> <p>15:23:10 16 the overall value of the size --</p> <p>15:23:13 17 A. \$8 1/2 billion.</p> <p>15:23:14 18 MR. ROSENBERG: I'm going to --</p> <p>15:23:16 19 A. \$8 1/2 billion that answers, sir.</p> <p>15:23:18 20 That was the claim that we settled.</p> <p>15:23:20 21 Q. You paid full value to settle the</p> <p>15:23:22 22 claims?</p> <p>15:23:22 23 A. That is an incorrect</p> <p>15:23:22 24 characterization.</p> <p>15:23:23 25 MR. ROSENBERG: Objection.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:23:23 2 A. We paid \$8 1/2 billion to settle</p> <p>15:23:25 3 the claim, sir.</p> <p>15:23:26 4 Q. You don't know how much the claim</p> <p>15:23:27 5 was?</p> <p>15:23:27 6 A. Again sir, 8 1/2 billion was what</p> <p>15:23:29 7 we paid to settle the claim.</p> <p>15:23:31 8 Q. I'm going to ask you to answer or I</p> <p>15:23:32 9 will just have to reopen the deposition at another</p> <p>15:23:35 10 day. But if you can't answer the question, you</p> <p>15:23:39 11 can't answer the question. You can say I don't</p> <p>15:23:41 12 know how much the claims were for. But I would</p> <p>15:23:45 13 like to know --</p> <p>15:23:45 14 MR. ROSENBERG: You're asking him a</p> <p>15:23:46 15 question that is matter of public record.</p> <p>15:23:48 16 MR. CALAMARI: That's all right. If</p> <p>15:23:49 17 it is public record why he is hiding it.</p> <p>15:23:51 18 MR. ROSENBERG: He is not hiding</p> <p>15:23:52 19 anything.</p> <p>15:23:53 20 MR. CALAMARI: I don't want to get</p> <p>15:23:54 21 into an argument.</p> <p>15:23:55 22 MR. ROSENBERG: It is not memory test</p> <p>15:23:56 23 for this witness. Can you move on to</p> <p>15:23:57 24 something that the witness might know about.</p> <p>15:23:57 25 A. I'm not hiding anything. If you</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:24:34 2 it some other way, that is not what a deposition</p> <p>15:24:36 3 is about?</p> <p>15:24:37 4 MR. ROSENBERG: Stop lecturing the</p> <p>15:24:38 5 witness.</p> <p>15:24:39 6 MR. CALAMARI: You're right I won't</p> <p>15:24:41 7 lecture the witness.</p> <p>15:24:41 8 Q. I will ask it one more time for the</p> <p>15:24:45 9 record to be clear. Do you know what the total</p> <p>15:24:47 10 value of the claims that you settled for \$8 1/2</p> <p>15:24:50 11 billion was?</p> <p>15:24:50 12 MR. ROSENBERG: I'm going to instruct</p> <p>15:24:51 13 the witness not to answer to the extent it</p> <p>15:24:53 14 would require the divulging of</p> <p>15:24:55 15 attorney-client privilege information.</p> <p>15:24:56 16 A. Anything other than in the public</p> <p>15:24:57 17 record was done in consultation with our</p> <p>15:24:59 18 attorneys.</p> <p>15:24:59 19 Q. What about what is in the public</p> <p>15:25:01 20 record?</p> <p>15:25:01 21 A. I'm talking about the stuff that is</p> <p>15:25:02 22 filed in the case, you can look -- I don't know</p> <p>15:25:06 23 the particular details.</p> <p>15:25:08 24 Q. You have no idea what is there?</p> <p>15:25:09 25 A. Sir, we settled the claim for \$8 1/2 billion.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:23:58 2 want us to deliver the settlement papers and all</p> <p>15:24:01 3 the backup, we will do that.</p> <p>15:24:02 4 Q. I would love to have you. Could we</p> <p>15:24:04 5 get a commitment to deliver the settlement --</p> <p>15:24:04 6 A. They are publically filed papers.</p> <p>15:24:06 7 Q. We could get the publicly filed</p> <p>15:24:08 8 papers.</p> <p>15:24:08 9 A. That is what is there.</p> <p>15:24:09 10 Q. I just want to know. You have no</p> <p>15:24:11 11 idea how much the total value of the claims that</p> <p>15:24:13 12 you settled was?</p> <p>15:24:13 13 A. Everything else would be privileged</p> <p>15:24:15 14 counsel communication, sir.</p> <p>15:24:16 15 Q. Even the total value which you just</p> <p>15:24:18 16 said and your lawyer just said was a public</p> <p>15:24:21 17 document?</p> <p>15:24:21 18 A. I will give you the public</p> <p>15:24:31 19 document. You have the public document. Anything</p> <p>15:24:31 20 else in that was in context with --</p> <p>15:24:31 21 MR. CALAMARI: I'm going to deal with</p> <p>15:24:31 22 this with the judge.</p> <p>15:24:31 23 THE WITNESS: Okay.</p> <p>15:24:31 24 Q. You're going to refuse to answer</p> <p>15:24:32 25 the questions under the theory that I could learn</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:25:12 2 Anything else I talked about it in the subject of</p> <p>15:25:13 3 debate of the claims, validity of the claim,</p> <p>15:25:16 4 whether you could make the claims, whether you</p> <p>15:25:17 5 could bring the case is all part of the public</p> <p>15:25:20 6 record. You could take a look at that.</p> <p>15:25:21 7 Q. Why did you settle the claim for</p> <p>15:25:24 8 \$8 1/2 billion?</p> <p>15:25:24 9 MR. ROSENBERG: Again, I instruct the</p> <p>15:25:26 10 witness not to answer to the extent it</p> <p>15:25:27 11 divulges attorney-client privileged</p> <p>15:25:30 12 information. Is there anything that isn't</p> <p>15:25:32 13 attorney-client privileged with respect to</p> <p>15:25:34 14 that decision?</p> <p>15:25:34 15 A. We settled the claim in the best</p> <p>15:25:38 16 interests of our shareholders.</p> <p>15:25:39 17 Q. Why did you feel this was in the</p> <p>15:25:41 18 best interest of your shareholders?</p> <p>15:25:43 19 A. Again, sir, it was in the best</p> <p>15:25:43 20 interests of our shareholders based on our</p> <p>15:25:44 21 judgement to continue to litigate the case, the</p> <p>15:25:47 22 cost of case, the validity of the claims back and</p> <p>15:25:50 23 forth, etc.</p> <p>15:25:50 24 Q. These were liabilities that were</p> <p>15:25:52 25 initially incurred by Countrywide, is that not</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:25:55 2 right?</p> <p>15:25:56 3 MR. ROSENBERG: Objection to the</p> <p>15:25:56 4 form.</p> <p>15:25:56 5 A. The representation and warranty</p> <p>15:26:01 6 liabilities were with regard to legacy Countrywide</p> <p>15:26:03 7 originations.</p> <p>15:26:04 8 Q. Therefore why did Bank Of America</p> <p>15:26:09 9 settle the case as opposed to leaving it to</p> <p>15:26:12 10 Countrywide?</p> <p>15:26:13 11 MR. ROSENBERG: Objection to form.</p> <p>15:26:15 12 No foundation.</p> <p>15:26:16 13 A. Again, you keep asking about</p> <p>15:26:19 14 technically and a distinction. Bank Of America</p> <p>15:26:22 15 did settle the case, the technical legal entities</p> <p>15:26:26 16 that enter into settlements and what they paid is</p> <p>15:26:27 17 not what I focused on.</p> <p>15:26:28 18 Q. You wanted to clean up the mess at</p> <p>15:26:30 19 Countrywide, didn't you?</p> <p>15:26:31 20 MR. ROSENBERG: Objection to the</p> <p>15:26:32 21 form.</p> <p>15:26:33 22 A. We were trying to take -- do our</p> <p>15:26:36 23 best to help America get out of the mortgage</p> <p>15:26:39 24 crisis that they found themselves in after 2007,</p> <p>15:26:42 25 2008.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:27:51 2 not a question of where \$8 billion comes from.</p> <p>15:27:51 3 Q. It is an insignificant amount to</p> <p>15:27:51 4 you?</p> <p>15:27:53 5 A. It's a significant amount, but it</p> <p>15:27:54 6 is not something that we don't have ready.</p> <p>15:27:56 7 Q. Bank Of America has it ready?</p> <p>15:27:57 8 MR. ROSENBERG: Objection to the</p> <p>15:27:58 9 form.</p> <p>15:27:58 10 A. In our company we have it ready.</p> <p>15:28:02 11 Q. When say in our company you mean</p> <p>15:28:04 12 Bank Of America?</p> <p>15:28:04 13 A. In our 3000 legal entities we have</p> <p>15:28:08 14 it ready, sir.</p> <p>15:28:08 15 MR. ROSENBERG: Objection to form.</p> <p>15:28:09 16 Q. You could take money from wherever</p> <p>15:28:11 17 you choose anytime you want?</p> <p>15:28:11 18 A. It is a carefully monitored process</p> <p>15:28:13 19 based on a whole bunch of legal formalities,</p> <p>15:28:16 20 corporate rules and everything else.</p> <p>15:28:45 21 Q. Did anybody ever say to you that</p> <p>15:28:48 22 they wanted Bank Of America to specifically</p> <p>15:28:51 23 guarantee this payment because they were afraid</p> <p>15:28:55 24 that Countrywide would go into bankruptcy?</p> <p>15:28:57 25 MR. ROSENBERG: Objection to form.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:26:43 2 Q. In fact you said that your company,</p> <p>15:26:48 3 Bank Of America, would clean it up, didn't you?</p> <p>15:26:50 4 MR. ROSENBERG: Objection to the</p> <p>15:26:50 5 form.</p> <p>15:26:50 6 A. The operational work to help the</p> <p>15:26:54 7 million -- the 1.6 million customers through the</p> <p>15:26:58 8 process of modification and dealing with the most</p> <p>15:27:00 9 serious issue they could face, yes, that is the</p> <p>15:27:02 10 work we are doing. We do it every day.</p> <p>15:27:05 11 Q. Did Countrywide Financial Corp,</p> <p>15:27:20 12 that is CFC, did it have \$8 1/2 billion.</p> <p>15:27:22 13 MR. ROSENBERG: Objection to the</p> <p>15:27:23 14 form.</p> <p>15:27:24 15 A. Sir, I will tell you once again.</p> <p>15:27:29 16 My focus here is what the company does overall.</p> <p>15:27:32 17 The legal entities we would have to get somebody</p> <p>15:27:34 18 who is dealing with the legal entity accounting to</p> <p>15:27:38 19 talk to you. That is not my responsibility.</p> <p>15:27:39 20 Q. That is not an inquiry you made</p> <p>15:27:41 21 when somebody said this is going to be \$8 1/2 billion</p> <p>15:27:44 22 ticket where are we going to get the money?</p> <p>15:27:47 23 MR. ROSENBERG: Objection to the</p> <p>15:27:47 24 form.</p> <p>15:27:47 25 A. We have \$400 billion of cash it is</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:28:59 2 First of all when you talk about anybody, are</p> <p>15:29:02 3 you excluding lawyers.</p> <p>15:29:02 4 Q. I'm excluding your lawyers, yes.</p> <p>15:29:05 5 A. I don't recall any discussions</p> <p>15:29:06 6 about that.</p> <p>15:29:08 7 Q. There was not a concern for you?</p> <p>15:29:10 8 MR. ROSENBERG: Objection to form.</p> <p>15:29:10 9 A. Again, I say I don't recall</p> <p>15:29:13 10 discussion about it.</p> <p>15:29:15 11 Q. Was it a concern?</p> <p>15:29:16 12 A. What concern, sir?</p> <p>15:29:18 13 Q. Was it a concern that you were</p> <p>15:29:21 14 asked -- was it a concern that Countrywide might</p> <p>15:29:29 15 go into bankruptcy -- let me rephrase that.</p> <p>15:29:33 16 Was it a concern that Bank Of</p> <p>15:29:41 17 America -- I'm doing this badly.</p> <p>15:29:43 18 You don't recall anyone expressing</p> <p>15:29:47 19 a concern to you that Countrywide might go into</p> <p>15:29:53 20 bankruptcy and therefore Bank Of America needed to</p> <p>15:29:59 21 guarantee this payment?</p> <p>15:30:01 22 MR. ROSENBERG: Again, excluding</p> <p>15:30:04 23 counsel.</p> <p>15:30:04 24 Q. Excluding your counsel.</p> <p>15:30:06 25 A. I don't recall any conversations</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:30:07 2 other than with counsel about the structure of the</p> <p>15:30:08 3 deal.</p> <p>15:30:08 4 Q. That is not something that you ever</p> <p>15:30:10 5 heard?</p> <p>15:30:10 6 A. Not something that I recall</p> <p>15:30:13 7 hearing.</p> <p>15:30:13 8 MR. ROSENBERG: Objection.</p> <p>15:31:03 9 MR. CALAMARI: Can we have a short</p> <p>15:31:04 10 break?</p> <p>15:31:05 11 THE VIDEOGRAPHER: Going off the</p> <p>15:31:08 12 record, the time is 3:33 p.m.</p> <p>15:31:24 13 (Recess taken.)</p> <p>15:42:22 14 THE VIDEOGRAPHER: We are back on the</p> <p>15:42:25 15 record the time is 3:41 p.m.</p> <p>15:42:29 16 BY MR. CALAMARI:</p> <p>15:42:29 17 Q. The \$8.5 billion settlement is not</p> <p>15:42:45 18 a final settlement at this point, is it?</p> <p>15:42:48 19 A. It is going through the court</p> <p>15:42:49 20 system, yes.</p> <p>15:42:50 21 Q. It has to be approved by a court?</p> <p>15:42:52 22 A. Yes, that is part of the process.</p> <p>15:42:54 23 Q. And are you aware which court that</p> <p>15:42:55 24 is?</p> <p>15:42:56 25 A. New York State Court.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:43:52 2 considerations the court is looking at to</p> <p>15:43:55 3 determine whether or not that is a fair</p> <p>15:43:57 4 settlement?</p> <p>15:43:57 5 A. I think there would be better</p> <p>15:44:01 6 people to ask than me. I don't know what other</p> <p>15:44:03 7 considerations the court is looking at it. I</p> <p>15:44:07 8 don't know what the jurisdiction is.</p> <p>15:44:09 9 Q. Let me go back to settlements. Let</p> <p>15:44:35 10 me ask you to look at the Capstone report again,</p> <p>15:44:43 11 which was exhibit -- directing your attention to</p> <p>15:45:14 12 page three of that report it says, "In our opinion</p> <p>15:45:25 13 that the value of the asset CFC would enable a</p> <p>15:45:28 14 maximum recovery of no more than 4.8 billion as of</p> <p>15:45:32 15 the validation date." Do you see that?</p> <p>15:45:34 16 A. I don't see it.</p> <p>15:45:35 17 Q. The bottom of page three the last</p> <p>15:45:40 18 sentence on the page. "Base on the analysis</p> <p>15:45:44 19 performed by Capstone as described below it is our</p> <p>15:45:46 20 opinion that the value of the asset CFC would</p> <p>15:45:49 21 enable a maximum recovery of no more than 4.8</p> <p>15:45:54 22 billion as of the valuation date excluding any</p> <p>15:45:57 23 liquidation costs required to convert all loans,</p> <p>15:45:59 24 leases and other assets to cash."</p> <p>15:46:01 25 A. That is -- you have just read the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:42:58 2 Q. You're aware that the Capstone</p> <p>15:43:05 3 report was submitted as part of the process for</p> <p>15:43:09 4 approval of the settlement?</p> <p>15:43:10 5 A. That is what you told me earlier,</p> <p>15:43:12 6 yes.</p> <p>15:43:12 7 Q. What is that?</p> <p>15:43:13 8 A. That is what you said it was</p> <p>15:43:14 9 submitted earlier. When gave it to me you said it</p> <p>15:43:18 10 was submitted.</p> <p>15:43:18 11 Q. You didn't know that on your own?</p> <p>15:43:19 12 A. I didn't know that that report had</p> <p>15:43:21 13 been submitted.</p> <p>15:43:23 14 Q. Do you recall one of the issues</p> <p>15:43:29 15 being raised either in that report or in the</p> <p>15:43:32 16 litigation as to whether or not Countrywide --</p> <p>15:43:37 17 whether or not Bank Of America was liable for</p> <p>15:43:39 18 Countrywide's obligations?</p> <p>15:43:41 19 A. Any discussion I had about that</p> <p>15:43:43 20 would be covered by the privilege.</p> <p>15:43:44 21 Q. So you don't know anything about</p> <p>15:43:46 22 that on your own?</p> <p>15:43:47 23 A. We discussed it with our counsel as</p> <p>15:43:49 24 part of the discussion about the lawsuit.</p> <p>15:43:51 25 Q. Do you know what other</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:46:04 2 last statement on page three, yes.</p> <p>15:46:05 3 Q. Yes. Now is it fair to say if this</p> <p>15:46:09 4 report is correct, that it only had a value of</p> <p>15:46:12 5 \$4.8 billion in assets, that it could not have</p> <p>15:46:15 6 paid an \$8.5 billion --</p> <p>15:46:21 7 MR. ROSENBERG: Objection.</p> <p>15:46:21 8 MR. CALAMARI: Let strike that and</p> <p>15:46:23 9 let me rephrase the question.</p> <p>15:46:24 10 Q. Is it fair to say that if the</p> <p>15:46:27 11 Capstone report is correct, and that CFC only had</p> <p>15:46:30 12 a liquidation value of 4.8 billion, then it could</p> <p>15:46:35 13 not have paid an \$8.5 billion settlement?</p> <p>15:46:39 14 MR. ROSENBERG: Objection to the</p> <p>15:46:40 15 form.</p> <p>15:46:40 16 A. Sir, it is not my report. I have</p> <p>15:46:41 17 no opinion about the report.</p> <p>15:46:43 18 Q. I'm not asking you anything about</p> <p>15:46:45 19 the report. I'm asking you to assume that the</p> <p>15:46:46 20 report is correct. If it is correct, is there any</p> <p>15:46:49 21 way that CFC could have paid an \$8.5 billion</p> <p>15:46:56 22 settlement?</p> <p>15:46:57 23 MR. ROSENBERG: Objection.</p> <p>15:46:58 24 A. Sir, I have no opinion.</p> <p>15:46:59 25 MR. ROSENBERG: Objection.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:46:59 2 A. I have no opinion. It is not my</p> <p>15:47:00 3 report. I didn't prepare it. It was prepared for</p> <p>15:47:04 4 our company.</p> <p>15:47:04 5 Q. Again, I have to ask the same</p> <p>15:47:06 6 question. I'm not asking if you have an opinion</p> <p>15:47:08 7 about the report. I'm asking you to assume that</p> <p>15:47:09 8 the \$4.8 billion number in the report that Bank Of</p> <p>15:47:14 9 America cooperated in the preparation of, assume</p> <p>15:47:16 10 it's correct, if it is wrong, it is wrong, but</p> <p>15:47:18 11 assume it is correct, it shows a \$4.8 billion</p> <p>15:47:23 12 valuation of CFC. You see that, right? You see</p> <p>15:47:27 13 that on the page?</p> <p>15:47:29 14 MR. ROSENBERG: Objection.</p> <p>15:47:30 15 A. "Based on the analysis performed by</p> <p>15:47:31 16 Capstone that is described below it is our opinion</p> <p>15:47:35 17 that," meaning Capstone, "the value of the assets</p> <p>15:47:38 18 of CFC will enable maximum recovery of no more</p> <p>15:47:41 19 than 4.8 billion as of the valuation date</p> <p>15:47:43 20 excluding any liquidation costs required to</p> <p>15:47:43 21 convert all loans, leases and other assets to</p> <p>15:47:46 22 cash." That is what the report says.</p> <p>15:47:47 23 Q. You can see that there?</p> <p>15:47:49 24 A. I can read that statement.</p> <p>15:47:51 25 Q. Now if that statement is true, is</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:48:33 2 A. I said I have no opinion on this</p> <p>15:48:35 3 report, sir.</p> <p>15:48:36 4 Q. I didn't ask for an opinion on the</p> <p>15:48:38 5 report. I will ask my question until I get an</p> <p>15:48:41 6 answer. We could sit here all night. It's a</p> <p>15:48:43 7 simple question. Do you know any way that</p> <p>15:48:45 8 Countrywide could have paid a \$8.5 billion</p> <p>15:48:50 9 settlement if this number is correct?</p> <p>15:48:52 10 MR. ROSENBERG: Now you're asking him</p> <p>15:48:53 11 about the report again.</p> <p>15:48:54 12 MR. CALAMARI: I'm not. I'm asking</p> <p>15:48:55 13 him to assume that that number is correct.</p> <p>15:48:57 14 A. Sir, this was somebody else's</p> <p>15:49:00 15 report prepared for somebody else, and you're</p> <p>15:49:09 16 asking me to speculate what it means. I'm not</p> <p>15:49:09 17 saying that.</p> <p>15:49:09 18 Q. As I said, it is not somebody</p> <p>15:49:09 19 else's report. Putting that aside. Putting</p> <p>15:49:09 20 everything aside. Are you aware as you sit here</p> <p>15:49:12 21 today, of anyway Countrywide Financial Corporation</p> <p>15:49:15 22 could pay an \$8.5 billion settlement?</p> <p>15:49:17 23 MR. ROSENBERG: Objection.</p> <p>15:49:18 24 Q. Without regard to the report?</p> <p>15:49:19 25 A. Am I aware?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:47:54 2 there any way that Countrywide Financial</p> <p>15:47:55 3 Corporation could pay an \$8.5 billion settlement?</p> <p>15:47:59 4 MR. ROSENBERG: Objection.</p> <p>15:47:59 5 A. Sir, I am not going to speculate as</p> <p>15:48:00 6 to that. It is not my report. I'm not going to</p> <p>15:48:02 7 speculate. You're asking me for speculation, it's</p> <p>15:48:04 8 not my report.</p> <p>15:48:05 9 Q. It actually is your report, but</p> <p>15:48:06 10 putting that aside.</p> <p>15:48:06 11 MR. ROSENBERG: Move to strike the --</p> <p>15:48:08 12 Q. I'm not asking you for any</p> <p>15:48:10 13 speculation. I'm asking you for knowledge about</p> <p>15:48:12 14 Countrywide Financial Corporation.</p> <p>15:48:14 15 A. I'm saying, I don't have any</p> <p>15:48:16 16 knowledge that would provide any ability to</p> <p>15:48:19 17 provide an opinion on that. It is not what I look</p> <p>15:48:20 18 at.</p> <p>15:48:20 19 Q. So you have no idea how Countrywide</p> <p>15:48:26 20 Financial Corporation can pay an \$8.5 billion</p> <p>15:48:28 21 settlement?</p> <p>15:48:29 22 MR. ROSENBERG: Objection to the</p> <p>15:48:29 23 form.</p> <p>15:48:30 24 A. I answered that before.</p> <p>15:48:32 25 Q. Answer it again.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:49:21 2 MR. ROSENBERG: Objection to the</p> <p>15:49:21 3 form.</p> <p>15:49:21 4 A. What entity could pay it?</p> <p>15:49:23 5 Q. I asked you if Countrywide</p> <p>15:49:26 6 Financial Corporation --</p> <p>15:49:26 7 A. I have no knowledge of the exact --</p> <p>15:49:29 8 I told you before, we run our company from the top</p> <p>15:49:32 9 down by functions. It is somebody else's job to</p> <p>15:49:34 10 make sure each of the functions is accounted for</p> <p>15:49:38 11 properly.</p> <p>15:49:38 12 Q. Your perspective it's all one big</p> <p>15:49:41 13 show?</p> <p>15:49:41 14 A. No. My perspective is, it is</p> <p>15:49:44 15 carefully dealt with by all the legal entities and</p> <p>15:49:45 16 all the entries by a process, a process which I</p> <p>15:49:46 17 don't do. I make sure the chief financial officer</p> <p>15:49:48 18 does.</p> <p>15:49:48 19 Q. And I asked you a simple question</p> <p>15:49:50 20 and it's a yes or no answer. Do you have any</p> <p>15:49:52 21 knowledge as to how Countrywide Financial</p> <p>15:49:56 22 Corporation could make a payment of \$8.5 billion?</p> <p>15:49:59 23 MR. ROSENBERG: Objection to form.</p> <p>15:50:00 24 A. I don't know what you're asking me.</p> <p>15:50:03 25 I just don't know what you're asking me.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:50:09 2 Q. Well, I will try again. Do you</p> <p>15:50:11 3 have any knowledge, that part you understand?</p> <p>15:50:14 4 MR. ROSENBERG: Come on, Peter, stop</p> <p>15:50:17 5 being argumentative.</p> <p>15:50:18 6 MR. CALAMARI: I'm argumentative.</p> <p>15:50:21 7 Q. Do you understand that?</p> <p>15:50:23 8 A. Do I understand what.</p> <p>15:50:24 9 Q. If I ask you a question to the best</p> <p>15:50:26 10 of your knowledge?</p> <p>15:50:26 11 A. To the best of my knowledge, I</p> <p>15:50:28 12 understand what you said. You said to the best of</p> <p>15:50:30 13 my knowledge.</p> <p>15:50:30 14 Q. Do you have any knowledge as to</p> <p>15:50:35 15 whether Countrywide Financial Corporation could</p> <p>15:50:38 16 pay an \$8.5 billion settlement?</p> <p>15:50:41 17 A. I have no specific knowledge. The</p> <p>15:50:43 18 legal entity accounting is left to people for</p> <p>15:50:47 19 basis that we entered a \$8 1/2 billion settlement</p> <p>15:50:49 20 and that is the terms that we entered into. This</p> <p>15:50:51 21 report is not part of the settlement for Bank of</p> <p>15:50:53 22 New York. It is not ours. You have to ask the</p> <p>15:50:56 23 people that drafted this what they meant by it.</p> <p>15:50:58 24 MR. ROSENBERG: I going to instruct</p> <p>15:50:58 25 the witness not to answer any more questions</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:52:02 2 breathe of it. I don't know the exact claims in</p> <p>15:52:05 3 the suit. I know we settled with them.</p> <p>15:52:06 4 Q. You don't know what the claims</p> <p>15:52:08 5 were?</p> <p>15:52:08 6 A. Not specifically. They are around</p> <p>15:52:11 7 representation and warranty and quality of loans,</p> <p>15:52:14 8 things like that, but I don't know the exact --</p> <p>15:52:14 9 Q. So you do know?</p> <p>15:52:14 10 A. I agreed with you once and you</p> <p>15:52:16 11 started asking specific questions about the</p> <p>15:52:18 12 claims. I'm saying that is my general knowledge.</p> <p>15:52:26 13 Q. Now, that one wasn't a litigation;</p> <p>15:52:26 14 is that right?</p> <p>15:52:30 15 A. It was a claim -- it was a dispute</p> <p>15:52:34 16 over a contract and the parties settled.</p> <p>15:52:37 17 Q. In addition to the 1. -- part of</p> <p>15:52:48 18 the settlement was a \$1.1 billion cash payment?</p> <p>15:52:52 19 A. I don't recall the exact amount,</p> <p>15:52:53 20 but we paid a cash payment, yes.</p> <p>15:52:55 21 Q. Does that sound about right?</p> <p>15:52:57 22 A. It could be, again.</p> <p>15:52:59 23 Q. And there was also a reinsurance</p> <p>15:53:01 24 arrangement with a value for Assured of</p> <p>15:53:04 25 \$470 million?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:51:01 2 that are asked for the same question. He has</p> <p>15:51:04 3 now answered the same question about 10</p> <p>15:51:06 4 times.</p> <p>15:51:07 5 MR. CALAMARI: He has never answered</p> <p>15:51:07 6 the question, but I will let it go.</p> <p>15:51:09 7 Q. Is it also correct that on or about</p> <p>15:51:32 8 April, 2011 Bank Of America agreed to pay bond</p> <p>15:51:37 9 insurer Assured Guaranty \$1.6 billion to resolve</p> <p>15:51:41 10 repurchase claims?</p> <p>15:51:42 11 MR. ROSENBERG: Objection to the</p> <p>15:51:42 12 form.</p> <p>15:51:42 13 A. We settled with Assured. The exact</p> <p>15:51:45 14 number I would have to -- there is lot of ins and</p> <p>15:51:47 15 outs.</p> <p>15:51:47 16 Q. You were settling repurchase</p> <p>15:51:49 17 claims?</p> <p>15:51:50 18 MR. ROSENBERG: Objection to form.</p> <p>15:51:50 19 A. Refresh claims and other claims,</p> <p>15:51:50 20 yes.</p> <p>15:51:54 21 Q. Based on representation and</p> <p>15:51:56 22 warranty liabilities of Countrywide?</p> <p>15:51:57 23 MR. ROSENBERG: Objection to form.</p> <p>15:51:59 24 A. Again, if you got the pleadings in</p> <p>15:52:00 25 the case and the settlement you could find out the</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:53:04 2 A. There was a reinsurance</p> <p>15:53:06 3 arrangement. Again, the exact amounts, I would</p> <p>15:53:09 4 have to get someone.</p> <p>15:53:14 5 Q. Again, you resolved these claims</p> <p>15:53:15 6 because you thought they were in the best</p> <p>15:53:17 7 interests of Bank Of America's shareholders?</p> <p>15:53:20 8 MR. ROSENBERG: Objection to form.</p> <p>15:53:21 9 A. We resolved the claim that we</p> <p>15:53:23 10 thought was in the best interest of the company,</p> <p>15:53:26 11 yes.</p> <p>15:53:26 12 Q. Can you explain why it was in the</p> <p>15:53:32 13 interests of the company?</p> <p>15:53:33 14 MR. ROSENBERG: No. I instruct the</p> <p>15:53:36 15 witness not to discuss attorney-client</p> <p>15:53:40 16 privileged conversations.</p> <p>15:53:41 17 A. That is what I was going to say.</p> <p>15:53:42 18 It was based on all the factors, we made a</p> <p>15:53:45 19 business judgement that it was good to settle</p> <p>15:53:47 20 working with our attorneys. Other than that I</p> <p>15:53:49 21 think everything would be in the context of advice</p> <p>15:53:51 22 that we were given by our attorneys and the</p> <p>15:53:54 23 claims, etc.</p> <p>15:53:58 24 Q. Again, was this part of your plan</p> <p>15:53:59 25 to clean up the mess at Countrywide?</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:54:02 2 MR. ROSENBERG: Objection to form.</p> <p>15:54:02 3 A. When I talk about the work at</p> <p>15:54:04 4 Countrywide, I'm talking about the million-six</p> <p>15:54:07 5 loans in getting through the process of getting</p> <p>15:54:09 6 that work done. It is takes us \$3 billion a</p> <p>15:54:11 7 quarter to do that work. It is a serious amount</p> <p>15:54:15 8 of work and deals with people's lives and we take</p> <p>15:54:18 9 that seriously. That is what we are talking about</p> <p>15:54:18 10 cleaning that up</p> <p>15:54:18 11 Q. You want to clean it up?</p> <p>15:54:20 12 A. We want to clean it up, absolutely.</p> <p>15:54:22 13 Q. And you think it is in the best</p> <p>15:54:23 14 interests of Bank Of America's shareholders to</p> <p>15:54:25 15 clean it up?</p> <p>15:54:26 16 A. It is in the best interests of</p> <p>15:54:28 17 America.</p> <p>15:54:35 18 Q. By paying Assured that didn't help</p> <p>15:54:40 19 any individual homeowners, did it?</p> <p>15:54:42 20 MR. ROSENBERG: Objection to form.</p> <p>15:54:44 21 A. I'm not sure. There were no</p> <p>15:54:46 22 payments to individual shareholders, but there was</p> <p>15:54:48 23 part of getting us to the future of our company</p> <p>15:54:51 24 and move forward. It is all part of the same</p> <p>15:54:57 25 thing.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:55:53 2 shareholders, the team, the customers and</p> <p>15:55:56 3 everybody.</p> <p>15:55:56 4 Q. Now, it is also true in or about</p> <p>15:56:02 5 January, 2011 you entered into an agreements with</p> <p>15:56:05 6 Fannie Mae and Freddie Mac to settle repurchase</p> <p>15:56:08 7 and warranty claims?</p> <p>15:56:10 8 A. Yes, we did.</p> <p>15:56:11 9 Q. And in connection with those</p> <p>15:56:15 10 agreements you agreed to pay Freddie Mac</p> <p>15:56:17 11 1.28 billion; is that correct?</p> <p>15:56:21 12 MR. ROSENBERG: Objection to form.</p> <p>15:56:21 13 A. I don't recall the exact number,</p> <p>15:56:23 14 but it was a billion dollars plus.</p> <p>15:56:24 15 Q. Does that sound about right?</p> <p>15:56:25 16 A. It could be, yes.</p> <p>15:56:26 17 Q. And you also agreed to pay Fannie</p> <p>15:56:30 18 Mae \$1.52 billion?</p> <p>15:56:32 19 MR. ROSENBERG: Objection to the</p> <p>15:56:32 20 form.</p> <p>15:56:32 21 A. Something in that order, yes.</p> <p>15:56:34 22 Q. And again is it true that Bank Of</p> <p>15:56:40 23 America, not Countrywide, assumed the full cost of</p> <p>15:56:42 24 that payment?</p> <p>15:56:43 25 MR. ROSENBERG: Objection to form.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:54:57 2 Q. You just said in your last answer</p> <p>15:54:59 3 there were no payments to individual shareholders.</p> <p>15:55:01 4 A. Individual consumers I think is</p> <p>15:55:03 5 what you asked.</p> <p>15:55:04 6 Q. Right. That was a payment to</p> <p>15:55:05 7 Assured?</p> <p>15:55:06 8 A. Among other things, yes.</p> <p>15:55:07 9 Q. And it was designed to clean up the</p> <p>15:55:09 10 mess, right?</p> <p>15:55:10 11 MR. ROSENBERG: Objection to the</p> <p>15:55:11 12 form.</p> <p>15:55:13 13 A. Sir, it was designed to settle</p> <p>15:55:15 14 those claims with Assured.</p> <p>15:55:26 15 Q. And again, you thought that was in</p> <p>15:55:40 16 the best interests of Bank Of America's</p> <p>15:55:42 17 shareholders?</p> <p>15:55:43 18 A. In the best interest of the</p> <p>15:55:45 19 company, yes.</p> <p>15:55:47 20 Q. When you say the company, do you</p> <p>15:55:48 21 distinguish between the company and the</p> <p>15:55:50 22 shareholders?</p> <p>15:55:50 23 MR. ROSENBERG: Objection to the</p> <p>15:55:51 24 form.</p> <p>15:55:51 25 A. When I say the company, I mean</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:56:44 2 A. I don't know exactly which legal</p> <p>15:56:46 3 entities paid it. I have to go back and get the</p> <p>15:56:49 4 debits and credits. It was settlements were made</p> <p>15:56:53 5 with Fannie and Freddie.</p> <p>15:56:55 6 Q. But at least as we sit here you're</p> <p>15:56:58 7 not aware of any payments coming out of</p> <p>15:57:00 8 Countrywide for those amounts?</p> <p>15:57:02 9 MR. ROSENBERG: Objection to form.</p> <p>15:57:03 10 A. As said before I would have to get</p> <p>15:57:06 11 somebody to check it. I'm not aware where the</p> <p>15:57:10 12 payments were made.</p> <p>15:57:11 13 Q. Certainly the announcement in the</p> <p>15:57:14 14 press was that Bank Of America made the</p> <p>15:57:15 15 settlements. Is that fair to say?</p> <p>15:57:17 16 MR. ROSENBERG: Objection to the</p> <p>15:57:17 17 form.</p> <p>15:57:17 18 A. The announcement would always be</p> <p>15:57:19 19 about the company because that is the relevant</p> <p>15:57:21 20 person for the public.</p> <p>15:57:22 21 Q. The public is only interested in</p> <p>15:57:25 22 the company?</p> <p>15:57:27 23 MR. ROSENBERG: Objection to the</p> <p>15:57:27 24 form.</p> <p>15:57:27 25 A. The public is interested in the</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:57:30 2 company, yes.</p> <p>15:57:30 3 Q. Again you thought this settlement</p> <p>15:57:34 4 was in the best interests of Bank Of America's</p> <p>15:57:36 5 shareholders?</p> <p>15:57:37 6 A. Yes.</p> <p>15:57:44 7 Q. Now, did you also enter into</p> <p>15:57:45 8 agreements in late 2008 and early 2009 with the</p> <p>15:57:50 9 State's Attorney General to settle predatory</p> <p>15:57:54 10 lending claims asserted against Countrywide?</p> <p>15:57:56 11 MR. ROSENBERG: Objection to the</p> <p>15:57:56 12 form.</p> <p>15:57:57 13 A. Yes, the company entered into</p> <p>15:58:00 14 settlements in that time frame with state</p> <p>15:58:02 15 attorneys general. I'm not sure exact time date.</p> <p>15:58:05 16 Q. The cost to Bank of America of</p> <p>15:58:07 17 those settlements was another \$8.4 billion?</p> <p>15:58:10 18 MR. ROSENBERG: Objection to the</p> <p>15:58:10 19 form.</p> <p>15:58:11 20 A. I'm not sure. I don't recall the</p> <p>15:58:13 21 exact numbers now. You have to get somebody -- I</p> <p>15:58:17 22 wasn't in my position then. It wasn't part of my</p> <p>15:58:19 23 business. There were a lot of components to those</p> <p>15:58:23 24 settlements.</p> <p>15:58:23 25 Q. And that again was to settle legacy</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:59:34 2 MR. ROSENBERG: Objection to the</p> <p>15:59:34 3 form.</p> <p>15:59:34 4 A. I'm not sure what your question is.</p> <p>15:59:36 5 Q. Was O'Melveny representing Bank Of</p> <p>15:59:39 6 America in connection with the negotiation of</p> <p>15:59:41 7 these settlements?</p> <p>15:59:42 8 MR. ROSENBERG: Objection,</p> <p>15:59:42 9 foundation.</p> <p>15:59:43 10 A. Which settlements.</p> <p>15:59:45 11 Q. I'm sorry. The settlements that we</p> <p>15:59:46 12 are talking about, the settlements with the States</p> <p>15:59:49 13 Attorney General?</p> <p>15:59:50 14 A. On, I don't recall.</p> <p>15:59:56 15 Q. In fact, Bank Of America explicitly</p> <p>16:00:00 16 indemnified Countrywide in connection with those</p> <p>16:00:02 17 settlements?</p> <p>16:00:03 18 A. Again, I don't recall. You have to --</p> <p>16:01:00 19 MR. CALAMARI: This is Exhibit 3360.</p> <p>16:01:04 20 Letter dated January 15th, 2009 Bates stamp</p> <p>16:01:08 21 is 0079406.</p> <p>16:01:12 22 (Exhibit 3360 for identification,</p> <p>16:01:14 23 Document Bates stamped 0079406.)</p> <p>16:01:14 24 Q. Do you see that letter?</p> <p>16:01:15 25 A. Yes.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>15:58:26 2 Countrywide problems?</p> <p>15:58:28 3 A. Again, you would have to get</p> <p>15:58:29 4 someone that had more specific knowledge. It was</p> <p>15:58:31 5 to settle the claims of the Attorney Generals. I</p> <p>15:58:34 6 don't know exact claims from which entities.</p> <p>15:58:36 7 Q. Do you have any recollection that</p> <p>15:58:37 8 it was to resolve claims against what I will call</p> <p>15:58:41 9 legacy Bank Of America?</p> <p>15:58:43 10 MR. ROSENBERG: Objection.</p> <p>15:58:43 11 A. I don't recall either way.</p> <p>15:58:49 12 Q. Either way?</p> <p>15:58:50 13 A. Yes.</p> <p>15:59:04 14 Q. It is also true that Bank Of</p> <p>15:59:06 15 America as an entity is paying these settlements?</p> <p>15:59:09 16 MR. ROSENBERG: Objection to the</p> <p>15:59:09 17 form. What do you mean by Bank Of America as</p> <p>15:59:11 18 an entity?</p> <p>15:59:13 19 Q. Overall Bank Of America.</p> <p>15:59:15 20 A. Someone in our 3,000 subsidiaries</p> <p>15:59:20 21 some entity is paying. I don't know which --</p> <p>15:59:22 22 again, I don't know which one and that would be</p> <p>15:59:26 23 the chief financial officer's team to work on.</p> <p>15:59:28 24 Q. Is was Bank Of America's counsel</p> <p>15:59:31 25 that was negotiating these settlements, wasn't it?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:01:21 2 Q. You see the second paragraph of it</p> <p>16:01:23 3 it says, "Bank Of America Corporation hereby</p> <p>16:01:26 4 undertakes and agrees that if and to the extent</p> <p>16:01:29 5 that there occurs a breach or a violation by CFC</p> <p>16:01:33 6 of the order and CFC incurs fines, penalties or</p> <p>16:01:37 7 other monetary damage as a consequence thereof</p> <p>16:01:40 8 then Bank Of America shall indemnify and hold</p> <p>16:01:43 9 harmless CFC in the amount of such damages.?"</p> <p>16:01:45 10 A. That it what the letters says, yes,</p> <p>16:01:47 11 sir.</p> <p>16:01:47 12 Q. Do you have any knowledge about</p> <p>16:01:48 13 that?</p> <p>16:01:48 14 A. No.</p> <p>16:01:48 15 Q. Do you understand the circumstances</p> <p>16:01:50 16 under which this was negotiated?</p> <p>16:01:52 17 A. No.</p> <p>16:02:42 18 Q. Do you recall if Barbara Desoer</p> <p>16:02:45 19 negotiated this arrangement?</p> <p>16:02:55 20 A. I wouldn't -- it was on the other</p> <p>16:02:55 21 side of the company, I don't know.</p> <p>16:02:55 22 Q. I'm going to give you another</p> <p>16:03:21 23 exhibit.</p> <p>16:03:33 24 MS. BEA: This exhibit is previously</p> <p>16:03:37 25 marked as Exhibit 3199.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:04:08 2 Q. I show you what was marked as</p> <p>16:04:11 3 Exhibit 3199, it's an e-mail from Barbara Desoer</p> <p>16:04:14 4 to several people including yourself. Announcing</p> <p>16:04:20 5 the Homeownership Retention Program with the</p> <p>16:04:24 6 subject of the settlement that we have just been</p> <p>16:04:26 7 discussing. Do you see that e-mail?</p> <p>16:04:28 8 A. Yes.</p> <p>16:04:29 9 Q. Do you recall receiving this</p> <p>16:04:29 10 e-mail?</p> <p>16:04:29 11 A. Not specifically, no.</p> <p>16:04:30 12 Q. Does anything in this e-mail help</p> <p>16:04:33 13 you refresh your recollection about the</p> <p>16:04:35 14 negotiations concerning this settlement?</p> <p>16:04:37 15 A. I mean, Barbara was running the</p> <p>16:04:40 16 business, that we already --</p> <p>16:04:53 17 Q. Prior to Legal Day One, you knew,</p> <p>16:04:59 18 did you not, that Countrywide's reserves for</p> <p>16:05:03 19 representations and warranties liabilities were</p> <p>16:05:04 20 insufficient to cover their expected exposure?</p> <p>16:05:09 21 MR. ROSENBERG: Objection to the</p> <p>16:05:09 22 form.</p> <p>16:05:09 23 MR. HOLLAND: Objection.</p> <p>16:05:11 24 A. I don't have any recall of that.</p> <p>16:05:11 25 Q. That was discussed by the steering</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:05:56 2 A. I didn't say. I said we built up</p> <p>16:05:59 3 reserves over time.</p> <p>16:06:00 4 MR. ROSENBERG: Objection to form.</p> <p>16:06:00 5 Q. You thought the reserves were</p> <p>16:06:03 6 adequate?</p> <p>16:06:03 7 MR. ROSENBERG: Objection to form.</p> <p>16:06:03 8 A. I didn't say either.</p> <p>16:06:04 9 Q. Which is it? Were they adequate or</p> <p>16:06:05 10 they weren't adequate?</p> <p>16:06:05 11 A. I said we built reserves up over</p> <p>16:06:07 12 time. You asked me if I recall a discussion and I</p> <p>16:06:11 13 said no.</p> <p>16:06:11 14 Q. Do you have an opinion whether they</p> <p>16:06:13 15 were adequate or inadequate?</p> <p>16:06:14 16 MR. ROSENBERG: Objection, no</p> <p>16:06:15 17 foundation.</p> <p>16:06:16 18 A. We built reserve based on the facts</p> <p>16:06:19 19 and circumstance over time and they are adequate</p> <p>16:06:21 20 today and they -- we built them over time.</p> <p>16:06:24 21 Q. You never heard that prior to Legal</p> <p>16:06:30 22 Day One Countrywide Financial Corporation was</p> <p>16:06:32 23 underreserved for rep and warranty liability?</p> <p>16:06:36 24 A. I don't recall any discussion, no.</p> <p>16:06:41 25 Q. Would that surprise you if such a</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:05:14 2 committee?</p> <p>16:05:14 3 A. I don't remember a discussion.</p> <p>16:05:15 4 Q. It was discussed at the asset and</p> <p>16:05:18 5 liability committee?</p> <p>16:05:18 6 A. I don't recall a discussion.</p> <p>16:05:19 7 Q. And it was discussed at the board</p> <p>16:05:22 8 of directors as well, wasn't it?</p> <p>16:05:23 9 A. I don't recall a discussion.</p> <p>16:05:24 10 Q. Did you ever come to learn that CW --</p> <p>16:05:29 11 Countrywide Financial Corporation's reserves for</p> <p>16:05:31 12 liability for rep and warranty exposure was</p> <p>16:05:35 13 inadequate?</p> <p>16:05:37 14 MR. ROSENBERG: Objection to the</p> <p>16:05:38 15 form.</p> <p>16:05:38 16 A. I don't know what timeframe you're</p> <p>16:05:41 17 talking about.</p> <p>16:05:42 18 Q. At any time. Did you ever come to</p> <p>16:05:43 19 learn?</p> <p>16:05:44 20 A. We increased the reserves over time</p> <p>16:05:46 21 for the Bank Of America for rep and warranties</p> <p>16:05:49 22 that we build up to 20, 15, \$16 dollars.</p> <p>16:05:52 23 Q. And that is because the reserves</p> <p>16:05:54 24 for Countrywide for these liabilities was</p> <p>16:05:55 25 inadequate?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:06:43 2 discussion took place?</p> <p>16:06:44 3 MR. ROSENBERG: Objection to the</p> <p>16:06:44 4 form.</p> <p>16:06:44 5 A. I would have no opinion. I didn't</p> <p>16:06:46 6 recall any discussion.</p> <p>16:07:40 7 MR. CALAMARI: I'm going to mark</p> <p>16:07:43 8 3361.</p> <p>16:07:43 9 (Exhibit 3361 for identification, New</p> <p>16:07:43 10 York Times article dated December 11th,</p> <p>16:08:09 11 2010.)</p> <p>16:08:09 12 MR. ROSENBERG: This is another</p> <p>16:08:09 13 document without a Bates number. I'm not</p> <p>16:08:12 14 going to instruct the witness not to answer</p> <p>16:08:13 15 on this one, but reserve the right to do so</p> <p>16:08:16 16 further in the deposition.</p> <p>16:08:44 17 Q. This is a Document 3361. New York</p> <p>16:08:57 18 Times article reprinting information about a</p> <p>16:09:09 19 discussion with you. The date is December 11th,</p> <p>16:09:14 20 2010.</p> <p>16:09:19 21 MR. ROSENBERG: Objection to the</p> <p>16:09:20 22 characterization.</p> <p>16:09:22 23 Q. Do you recall being interviewed for</p> <p>16:09:27 24 this article?</p> <p>16:09:27 25 A. I don't recall specifically, but I</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:09:31 2 was. I think I was. I don't recall exact.</p> <p>16:09:42 3 Q. And you would have talked</p> <p>16:09:46 4 truthfully to the reporter; is that correct?</p> <p>16:09:48 5 A. Yes.</p> <p>16:10:00 6 Q. Turn to page six of the article.</p> <p>16:10:30 7 And it says maybe a quarter of the way down the</p> <p>16:10:38 8 page "But What About Countrywide" is the question.</p> <p>16:10:42 9 And then there is quotation it says "Decision was</p> <p>16:10:45 10 made; I wasn't running the company." And then it</p> <p>16:10:57 11 opens the quote again, "Mr. Moynihan says although</p> <p>16:11:00 12 he was obviously top bank official at the time."</p> <p>16:11:03 13 And then it opens the quote again, "Our company</p> <p>16:11:04 14 bought it and we will stand up and we'll clean it</p> <p>16:11:07 15 up." Do you see that?</p> <p>16:11:12 16 A. Yes.</p> <p>16:11:13 17 Q. Did you say that?</p> <p>16:11:14 18 A. I assume so. I mean I did -- it's</p> <p>16:11:18 19 a quote, so I assume I said it.</p> <p>16:11:19 20 Q. Did it reflect your view?</p> <p>16:11:22 21 A. Yes.</p> <p>16:11:23 22 Q. And that was a true statement when</p> <p>16:11:24 23 you made it?</p> <p>16:11:25 24 A. Yes.</p> <p>16:11:27 25 Q. And by that you meant you were</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:12:33 2 A. I don't recall the exact statement.</p> <p>16:12:35 3 Q. But no reason to suspect that you</p> <p>16:12:37 4 didn't say that?</p> <p>16:12:38 5 A. No, I said that I said it. I</p> <p>16:12:41 6 assume that I did.</p> <p>16:12:41 7 Q. That was a true statement when you</p> <p>16:12:49 8 made it?</p> <p>16:12:49 9 A. Yes.</p> <p>16:12:49 10 Q. You believe this was a great</p> <p>16:12:49 11 acquisition?</p> <p>16:12:49 12 A. We believe it's a great acquisition</p> <p>16:12:49 13 for our customers and a great thing for the bank</p> <p>16:12:51 14 ultimately.</p> <p>16:12:56 15 Q. Why did you believe that it was a</p> <p>16:13:01 16 great thing for the bank?</p> <p>16:13:03 17 A. We could serve our customers</p> <p>16:13:05 18 better.</p> <p>16:13:05 19 Q. Because you would have one of the</p> <p>16:13:10 20 top mortgage businesses in the country?</p> <p>16:13:13 21 MR. ROSENBERG: Objection to the</p> <p>16:13:13 22 form.</p> <p>16:13:13 23 A. That -- yes, the idea is that</p> <p>16:13:16 24 mortgage is a core product for consumers and we</p> <p>16:13:20 25 would have a mortgage product better than anybody</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:11:28 2 going to clean up the mess that Countrywide left</p> <p>16:11:31 3 behind; is that right?</p> <p>16:11:32 4 MR. ROSENBERG: Objection to form.</p> <p>16:11:33 5 A. As I said earlier, we were going to</p> <p>16:11:35 6 50,000 people that we are working for these</p> <p>16:11:38 7 borrowers every day, the idea was to get it fixed</p> <p>16:11:40 8 for America get it behind us and put this behind</p> <p>16:11:45 9 us.</p> <p>16:11:45 10 Q. Further on down in the article just</p> <p>16:12:00 11 skipping one paragraph there is another quote from</p> <p>16:12:04 12 you, it says, "When we get through the work on the</p> <p>16:12:06 13 management side people will come to the same</p> <p>16:12:09 14 conclusion, that this is a great thing for</p> <p>16:12:12 15 customers and a great thing for the bank. He says</p> <p>16:12:16 16 right now we are still absorbing the body blows."</p> <p>16:12:21 17 Do you see that?</p> <p>16:12:22 18 MR. ROSENBERG: Where are you?</p> <p>16:12:23 19 MR. CALAMARI: I was at --</p> <p>16:12:24 20 MR. ROSENBERG: I got it, I see.</p> <p>16:12:25 21 Q. Do you see that?</p> <p>16:12:28 22 A. Yes, I do.</p> <p>16:12:28 23 Q. And again, did you say that?</p> <p>16:12:30 24 A. Yes, I assume that I did, yes.</p> <p>16:12:32 25 Q. Do you recall saying that?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:13:22 2 else's.</p> <p>16:13:22 3 Q. Once the mess was cleaned up you</p> <p>16:13:24 4 would have one of the best businesses out there?</p> <p>16:13:26 5 MR. ROSENBERG: Objection to the</p> <p>16:13:27 6 form.</p> <p>16:13:27 7 A. Once we got through the work, yes,</p> <p>16:13:29 8 we would have a good business.</p> <p>16:13:32 9 Q. When you say once we got through</p> <p>16:13:36 10 the work, it was your plan -- well, I will come</p> <p>16:13:42 11 back to that. Let's go back to the other one</p> <p>16:13:44 12 where we were going to go to.</p> <p>16:14:15 13 (Exhibit 3362 for identification,</p> <p>16:15:14 14 Document Bates numbered MBIA 15685.)</p> <p>16:15:14 15 Q. These were draft remarks for</p> <p>16:15:18 16 Barbara Desoer for a conference on Monday,</p> <p>16:15:22 17 September 15th, 2008 and at the top it says Brian</p> <p>16:15:27 18 Moynihan introduces you. Do you see that?</p> <p>16:15:29 19 A. Yes.</p> <p>16:15:35 20 MR. CALAMARI: Exhibit number is 3362</p> <p>16:15:37 21 and the Bates number on this is MBIA 15685.</p> <p>16:15:58 22 Q. Do you recall whether this</p> <p>16:15:59 23 presentation actually took place?</p> <p>16:16:01 24 A. I don't recall.</p> <p>16:16:02 25 Q. Do you recall being in San</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:16:07 2 Francisco and introducing Barbara Desoer for a</p> <p>16:16:09 3 presentation?</p> <p>16:16:09 4 A. I really don't recall that.</p> <p>16:16:11 5 Q. Were you given a copy of this</p> <p>16:16:13 6 presentation before it was presented?</p> <p>16:16:16 7 A. I don't recall ever seeing it, no.</p> <p>16:16:39 8 Q. Now, is it fair to say that at</p> <p>16:16:42 9 least you personally always intended to pay down</p> <p>16:16:46 10 all of Countrywide Financial Corp's liability so</p> <p>16:16:50 11 long as they were legitimate claims?</p> <p>16:16:53 12 MR. ROSENBERG: Objection to form.</p> <p>16:16:54 13 A. I'm not sure I understand what your</p> <p>16:16:56 14 point is. What the question is.</p> <p>16:16:56 15 (Exhibit 3363 for identification,</p> <p>16:16:56 16 Transcript of an earnings review conducted by</p> <p>16:16:56 17 various people at Bank Of America dated</p> <p>16:18:24 18 October 19, 2010.).</p> <p>16:18:24 19 (Exhibit 3364 for identification, Bank</p> <p>16:18:24 20 Of America presentation dated October 19,</p> <p>16:18:26 21 2010.)</p> <p>16:18:26 22 Q. So this is a transcript of an</p> <p>16:19:11 23 earnings review conducted by various people at</p> <p>16:19:18 24 Bank Of America. It is dated October 19, 2010 and</p> <p>16:19:25 25 that is Exhibit 3363. And then an accompanying</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:20:29 2 MR. CALAMARI: Again, I'm aware of no</p> <p>16:20:31 3 rule, in fact there is no requirement that I</p> <p>16:20:34 4 tell you where I'm going with my deposition</p> <p>16:20:36 5 or give you a preview of our exhibits.</p> <p>16:20:39 6 MR. ROSENBERG: I'm not asking you to</p> <p>16:20:40 7 tell me where you're going. I just want you</p> <p>16:20:42 8 to use the depositions that are in the</p> <p>16:20:44 9 discovery record, use the documents that are</p> <p>16:20:47 10 in the discovery record..</p> <p>16:20:47 11 MR. CALAMARI: Look I don't want to</p> <p>16:20:48 12 argue with you. If you're going it instruct</p> <p>16:20:50 13 him not answer, you can instruct him not</p> <p>16:20:51 14 answer. We will move for sanctions because</p> <p>16:20:54 15 you didn't produce these documents.</p> <p>16:20:55 16 MR. ROSENBERG: You will make</p> <p>16:20:58 17 whatever motion you want.</p> <p>16:20:59 18 MR. CALAMARI: Exactly and you can do</p> <p>16:21:01 19 whatever you want but we don't need to waste</p> <p>16:21:03 20 either of our time or the witness' time</p> <p>16:21:05 21 arguing.</p> <p>16:21:06 22 MR. ROSENBERG: You're the one</p> <p>16:21:07 23 arguing. I made a statement.</p> <p>16:21:08 24 MR. CALAMARI: Okay.</p> <p>16:21:08 25 MR. ROSENBERG: Okay.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:19:32 2 that is a Bank Of America presentation dated</p> <p>16:19:42 3 October 19, 2010. And that is Exhibit 3364. Do</p> <p>16:19:53 4 you see that?</p> <p>16:19:53 5 A. Yes.</p> <p>16:19:55 6 MR. ROSENBERG: I note once again</p> <p>16:19:56 7 that these are two additional documents</p> <p>16:19:58 8 without Bates numbers on them. Having not</p> <p>16:20:00 9 been produced prior to this deposition.</p> <p>16:20:04 10 MR. CALAMARI: We will make a motion</p> <p>16:20:05 11 on that, because you should have produced</p> <p>16:20:06 12 them. These are Bank Of America documents,</p> <p>16:20:09 13 why weren't they produced.</p> <p>16:20:11 14 THE WITNESS: This not a Bank Of</p> <p>16:20:13 15 America document, sir.</p> <p>16:20:14 16 MR. CALAMARI: No, but the next one</p> <p>16:20:16 17 is.</p> <p>16:20:17 18 A. This is the Factset, they record it</p> <p>16:20:19 19 and do a transcript.</p> <p>16:20:20 20 Q. I will ask you that. We will start</p> <p>16:20:22 21 with that?</p> <p>16:20:23 22 MR. ROSENBERG: These are documents</p> <p>16:20:25 23 that if you want to use in a deposition you</p> <p>16:20:27 24 should have produced them before the</p> <p>16:20:28 25 deposition.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:21:09 2 MR. CALAMARI: I don't know what the</p> <p>16:21:10 3 good of the statement is unless you're -- let</p> <p>16:21:12 4 me start.</p> <p>16:21:13 5 Q. Do you recognize this?</p> <p>16:21:15 6 A. This document, I don't.</p> <p>16:21:20 7 Q. Do you recall making a presentation</p> <p>16:21:23 8 in connection with an earnings discussion?</p> <p>16:21:26 9 A. Yes, we make a presentation.</p> <p>16:21:27 10 Q. And those presentations are</p> <p>16:21:30 11 transcribed; isn't that correct?</p> <p>16:21:35 12 A. Factset transcribed them, yes.</p> <p>16:21:36 13 Q. And Bank Of America keeps copies</p> <p>16:21:38 14 those transcriptions, doesn't it?</p> <p>16:21:40 15 A. I don't know if we do or not. It</p> <p>16:21:43 16 is their business not ours.</p> <p>16:21:44 17 Q. Who is Kevin Still?</p> <p>16:21:47 18 A. I don't know who Kevin Still is.</p> <p>16:21:52 19 Kevin Stitt is the head of investor relations?</p> <p>16:21:56 20 Q. Do you think he keep copy of these</p> <p>16:21:58 21 docks?</p> <p>16:21:58 22 A. He very well may. You have to ask.</p> <p>16:22:00 23 Q. It start off remarks Brian T. Moynihan</p> <p>16:22:07 24 president and chief executive officer?</p> <p>16:22:09 25 A. Yes.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:22:09 2 Q. That is transcript of statements</p> <p>16:22:10 3 that you made?</p> <p>16:22:11 4 MR. ROSENBERG: Objection, no</p> <p>16:22:11 5 foundation.</p> <p>16:22:12 6 A. It is Factset's -- I mean it is</p> <p>16:22:15 7 their recording of what we made in their</p> <p>16:22:19 8 transcription.</p> <p>16:22:20 9 Q. Do you have any reason to believe</p> <p>16:22:23 10 they do a lousy job?</p> <p>16:22:23 11 A. I don't have any reason to have any</p> <p>16:22:25 12 opinion on their capabilities.</p> <p>16:22:26 13 Q. You give these presentations, don't</p> <p>16:22:28 14 you?</p> <p>16:22:28 15 A. Yes.</p> <p>16:22:29 16 Q. You expect people to read the</p> <p>16:22:31 17 transcripts don't you?</p> <p>16:22:32 18 A. Yes.</p> <p>16:22:35 19 Q. You expect people to rely on this</p> <p>16:22:37 20 material, don't you?</p> <p>16:22:38 21 A. Sure.</p> <p>16:22:38 22 Q. And like with all of your other</p> <p>16:22:41 23 materials, you're careful with what you say here?</p> <p>16:22:42 24 A. We are.</p> <p>16:22:43 25 Q. Turn to page two of the transcript.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:24:07 2 about how to assess rep and warranty exposure at</p> <p>16:24:11 3 Bank Of America; isn't that right?</p> <p>16:24:11 4 MR. ROSENBERG: Objection to the</p> <p>16:24:12 5 form.</p> <p>16:24:12 6 A. We provide the information in the</p> <p>16:24:14 7 record that we had about the claims.</p> <p>16:24:18 8 Q. And you wanted the public to know</p> <p>16:24:20 9 about that information, right?</p> <p>16:24:21 10 A. We put it in our presentations.</p> <p>16:24:24 11 Q. Didn't you think that that was</p> <p>16:24:26 12 confidential information?</p> <p>16:24:27 13 MR. ROSENBERG: Objection to form.</p> <p>16:24:28 14 A. I think it is information that we</p> <p>16:24:33 15 put in the public record. Obviously we didn't</p> <p>16:24:35 16 mean to keep it confidential because we did it.</p> <p>16:24:39 17 Q. Specifically you didn't think that</p> <p>16:24:40 18 information about representation and warranty</p> <p>16:24:44 19 exposure was confidential; is that right?</p> <p>16:24:45 20 MR. ROSENBERG: Objection to the</p> <p>16:24:46 21 form.</p> <p>16:24:46 22 A. We put what we put in the</p> <p>16:24:48 23 documents. They speak for themselves.</p> <p>16:24:50 24 Q. I know the documents speak for</p> <p>16:24:54 25 themselves, I want to find out if you regard what</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:23:01 2 The sixth paragraph down.</p> <p>16:23:12 3 A. Yes.</p> <p>16:23:17 4 Q. You say, "We have seen the</p> <p>16:23:21 5 delinquencies and charge-offs in the mortgage</p> <p>16:23:24 6 products stabilize also." Do you see that</p> <p>16:23:27 7 paragraph?</p> <p>16:23:28 8 A. Yes.</p> <p>16:23:32 9 Q. What did you mean by that?</p> <p>16:23:36 10 A. We had seen the delinquency and</p> <p>16:23:38 11 charge-offs in the mortgage products stabilize</p> <p>16:23:40 12 meaning that they weren't going up.</p> <p>16:23:43 13 Q. Is that a good thing?</p> <p>16:23:44 14 A. Yes.</p> <p>16:23:44 15 MR. ROSENBERG: Objection.</p> <p>16:23:44 16 Q. And it goes on to say, "We are</p> <p>16:23:47 17 going to provide you a lot of data later in our</p> <p>16:23:50 18 presentation to help you assess the future costs</p> <p>16:23:53 19 from reps and warranties." Do you see that?</p> <p>16:23:53 20 A. Yes.</p> <p>16:23:57 21 Q. And that was something that you</p> <p>16:24:00 22 intend to do?</p> <p>16:24:02 23 A. That is something that -- I goes</p> <p>16:24:05 24 so, yes.</p> <p>16:24:05 25 Q. Provide information to the public</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:24:56 2 you were putting in here is confidential</p> <p>16:24:58 3 information?</p> <p>16:24:59 4 A. No, because we put it in the public</p> <p>16:25:00 5 domain, sir.</p> <p>16:25:02 6 Q. This type of information in your</p> <p>16:25:03 7 view is something for the public; is that right?</p> <p>16:25:05 8 MR. ROSENBERG: Objection to the</p> <p>16:25:06 9 form.</p> <p>16:25:06 10 A. The information in the public is</p> <p>16:25:07 11 something for the public.</p> <p>16:25:12 12 Q. Then it goes on to say, "But the</p> <p>16:25:17 13 one thing that we want to be clear is that when we</p> <p>16:25:18 14 look at the rep and warranty claims and the claims</p> <p>16:25:21 15 by the various investors, we are not going to just</p> <p>16:25:24 16 put this be behind us to make us feel good." Do</p> <p>16:25:31 17 you see that?</p> <p>16:25:31 18 A. Yes.</p> <p>16:25:32 19 Q. What did you mean by that?</p> <p>16:25:34 20 MR. ROSENBERG: Objection to form.</p> <p>16:25:34 21 A. What I said.</p> <p>16:25:35 22 Q. What does it mean we are not going</p> <p>16:25:39 23 to put it behind us just to make us feel good?</p> <p>16:25:41 24 A. We are going to guard or</p> <p>16:25:46 25 shareholders money.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:25:47 2 Q. You're going to make good business</p> <p>16:25:49 3 decisions, in other words?</p> <p>16:25:50 4 A. Correct.</p> <p>16:25:50 5 Q. And then it says, "We are</p> <p>16:25:52 6 protecting your money, we are protecting the</p> <p>16:25:54 7 shareholders money and we are going to make sure</p> <p>16:25:58 8 that we'll pay when due. But not just do a</p> <p>16:26:03 9 settlement to move the matter behind us." Do you</p> <p>16:26:06 10 see that?</p> <p>16:26:06 11 A. That is what it says, yes.</p> <p>16:26:08 12 Q. So you were prepared to pay monies</p> <p>16:26:12 13 when they were due; is that correct?</p> <p>16:26:13 14 MR. ROSENBERG: Objection to the</p> <p>16:26:14 15 form.</p> <p>16:26:15 16 A. That is what it says, yes.</p> <p>16:26:17 17 Q. And you agree that is what you were</p> <p>16:26:18 18 going to do? I?</p> <p>16:26:19 19 A. That is what it says.</p> <p>16:26:19 20 MR. ROSENBERG: Objection to form.</p> <p>16:26:20 21 Q. You would pay settlements when they</p> <p>16:26:22 22 were due?</p> <p>16:26:22 23 A. When they were due.</p> <p>16:26:24 24 MR. ROSENBERG: Objection to form.</p> <p>16:26:24 25 Q. You were talking here on behalf</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:27:15 2 A. Sir, we could go back over all of</p> <p>16:27:17 3 that. The answer is we -- the record speaks for</p> <p>16:27:20 4 itself. We entered into a settlement with</p> <p>16:27:22 5 Assured.</p> <p>16:27:23 6 Q. I know you settled with Assured.</p> <p>16:27:25 7 I'm trying to find out if you felt you were paying</p> <p>16:27:27 8 a legitimate claim at that time?</p> <p>16:27:29 9 MR. ROSENBERG: Objection to form.</p> <p>16:27:31 10 A. We settled a bunch contracts with</p> <p>16:27:33 11 them. They are very different obligations and</p> <p>16:27:34 12 that is what we did.</p> <p>16:27:45 13 Q. As far as you personally were</p> <p>16:27:47 14 concerned, that represents your views throughout</p> <p>16:27:52 15 the time that you had any responsibility for this</p> <p>16:27:55 16 sort of thing; is that right?</p> <p>16:27:56 17 MR. ROSENBERG: Objection to form.</p> <p>16:27:58 18 What represents?</p> <p>16:27:59 19 A. My view is that we, based on all</p> <p>16:28:03 20 the assessment of all the things that we look at,</p> <p>16:28:05 21 from the validity of claim, from who is making a</p> <p>16:28:07 22 claim, from a legal entity, all of that stuff we</p> <p>16:28:09 23 look an, and then we make a decision. And that</p> <p>16:28:11 24 decision a based on advice of our counsel in terms</p> <p>16:28:13 25 what we settle and what we don't in our decision.</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:26:26 2 Bank Of America?</p> <p>16:26:26 3 MR. ROSENBERG: Objection to form.</p> <p>16:26:27 4 A. Subject to all the claims and</p> <p>16:26:28 5 responsibilities and rights and obligations and</p> <p>16:26:30 6 everything that goes on in everything, yes.</p> <p>16:26:31 7 Q. And coming back to we will pay when</p> <p>16:26:36 8 due, that is what I meant before when I asked the</p> <p>16:26:40 9 inarticulate question, it was your intent to pay</p> <p>16:26:43 10 legitimate claims?</p> <p>16:26:45 11 MR. ROSENBERG: Objection to the</p> <p>16:26:46 12 form.</p> <p>16:26:46 13 A. The answer is we will pay</p> <p>16:26:47 14 legitimate claims. The definition of legitimate</p> <p>16:26:51 15 has many, many factors in it and we will make the</p> <p>16:26:52 16 judgment one claim at a time.</p> <p>16:26:54 17 Q. You will make sure that the claim</p> <p>16:26:56 18 legitimate but you will pay it if it is?</p> <p>16:26:59 19 MR. ROSENBERG: Objection to the</p> <p>16:26:59 20 form.</p> <p>16:26:59 21 A. Or we will exercise other rights</p> <p>16:27:02 22 that we have that are available to us of which are</p> <p>16:27:12 23 vast.</p> <p>16:27:12 24 Q. Was that the case in the case of</p> <p>16:27:14 25 the Assured settlement?</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:28:16 2 Q. At the end of the day if it is a</p> <p>16:28:18 3 legitimate claim you were going pay it?</p> <p>16:28:20 4 MR. ROSENBERG: Objection to the</p> <p>16:28:20 5 form.</p> <p>16:28:20 6 A. At the end of the day the</p> <p>16:28:23 7 definition of legitimate has a lot of factors.</p> <p>16:28:23 8 And if we decide it is in the best interest of our</p> <p>16:28:25 9 shareholders, we will pay it.</p> <p>16:28:25 10 Q. This doesn't use the word</p> <p>16:28:27 11 legitimate, right?</p> <p>16:28:29 12 A. I don't know what -- you want me</p> <p>16:28:31 13 read it back to you I will read it to you?</p> <p>16:28:31 14 Q. Yes.</p> <p>16:28:32 15 A. It says, "One thing we want to be</p> <p>16:28:35 16 clear is that when you look at the rep and</p> <p>16:28:44 17 warranty claims and the claims by the various</p> <p>16:28:44 18 investors we are not going to just put this behind</p> <p>16:28:44 19 us to make us feel good. We are protecting your</p> <p>16:28:44 20 money and protecting the shareholders' money and</p> <p>16:28:45 21 we will make sure that we will pay when due, but</p> <p>16:28:46 22 not just do a settlement to move the matter</p> <p>16:28:51 23 along."</p> <p>16:28:52 24 Q. That is what you meant when you</p> <p>16:28:57 25 were talking in The New York Times and you said we</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:29:00 2 will stand behind it and we will clean it up?</p> <p>16:29:02 3 MR. ROSENBERG: Objection to the</p> <p>16:29:02 4 form.</p> <p>16:29:02 5 A. Sir, that is a -- you're saying</p> <p>16:29:06 6 that, I didn't say that.</p> <p>16:29:07 7 Q. You didn't say that to the New York</p> <p>16:29:09 8 Times?</p> <p>16:29:09 9 A. I said it to the New York Times.</p> <p>16:29:11 10 You said that is what I meant and I'm saying that</p> <p>16:29:13 11 is not what I meant.</p> <p>16:29:14 12 Q. You meant something different when</p> <p>16:29:15 13 you said "our company bought it and we will stand</p> <p>16:29:17 14 up and we will clean up it"?</p> <p>16:29:19 15 A. I meant that we have every aspect</p> <p>16:29:21 16 of this we think through exactly what we are going</p> <p>16:29:23 17 to do a make a decision based on what is the best</p> <p>16:29:27 18 interest of our shareholder in every single</p> <p>16:29:29 19 aspect. The day to day work we do, the claims</p> <p>16:29:30 20 that we pay, everything that goes on.</p> <p>16:29:38 21 Q. As I said before, when you made</p> <p>16:29:40 22 this statement, you made it with full knowledge</p> <p>16:29:42 23 that the public would rely on it; is that right?</p> <p>16:29:44 24 MR. ROSENBERG: Objection to form.</p> <p>16:29:47 25 A. We made the statement based on that</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:31:12 2 you a magnify glass if you need it. This is an</p> <p>16:31:18 3 exhibit, this is Exhibit 3365, and starts with an</p> <p>16:31:24 4 e-mail from Dan Frahm to Scott Schneider, among</p> <p>16:31:33 5 others. That includes an e-mail from Scott</p> <p>16:31:39 6 Schneider subject of which is New Request From</p> <p>16:31:43 7 Moynihan. The date is February 21, 2010. The</p> <p>16:31:46 8 document is 79573. And I specifically want to</p> <p>16:32:04 9 refer you to a page BAC 0079579 and the e-mail is</p> <p>16:32:28 10 from you to Barbara Desoer.</p> <p>16:32:31 11 A. Right.</p> <p>16:32:32 12 Q. Do you see that?</p> <p>16:32:32 13 A. Yes.</p> <p>16:32:41 14 Q. Do you recall this e-mail?</p> <p>16:32:42 15 A. I could see it's an e-mail. I</p> <p>16:32:45 16 don't recall it. The exact e-mail.</p> <p>16:32:50 17 Q. Can you tell me what that e-mail is</p> <p>16:32:58 18 about?</p> <p>16:32:58 19 A. It is about modifying people's</p> <p>16:33:00 20 mortgages it seems.</p> <p>16:33:01 21 Q. Is this in connection with one of</p> <p>16:33:05 22 the settlements that you were entertaining?</p> <p>16:33:07 23 A. No. This is just in the work that</p> <p>16:33:09 24 we do.</p> <p>16:33:09 25 Q. And then at the bottom it says, "I</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:29:49 2 was our intention then and that is our intention</p> <p>16:29:51 3 now.</p> <p>16:29:51 4 Q. You're careful about your</p> <p>16:29:54 5 statements, right?</p> <p>16:29:55 6 A. I think I answered that before.</p> <p>16:29:56 7 Q. You answer that yes.</p> <p>16:29:58 8 A. I did.</p> <p>16:29:59 9 Q. And it is still yes?</p> <p>16:30:00 10 A. Yes.</p> <p>16:30:04 11 Q. Now, you use the words clean up</p> <p>16:30:06 12 many times when talking about Countrywide; isn't</p> <p>16:30:08 13 that true?</p> <p>16:30:10 14 MR. ROSENBERG: Objection to form.</p> <p>16:30:10 15 A. I have used the statement before,</p> <p>16:30:14 16 yes.</p> <p>16:30:14 17 Q. And specifically in talking about</p> <p>16:30:17 18 Countrywide?</p> <p>16:30:18 19 A. In talking about the work that</p> <p>16:30:20 20 comes from in the mortgage business I have used it</p> <p>16:30:23 21 many times and I have used it about Countrywide.</p> <p>16:30:41 22 MR. CALAMARI:</p> <p>16:30:41 23 (Exhibit 3365 for identification,</p> <p>16:31:07 24 Document Bates stamped 79573.)</p> <p>16:31:07 25 Q. This is another one we will offer</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:33:16 2 want to keep stressing that we are cleaning up</p> <p>16:33:18 3 someone else's mess." Do you see that? That is</p> <p>16:33:21 4 the next to last paragraph?</p> <p>16:33:22 5 A. Yes.</p> <p>16:33:24 6 Q. Then it goes to say "I'm leading to</p> <p>16:33:26 7 a bad bank consent here." What was the bad bank?</p> <p>16:33:30 8 A. That we split the company into</p> <p>16:33:33 9 legacy asset servicing to isolate the assets that</p> <p>16:33:36 10 we would produce again the products, we still do</p> <p>16:33:38 11 that today, away from the business that we want to</p> <p>16:33:40 12 have going forward.</p> <p>16:33:41 13 Q. The bad bank was the legacy</p> <p>16:33:43 14 business?</p> <p>16:33:44 15 MR. ROSENBERG: Objection to the</p> <p>16:33:44 16 form.</p> <p>16:33:44 17 A. From all the prior entities and</p> <p>16:33:46 18 products that were going to be discontinued, etc.</p> <p>16:33:48 19 Q. That was the business that was all</p> <p>16:33:50 20 going to be discontinued?</p> <p>16:33:51 21 MR. ROSENBERG: Objection to form.</p> <p>16:33:52 22 A. In some respects, yes, mostly, yes.</p> <p>16:33:55 23 Q. Mostly yes. That is what we talked</p> <p>16:33:56 24 about before, CFC was essentially not going to</p> <p>16:33:59 25 have any business?</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:34:00 2 A. This has nothing to with CFC. This</p> <p>16:34:02 3 is a division, an operating division of the</p> <p>16:34:05 4 company. What legal entity it is working for, you</p> <p>16:34:08 5 have to get somebody else to look at it.</p> <p>16:34:10 6 Q. It goes on to say, you say it has</p> <p>16:34:12 7 nothing to do with CFC, but it then says, "Isolating in the</p> <p>16:34:15 8 past from how we operate now and how we believe</p> <p>16:34:18 9 the business ought to be done, and the pass being</p> <p>16:34:21 10 in the bad bank or legacy which is a problem that</p> <p>16:34:25 11 we are solving for America."</p> <p>16:34:27 12 A. Right.</p> <p>16:34:28 13 Q. Do you see that?</p> <p>16:34:28 14 A. Yes.</p> <p>16:34:29 15 Q. So you looked at it as solving this</p> <p>16:34:31 16 problem not just for Bank Of America but for all</p> <p>16:34:33 17 of America?</p> <p>16:34:34 18 A. It is cleaning up and getting</p> <p>16:34:36 19 people through the difficulties that we had in the</p> <p>16:34:39 20 mortgage business.</p> <p>16:34:55 21 Q. It is goes on to say, "which is a</p> <p>16:35:05 22 problem we are solving for America." I read that.</p> <p>16:35:07 23 "I know this is motherhood and apple pie to some</p> <p>16:35:10 24 degree, but we need to shape the discussion better</p> <p>16:35:14 25 in the world's mind."</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:36:22 2 you see that?</p> <p>16:36:22 3 A. Right.</p> <p>16:36:23 4 Q. So you were trying to distinguish</p> <p>16:36:25 5 legacy Countrywide from Bank Of America going</p> <p>16:36:28 6 forward?</p> <p>16:36:29 7 A. We -- we were trying to distinguish</p> <p>16:36:32 8 the legacy Countrywide practices and products that</p> <p>16:36:34 9 we no longer continued and were cleaning that up.</p> <p>16:36:37 10 Q. Now, I showed you one quick</p> <p>16:36:56 11 earnings report. You participated in numerous</p> <p>16:37:01 12 earnings discussions in which reserves for</p> <p>16:37:05 13 Countrywide were discussed; is that right?</p> <p>16:37:09 14 A. I participated in numerous earnings</p> <p>16:37:11 15 discussions. I'm not sure what you mean by the</p> <p>16:37:16 16 second half of your question. We discuss all our</p> <p>16:37:18 17 reserves in our financials for all types of</p> <p>16:37:21 18 things.</p> <p>16:37:30 19 Q. So let's go down the exhibit that</p> <p>16:37:32 20 we currently have an turn to page seven of the</p> <p>16:38:16 21 earnings report. And then it in turn -- let me</p> <p>16:38:31 22 just read it says "Turning to slide 23 you can see</p> <p>16:38:35 23 the total rep and warranty expense in the quarter</p> <p>16:38:40 24 was 872 million down from the 1.2 billion in the</p> <p>16:38:43 25 prior quarter." Do you see that sentence?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:35:16 2 So you're trying to get across to</p> <p>16:35:18 3 the world that you were doing America a favor?</p> <p>16:35:21 4 MR. ROSENBERG: Objection to the</p> <p>16:35:22 5 form.</p> <p>16:35:22 6 A. No. We are trying to get across to</p> <p>16:35:24 7 the world's mind that we are actually modifying</p> <p>16:35:27 8 loans. The company was saying we weren't</p> <p>16:35:29 9 modifying loans fast enough, we weren't doing any</p> <p>16:35:32 10 work, we weren't cleaning this up for legacy Bank</p> <p>16:35:32 11 of America, for legacy Countrywide, for legacy</p> <p>16:35:34 12 Merrill, and this was a statement saying that we</p> <p>16:35:35 13 had to start to produce facts that would say how</p> <p>16:35:37 14 hard we are working on this.</p> <p>16:35:49 15 Q. You said you didn't think that the</p> <p>16:35:53 16 bad bank was we are referring to Countrywide?</p> <p>16:35:58 17 MR. ROSENBERG: Objection,</p> <p>16:35:58 18 mischaracterizes the testimony.</p> <p>16:35:59 19 A. I didn't. I said it was referring</p> <p>16:36:03 20 to the asset, the products that we were not going</p> <p>16:36:06 21 to continue.</p> <p>16:36:06 22 Q. So, above it says just above the</p> <p>16:36:12 23 beginning of this second to last paragraph it says</p> <p>16:36:16 24 "Also can we get stats that say all the people in</p> <p>16:36:19 25 50 plus this number are legacy Countrywide." Do</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:38:46 2 A. Yes.</p> <p>16:38:50 3 Q. Then it goes on to say, "The</p> <p>16:38:51 4 reserve increased in approximately half a billion</p> <p>16:38:54 5 to 4.4 billion." And then it says "Our unresolved</p> <p>16:38:59 6 repurchase requests totaled approximately</p> <p>16:39:03 7 12.9 billion of which 6.8 billion or 53 percent</p> <p>16:39:07 8 are from GSEs." Do you see that?</p> <p>16:39:10 9 A. Yes.</p> <p>16:39:11 10 Q. What are GSEs?</p> <p>16:39:12 11 A. The government, Fannie Mae and</p> <p>16:39:15 12 Freddie Mac.</p> <p>16:39:15 13 Q. So, if 53 percent of 6.8 billion</p> <p>16:39:20 14 were from GSEs, where were the rest?</p> <p>16:39:24 15 A. From people other than GSEs, I</p> <p>16:39:27 16 assume.</p> <p>16:39:27 17 Q. Do you have any knowledge as to who</p> <p>16:39:29 18 they were from?</p> <p>16:39:30 19 A. I mean you can go to the document</p> <p>16:39:34 20 and see they are from other private label people,</p> <p>16:39:37 21 etc.</p> <p>16:39:37 22 Q. That includes monolines?</p> <p>16:39:40 23 A. We could go to 23. This is not me</p> <p>16:39:45 24 talking just so -- this is not me speaking at this</p> <p>16:39:48 25 time.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:39:48 2 Q. I understand. But you were there,</p> <p>16:39:50 3 weren't you?</p> <p>16:39:50 4 A. I'm just saying it is not me. So</p> <p>16:39:53 5 this page, referring to the document layout, it</p> <p>16:39:58 6 lays it out.</p> <p>16:39:59 7 Q. We will get to that document. You</p> <p>16:40:07 8 don't know who it is from, though, off the top of</p> <p>16:40:10 9 your head? You need to look at another document.</p> <p>16:40:10 10 A. It says right here. That's because</p> <p>16:40:13 11 it's referring to this document. The slide has on</p> <p>16:40:15 12 it, GSEs and monolines and other.</p> <p>16:40:17 13 MR. ROSENBERG: The witness is</p> <p>16:40:18 14 referring to Exhibit 3346.</p> <p>16:40:21 15 THE WITNESS: Page 23.</p> <p>16:40:21 16 Q. That includes monolines, right?</p> <p>16:40:23 17 A. The word monoline is there, yes,</p> <p>16:40:25 18 sir.</p> <p>16:40:25 19 Q. You have no reason to believe that</p> <p>16:40:26 20 is wrong?</p> <p>16:40:27 21 A. I don't have any reason to believe</p> <p>16:40:30 22 it is wrong. It says monoline. You asked me the</p> <p>16:40:32 23 question.</p> <p>16:40:33 24 Q. Then it says "There have been a</p> <p>16:40:37 25 number of questions raised about the reps and</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:42:19 2 A. Of the transcript?</p> <p>16:42:23 3 Q. Yes.</p> <p>16:42:23 4 A. Okay.</p> <p>16:42:26 5 Q. Near the top it says that, right at</p> <p>16:42:29 6 the top the first sentence that actually begins on</p> <p>16:42:33 7 the page says, "Also certain monoline insurers</p> <p>16:42:36 8 have instituted litigation against Countrywide and</p> <p>16:42:39 9 Bank Of America which further constrains a normal</p> <p>16:42:41 10 business relationship. Without this engagement we</p> <p>16:42:44 11 believe it is not possible at this time to</p> <p>16:42:47 12 reasonably estimate future repurchase experience</p> <p>16:42:50 13 and therefore the liability that may exist in</p> <p>16:42:53 14 connection with these securitizations." Do you</p> <p>16:42:56 15 see that?</p> <p>16:42:56 16 A. Yes.</p> <p>16:42:57 17 Q. So, is it fair to say that the</p> <p>16:42:59 18 reserve estimates here that are set forth in this</p> <p>16:43:03 19 document do not include reserves for liability</p> <p>16:43:09 20 from monolines in litigation with the Bank Of</p> <p>16:43:13 21 America?</p> <p>16:43:13 22 MR. ROSENBERG: Objection to the</p> <p>16:43:14 23 form.</p> <p>16:43:16 24 A. It says that, "Also certain</p> <p>25 monoline insurers have instituted litigation</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:40:39 2 warranty exposure that exists across the industry</p> <p>16:40:41 3 and specifically at the Bank Of America. We have</p> <p>16:40:43 4 addressed this topic in the passed in both our</p> <p>16:40:46 5 forms 10-K and 10-Q and on our prior earnings</p> <p>16:40:50 6 calls, but given the level of discussion we</p> <p>16:40:52 7 thought it made sense to lay it out the components</p> <p>16:40:55 8 for you today." Do you see that?</p> <p>16:40:56 9 A. Yes.</p> <p>16:40:58 10 Q. And again it was your intent to lay</p> <p>16:40:59 11 out the components of these reserves to the</p> <p>16:41:02 12 public; is that right?</p> <p>16:41:04 13 MR. ROSENBERG: Objection to the</p> <p>16:41:04 14 form.</p> <p>16:41:04 15 A. This page 23 and the stuff in the</p> <p>16:41:06 16 earning slides, yes.</p> <p>16:41:07 17 Q. That is a pretty clear summary of</p> <p>16:41:09 18 the reserve position as of that day?</p> <p>16:41:13 19 A. It was a summary of what's -- yes,</p> <p>16:41:15 20 this is speech going from the slides on page 23.</p> <p>16:41:24 21 Q. And then if you go to page eight of</p> <p>16:41:32 22 the presentation. Now if you -- now let me see</p> <p>16:42:13 23 one thing. If you go to page nine.</p> <p>16:42:16 24 A. Of what?</p> <p>16:42:17 25 Q. Of the presentation.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>2 against Countrywide and Bank Of America which</p> <p>3 further constrains a normal business relationship.</p> <p>4 Without this engagement we believe it is not</p> <p>5 possible at this time to reasonably estimate</p> <p>6 future repurchase experience, and therefore the</p> <p>7 liability that may exist in connection with these</p> <p>16:43:34 8 securitizations." That is what it says, yes, sir.</p> <p>16:43:44 9 Q. I know that is what it says because</p> <p>16:43:44 10 I read it and you read it too. I want to know</p> <p>16:43:44 11 what it means. Does it mean that the reserve</p> <p>16:43:44 12 numbers don't include, for example, claims that</p> <p>16:43:47 13 MBIA has made?</p> <p>16:43:49 14 A. You have to go back at this time</p> <p>16:43:51 15 exactly where we stood with the people, the basic</p> <p>16:43:55 16 principal was for the people in litigation. I</p> <p>16:43:57 17 don't think they were included.</p> <p>16:43:57 18 Q. It didn't include those reserves?</p> <p>16:43:59 19 A. Right.</p> <p>16:44:00 20 Q. So if there is a reserve for</p> <p>16:44:01 21 liability for the people in litigation, it would</p> <p>16:44:05 22 be somewhere else but it's not here?</p> <p>16:44:06 23 MR. ROSENBERG: Objection to the</p> <p>16:44:07 24 form.</p> <p>16:44:07 25 A. It could be, yes.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:44:07 2 Q. And equally where were these</p> <p>16:44:19 3 reserves booked?</p> <p>16:44:20 4 A. I don't know from the legal entity</p> <p>16:44:22 5 basis, if that is your question. You have to get</p> <p>16:44:24 6 someone that knows where they are booked exactly.</p> <p>16:44:26 7 Q. Let's turn to page 22 of the</p> <p>16:44:32 8 presentation, I'm sorry, which is Exhibit 3365.</p> <p>16:45:24 9 MS. ROEDER: I think it is 64.</p> <p>16:45:29 10 Q. Looking at that presentation, the</p> <p>16:45:34 11 title on page 22 is Mortgage Banking Revenue, is</p> <p>16:45:41 12 that right?</p> <p>16:45:41 13 A. Yes, that is the title.</p> <p>16:45:42 14 Q. That is the mortgage banking</p> <p>16:45:43 15 revenue from Countrywide -- I'm sorry, that is the</p> <p>16:45:47 16 mortgage banking revenue from Bank Of America Home</p> <p>16:45:50 17 Loans, right?</p> <p>16:45:51 18 A. It is mortgage banking revenue for</p> <p>16:45:53 19 Bank Of America. This is a line in a P&L, so it</p> <p>16:45:56 20 is for the whole corporation which goes on various</p> <p>16:45:58 21 entities.</p> <p>16:45:59 22 Q. But the only revenue in this area</p> <p>16:46:03 23 was coming in from Bank Of America Home Loans; is</p> <p>16:46:07 24 that right?</p> <p>16:46:07 25 MR. ROSENBERG: Objection to form.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:46:52 2 entity, that legal entity is not Countrywide</p> <p>16:46:57 3 Financial Corp., is it?</p> <p>16:46:59 4 MR. ROSENBERG: Objection to the</p> <p>16:46:59 5 form.</p> <p>16:46:59 6 A. I don't -- the legal entity is -- I</p> <p>16:47:02 7 don't know the legal entity. It is produced under</p> <p>16:47:04 8 Bank Of America Home Loans. In this revenue line</p> <p>16:47:06 9 are wealth management business, the MSR results</p> <p>16:47:09 10 sometimes come through the investment portfolio,</p> <p>16:47:11 11 but this is the Bank Of America P&L that we are</p> <p>16:47:13 12 talking about here.</p> <p>16:47:14 13 Q. Exactly. And these reserves have</p> <p>16:47:18 14 been charged and these expense have been charged</p> <p>16:47:21 15 against these revenues? And just so I can make it</p> <p>16:47:24 16 clear --</p> <p>16:47:25 17 A. On a consolidated basis, sir.</p> <p>16:47:34 18 Q. So it says under commentary "Versus</p> <p>16:47:40 19 second Q 10, mortgage banking revenue increased</p> <p>16:47:48 20 857 million versus second quarter 10." Right?</p> <p>16:47:51 21 A. Yes.</p> <p>16:47:52 22 Q. And again that is the mortgage</p> <p>16:47:53 23 banking revenue for the most part of Bank Of</p> <p>16:47:59 24 America Home Loans?</p> <p>16:47:59 25 MR. ROSENBERG: Objection to the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:46:08 2 A. I'm not sure that you're correct on</p> <p>16:46:09 3 that.</p> <p>16:46:09 4 Q. Do you know of mortgage banking</p> <p>16:46:11 5 revenues that were coming in in CFC?</p> <p>16:46:15 6 A. I'm not talking about legal</p> <p>16:46:17 7 entities, but our other lines of business, wealth</p> <p>16:46:20 8 management business produces some mortgage loans.</p> <p>16:46:22 9 Q. It could be other businesses of</p> <p>16:46:23 10 Bank Of America that produce mortgage loans?</p> <p>16:46:26 11 A. Correct.</p> <p>16:46:27 12 Q. But the principal business</p> <p>16:46:29 13 producing mortgage loans was Countrywide Home</p> <p>16:46:32 14 Loans, right?</p> <p>16:46:32 15 A. No.</p> <p>16:46:33 16 MR. ROSENBERG: Objection to form.</p> <p>16:46:33 17 Q. I'm sorry, you're right, I'm wrong.</p> <p>16:46:35 18 It was Bank Of America Home Loans?</p> <p>16:46:38 19 A. This revenue -- that is the brand</p> <p>16:46:42 20 name, yes. The legal entities you have to, again,</p> <p>16:46:45 21 it is booked by a legal entity based on where the</p> <p>16:46:49 22 assets are.</p> <p>16:46:49 23 Q. That is the brand name?</p> <p>16:46:50 24 A. Yes.</p> <p>16:46:50 25 Q. And that is also in terms of legal</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:48:00 2 form.</p> <p>16:48:00 3 A. This is the P&L line in the Bank Of</p> <p>16:48:02 4 America Corporation consolidated financial</p> <p>16:48:04 5 statement labeled mortgage banking revenue.</p> <p>16:48:14 6 Q. Correct.</p> <p>16:48:15 7 A. That is what it is.</p> <p>16:48:17 8 Q. Again I will come back to that.</p> <p>16:48:17 9 That revenue for the most part is generated by</p> <p>16:48:19 10 Bank Of America Home Loans?</p> <p>16:48:21 11 A. The brand, yes. The mortgage</p> <p>16:48:23 12 business. Again --</p> <p>16:48:26 13 Q. You don't know who holds the</p> <p>16:48:28 14 mortgage business. The mortgage business as far</p> <p>16:48:31 15 as you're concerned could be held in a 47th tier</p> <p>16:48:35 16 subsidiary in Cayman Islands, right?</p> <p>16:48:37 17 MR. ROSENBERG: Objection to the</p> <p>16:48:38 18 form.</p> <p>16:48:40 19 Q. You don't know who holds the</p> <p>16:48:42 20 mortgage business?</p> <p>16:48:42 21 MR. ROSENBERG: Objection to form.</p> <p>16:48:44 22 A. The legal entities that make up the</p> <p>16:48:46 23 mortgage business is not something that I track.</p> <p>16:49:03 24 MR. CALAMARI: Let's take a break now</p> <p>16:49:04 25 because I'm about to search for a chart that</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>16:49:06 2 might clear all of this up.</p> <p>16:49:10 3 MR. ROSENBERG: So you're going to</p> <p>16:49:12 4 change the tape.</p> <p>16:49:13 5 MR. CALAMARI: Change the tape, yes,</p> <p>16:49:13 6 he will have to do it in a few minutes</p> <p>16:49:15 7 anyway.</p> <p>16:49:16 8 MR. ROSENBERG: I just don't want to</p> <p>16:49:18 9 have to stop again.</p> <p>16:49:19 10 MR. CALAMARI: I agree with you.</p> <p>16:49:20 11 THE VIDEOGRAPHER: We are off the</p> <p>16:49:21 12 record the time is 4:48 p.m. and this is the</p> <p>16:49:24 13 end of tape number two.</p> <p>16:49:25 14 (Recess taken.)</p> <p>17:11:42 15 THE VIDEOGRAPHER: We are back on the</p> <p>17:11:53 16 record the time is 5:11 p.m. and this is the</p> <p>17:12:02 17 start of tape number three.</p> <p>17:12:05 18 BY MR. CALAMARI:</p> <p>17:12:05 19 Q. You mentioned before that over time</p> <p>17:12:11 20 BAC's reserves -- I'm sorry, Bank Of America's</p> <p>17:12:14 21 reserves have increased with regard to rep and</p> <p>17:12:20 22 warranty liabilities.</p> <p>17:12:22 23 MR. ROSENBERG: Objection to form.</p> <p>17:12:23 24 A. I mentioned that, yes.</p> <p>17:12:24 25 Q. And what are the facts and</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:14:00 2 A. Page 18 you said?</p> <p>17:14:00 3 Q. Yes.</p> <p>17:14:03 4 A. Okay.</p> <p>17:14:03 5 Q. The question is as I said, I'm</p> <p>17:14:08 6 paraphrasing, but in effect it says what Bank Of</p> <p>17:14:14 7 America is not going to do is have somebody that</p> <p>17:14:16 8 bought a Chevy Vega but wants a Mercedes with a 12</p> <p>17:14:21 9 cylinder to be returned to it. You're not going</p> <p>17:14:23 10 to put up with that. Is that a fair characterization?</p> <p>17:14:26 11 A. Why don't I read it to you to make</p> <p>17:14:28 12 it simpler.</p> <p>17:14:28 13 Q. Go ahead?</p> <p>17:14:29 14 A. This what the transcript says "But</p> <p>17:14:31 15 if you did think people that come back and say</p> <p>17:14:34 16 bought a Chevy Vega, but I want it to be a</p> <p>17:14:38 17 Mercedes with a 12 cylinder, we are not putting up</p> <p>17:14:41 18 with that."</p> <p>17:14:41 19 Q. What about the people that bought a</p> <p>17:14:44 20 Chevy Vega and got a tricycle, what are you going</p> <p>17:14:50 21 to do about those people?</p> <p>17:14:51 22 MR. ROSENBERG: Objection to form.</p> <p>17:14:51 23 A. The intent of this was saying if</p> <p>17:14:53 24 people, if the securities were structured in a way</p> <p>17:14:55 25 that the investors wanted them structured and the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:12:29 2 circumstances that went into the decision to</p> <p>17:12:32 3 increase those reserves?</p> <p>17:12:34 4 A. It's an assessment of the facts and</p> <p>17:12:36 5 circumstances each time we close the books.</p> <p>17:12:38 6 Q. Do developments in the legal</p> <p>17:12:40 7 proceedings affect the change in the reserve?</p> <p>17:12:43 8 A. They would affect the changes in --</p> <p>17:12:49 9 they would -- they would be one of the factor</p> <p>17:12:51 10 among many.</p> <p>17:12:52 11 Q. Was the decision in this case</p> <p>17:12:53 12 regarding causation one of those factors?</p> <p>17:12:55 13 A. Not -- I don't have any knowledge</p> <p>17:13:02 14 of that.</p> <p>17:13:02 15 Q. In the earnings transcript,</p> <p>17:13:10 16 Exhibit 3363, on page 18 about a third of the way</p> <p>17:13:29 17 down the page there is a quote from you, and I</p> <p>17:13:33 18 won't go through the whole quote, but basically</p> <p>17:13:36 19 you say you're trying to protect your shareholders</p> <p>17:13:38 20 against somebody who bought a Chevy Vega and he</p> <p>17:13:42 21 wants to be given a Mercedes 12 cylinder in</p> <p>17:13:48 22 return. Do you see that?</p> <p>17:13:52 23 A. I don't know where you are, sir.</p> <p>17:13:54 24 Q. The third paragraph before the end</p> <p>17:13:56 25 of page 18 where it says "Answer Brian Moynihan".</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:14:57 2 products were there, that is what they were meant</p> <p>17:14:59 3 to be. That is the test.</p> <p>17:15:17 4 Q. I guess I'm a little confused by</p> <p>17:15:20 5 that answer. Is what you're saying maybe a</p> <p>17:15:23 6 refrain of something that we said a couple of</p> <p>17:15:25 7 times, namely that if there is a legitimate claim</p> <p>17:15:29 8 it will be paid?</p> <p>17:15:31 9 A. No. What I'm saying is that if the</p> <p>17:15:35 10 standard of the security or the asset was supposed</p> <p>17:15:41 11 to be X and it was X, that we are not going to pay</p> <p>17:15:45 12 it even though that X may have turned out to be</p> <p>17:15:50 13 different than what people wanted it to be.</p> <p>17:15:51 14 Q. But I'm asking the inverse of that.</p> <p>17:15:53 15 What if the standard was supposed to be X and it</p> <p>17:15:58 16 was not X, what are you going to do then?</p> <p>17:16:01 17 MR. ROSENBERG: Objection to form.</p> <p>17:16:03 18 A. There is a whole bunch of things</p> <p>17:16:04 19 factors in all of this, in terms of how much that</p> <p>17:16:07 20 happens, what happens, what the rights are, what</p> <p>17:16:09 21 the legal entities are. All of that stuff. So</p> <p>17:16:11 22 there is a thousand factors that go into -- this</p> <p>17:16:14 23 is saying that if the asset was exposed to be X</p> <p>17:16:16 24 and it wasn't X -- if the asset was supposed to be</p> <p>17:16:19 25 X and it was X, just because people wanted Y, we</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:16:20 2 are not going to pay them for that.</p> <p>17:16:23 3 Q. I noticed no where in all of these</p> <p>17:16:25 4 discussions you mention anything about legal</p> <p>17:16:28 5 entities. We only talk about Bank Of America</p> <p>17:16:33 6 Corporation. Is there a reason for that?</p> <p>17:16:35 7 MR. ROSENBERG: Objection to form.</p> <p>17:16:36 8 A. Just it's a Bank Of America</p> <p>17:16:38 9 earnings call.</p> <p>17:16:41 10 Q. And you're concerned with Bank Of</p> <p>17:16:44 11 America liabilities?</p> <p>17:16:45 12 MR. ROSENBERG: Objection to the form.</p> <p>17:16:45 13 A. We are concerned we are talking</p> <p>17:16:47 14 about Bank Of America, including all of its legal</p> <p>17:16:48 15 entities and all of its people and all of its</p> <p>17:16:51 16 customers and all of its prospects and all of its</p> <p>17:16:53 17 earnings and all of its balance sheets.</p> <p>17:17:04 18 Q. You're not trying to get people to</p> <p>17:17:05 19 think that you're going to pay for claims that</p> <p>17:17:07 20 you're not going to pay for; is that right?</p> <p>17:17:09 21 MR. ROSENBERG: Objection to form.</p> <p>17:17:12 22 A. I don't know what the question was.</p> <p>17:17:13 23 Q. You're not trying to mislead people</p> <p>17:17:14 24 in any way?</p> <p>17:17:16 25 A. I said that before, no.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:19:11 2 forward, and that may move stuff that would have</p> <p>17:19:14 3 occupied later on forward." And that goes on a</p> <p>17:19:14 4 while.</p> <p>17:19:20 5 But the question that I want to ask</p> <p>17:19:21 6 you starts with it start says "So, if you look at</p> <p>17:19:25 7 the resolution type of thing and look back across</p> <p>17:19:27 8 the quarters that we gave you, it is half billion,</p> <p>17:19:30 9 half billion, half billion. So those are the</p> <p>17:19:32 10 kinds of numbers that would be more recurring.</p> <p>17:19:39 11 The last couple quarters we had some sort</p> <p>17:19:43 12 significant movement in terms of catching up to</p> <p>17:19:52 13 some pieces, so the danger here is it could be</p> <p>17:19:52 14 lumpy, so don't, but on average that is what we</p> <p>17:19:52 15 saw."</p> <p>17:19:53 16 By saying those things are you</p> <p>17:19:54 17 saying they should expect about a 500 million a</p> <p>17:19:57 18 quarter increase in reserve going forward?</p> <p>17:20:01 19 MR. ROSENBERG: Objection to the</p> <p>17:20:01 20 form.</p> <p>17:20:01 21 A. I think I'm saying the other thing.</p> <p>17:20:03 22 I'm saying it could be lumpy.</p> <p>17:20:06 23 Q. Okay. So when you say --</p> <p>17:20:10 24 A. On the resolution.</p> <p>17:20:11 25 Q. So if you look at sort of the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:17:30 2 Q. On page of the same transcript,</p> <p>17:17:33 3 page 23, you have a quote that says, it starts</p> <p>17:17:56 4 right at the top. "The activities from the put backs</p> <p>17:18:00 5 but it relates to those periods in time of</p> <p>17:18:02 6 origination as opposed to the new activity of new</p> <p>17:18:07 7 underwriting of loans is not producing any</p> <p>17:18:09 8 activity" and then there is little interruption</p> <p>17:18:12 9 and then you go on, "of magnitude and what I'm</p> <p>17:18:15 10 trying to say, so the pig and the snake is sealed</p> <p>17:18:19 11 off now. Now the question is we have just got to</p> <p>17:18:24 12 work it through and that is going to take time."</p> <p>17:18:27 13 What did you mean when you said the</p> <p>17:18:29 14 pig and snake is sealed off?</p> <p>17:18:30 15 A. What I'm saying is that the</p> <p>17:18:31 16 underwriting standards of our company and the</p> <p>17:18:34 17 industry changed in 2008 and so originations after</p> <p>17:18:41 18 that period of time had delinquencies were very</p> <p>17:18:45 19 low, etc.</p> <p>17:18:47 20 Q. If you go back to page 22, also a</p> <p>17:18:51 21 quote from you, it says "If you take out sort of</p> <p>17:18:56 22 the ups and downs and look back, you can see 500</p> <p>17:18:59 23 million issued a quarter. And I have said that</p> <p>17:19:03 24 Mike on occasion it is just going to be lumpy</p> <p>17:19:05 25 because as we gave data we will move something</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:20:13 2 resolution type of thing and you look back across</p> <p>17:20:15 3 the quarters we gave it's half billion, half</p> <p>17:20:18 4 billion, half billion, so those are the kind of</p> <p>17:20:23 5 numbers that would be more recurring. Did you</p> <p>17:20:27 6 mean then it was half billion every quarter plus</p> <p>17:20:30 7 lumpy numbers?</p> <p>17:20:32 8 A. No. It was reflecting claims cost,</p> <p>17:20:37 9 there is lot of different things running through</p> <p>17:20:38 10 this. So I'm not sure in the context. I said</p> <p>17:20:42 11 there would be lumpy provisions.</p> <p>17:21:00 12 Q. Going back to pages 22 and 23.</p> <p>17:21:06 13 MR. ROSENBERG: Of what exhibit?</p> <p>17:21:07 14 Q. Of exhibit, the chart which is</p> <p>17:21:30 15 3364. On page 23 you show monoline -- I'm sorry,</p> <p>17:21:42 16 you show liability for reps and warranties,</p> <p>17:21:48 17 beginning balance, charge-off, other activity.</p> <p>17:21:51 18 And then you give some information about new claim</p> <p>17:21:53 19 trends, approved repurchases. And is it fair to</p> <p>17:22:00 20 say, again, I asked it before, but I will make</p> <p>17:22:03 21 sure. It is fair to say that these expenses were</p> <p>17:22:06 22 charged against the mortgage banking revenues; is</p> <p>17:22:11 23 that right?</p> <p>17:22:11 24 MR. ROSENBERG: Objection to the</p> <p>17:22:13 25 form.</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:22:13 2 A. I think -- yes, I think that</p> <p>17:22:18 3 repurchase liability goes through the mortgage</p> <p>17:22:21 4 bank revenues that we discussed earlier.</p> <p>17:23:29 5 Q. Going to a new exhibit, Quarter 4,</p> <p>17:23:34 6 2010 earnings.</p> <p>17:23:43 7 MS. BEA: This is mark as Exhibit 3366</p> <p>17:23:46 8 and 3367.</p> <p>17:23:48 9 (Exhibit 3366 for identification,</p> <p>17:23:49 10 Facet transcript dated January 21, 2011).</p> <p>17:23:49 11 (Exhibit 3367 for identification, Bank</p> <p>17:23:49 12 of America 4Q10 Earnings Results dated</p> <p>17:23:49 13 January 21, 2011.).</p> <p>17:24:41 14 MR. ROSENBERG: I note for the record</p> <p>17:24:42 15 again, two additional documents without a</p> <p>17:24:44 16 Bates number, not produced before this</p> <p>17:24:47 17 deposition. Note my objection to it, but I</p> <p>17:24:52 18 will not instruct the witness not to answer</p> <p>17:24:54 19 at this time.</p> <p>17:24:55 20 MR. CALAMARI: And I note for the</p> <p>17:24:57 21 record that both documents should have been</p> <p>17:24:59 22 produced by Bank Of America and apparently</p> <p>17:25:02 23 were not.</p> <p>17:25:02 24 MR. ROSENBERG: That is untrue.</p> <p>17:25:03 25 MR. CALAMARI: You produced one of</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:25:43 2 the deposition, and you haven't Bates stamped</p> <p>17:25:44 3 them, and that I have an objection to that.</p> <p>17:25:46 4 But I wasn't instructing the witness not to</p> <p>17:25:48 5 answer. Now if you have questions of the</p> <p>17:25:51 6 witness go ask your questions.</p> <p>17:25:53 7 MR. CALAMARI: I'm about to. I'm</p> <p>17:25:55 8 noting for the record that these documents</p> <p>17:25:56 9 should have been produced by Bank Of America</p> <p>17:25:58 10 and were not.</p> <p>17:25:59 11 MR. ROSENBERG: I disagree with that</p> <p>17:26:00 12 characterization. Now ask the question of</p> <p>17:26:02 13 this witness, please.</p> <p>17:26:03 14 MR. CALAMARI: Yes. I'm totally</p> <p>17:26:05 15 ready.</p> <p>17:26:05 16 Q. If you look at this, this is</p> <p>17:26:12 17 earnings report -- an earnings call that you</p> <p>17:26:17 18 participated in?</p> <p>17:26:19 19 A. It's a transcript of Factset of</p> <p>17:26:22 20 that, yes.</p> <p>17:26:23 21 Q. It's dated January 21st, 2011?</p> <p>17:26:26 22 A. Yes.</p> <p>17:26:27 23 Q. It's accompanied by a presentation</p> <p>17:26:28 24 again that Bank Of America prepared?</p> <p>17:26:32 25 A. There is a presentation on the</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:25:04 2 these?</p> <p>17:25:05 3 MR. ROSENBERG: That wasn't</p> <p>17:25:06 4 requested. We could go into a long</p> <p>17:25:08 5 discussion about --</p> <p>17:25:08 6 MR. CALAMARI: I don't want to go</p> <p>17:25:10 7 into a discussion --</p> <p>17:25:10 8 MR. ROSENBERG: -- about the</p> <p>17:25:11 9 discovery process and how it was done. These</p> <p>17:25:14 10 weren't called for by the document protocol</p> <p>17:25:16 11 in discovery in our case, but we don't need</p> <p>17:25:19 12 to litigate it now.</p> <p>17:25:20 13 MR. CALAMARI: No we don't, so I wish</p> <p>17:25:21 14 you wouldn't have bothered to say it.</p> <p>17:25:23 15 MR. ROSENBERG: You one who raised</p> <p>17:25:24 16 the subject, Peter, go on with your questioning.</p> <p>17:25:27 17 MR. CALAMARI: I hesitate, I thought</p> <p>17:25:28 18 you first noted for the record your objection</p> <p>17:25:31 19 to using the document. You mean you're the</p> <p>17:25:33 20 only one entitled to note things for the</p> <p>17:25:36 21 record in this deposition.</p> <p>17:25:37 22 MR. ROSENBERG: No.</p> <p>17:25:38 23 MR. CALAMARI: I'm ready to question.</p> <p>17:25:40 24 MR. ROSENBERG: I'm noting for the</p> <p>17:25:41 25 record that you haven't produced these before</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:26:33 2 earnings, but it is not necessarily accompanied</p> <p>17:26:36 3 by.</p> <p>17:26:36 4 Q. It's a separate exhibit here, 3367?</p> <p>17:26:39 5 A. Yes, that is appears to be the</p> <p>17:26:42 6 earnings for the quarter.</p> <p>17:26:43 7 Q. And that is a presentation that is</p> <p>17:26:44 8 released to the public?</p> <p>17:26:46 9 A. Yes.</p> <p>17:26:47 10 Q. And the date of both the transcript</p> <p>17:26:49 11 and the presentation is January 21st, 2011?</p> <p>17:26:52 12 A. Yes.</p> <p>17:26:56 13 Q. And you participated in this</p> <p>17:26:58 14 earnings call?</p> <p>17:26:58 15 A. Yes.</p> <p>17:27:00 16 Q. And you were a principal speaker?</p> <p>17:27:02 17 A. Yes.</p> <p>17:27:04 18 Q. And again, when you said things on</p> <p>17:27:06 19 this earnings call you meant them to be true?</p> <p>17:27:08 20 A. Yes.</p> <p>17:27:14 21 Q. On page one on the bottom, it says</p> <p>17:27:23 22 I'm sorry -- next to last paragraph on the page.</p> <p>17:27:27 23 "On the credit side we released reserves this year</p> <p>17:27:29 24 of 7 billion during 2010, and while we know this</p> <p>17:27:34 25 is not core earnings it help offset some of the</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:27:37 2 costs of representations and warranties, about 7</p> <p>17:27:42 3 billion, and other litigation costs and other</p> <p>17:27:44 4 matters during the year." Do you see that?</p> <p>17:27:47 5 A. Yes.</p> <p>17:27:49 6 Q. And when you see we released, who</p> <p>17:27:51 7 is we?</p> <p>17:27:52 8 A. The company.</p> <p>17:27:58 9 Q. And it goes on to say, "But even</p> <p>17:28:08 10 with the release of our -- even with that release</p> <p>17:28:11 11 our reserve coverage ratio at 1.6 times annualized</p> <p>17:28:15 12 charge-offs is the highest this company has had in</p> <p>17:28:23 13 many years." Do you see that?</p> <p>17:28:23 14 A. I see that, yes.</p> <p>17:28:23 15 Q. That was a true statement?</p> <p>17:28:24 16 A. Yes.</p> <p>17:28:29 17 Q. When talk about charge-offs what</p> <p>17:28:31 18 are you talking about?</p> <p>17:28:32 19 A. Credit charge-offs.</p> <p>17:28:33 20 Q. What were they due to?</p> <p>17:28:37 21 A. What do you mean what were they due</p> <p>17:28:39 22 to?</p> <p>17:28:39 23 Q. What caused the credit charge-offs?</p> <p>17:28:41 24 A. Consumers not paying back their</p> <p>17:28:44 25 debt on the assets that are on our balance sheet.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:30:08 2 asking about the mortgage banking income?</p> <p>17:30:10 3 Q. The mortgage banking revenues?</p> <p>17:30:12 4 A. Yes, that is a line item in a P&L.</p> <p>17:30:16 5 It is not a business.</p> <p>17:30:16 6 Q. Were they charged to the mortgage</p> <p>17:30:17 7 banking revenue?</p> <p>17:30:18 8 A. No, the reps and warranty would be</p> <p>17:30:20 9 the litigation to go through the expenses.</p> <p>17:30:22 10 Q. You said that quickly. But it</p> <p>17:30:24 11 looks like I understood it. You say the rep and</p> <p>17:30:26 12 warranty liabilities would go through the mortgage</p> <p>17:30:35 13 revenues and the litigation expenses would be</p> <p>17:30:39 14 handled through expenses?</p> <p>17:30:40 15 A. Let me. Rep and warranty would go</p> <p>17:30:43 16 through the line item in the P&L called mortgage</p> <p>17:30:46 17 banking income. And the litigation would go</p> <p>17:30:48 18 through the expenses in the P&L.</p> <p>17:30:50 19 Q. And does that include litigation</p> <p>17:30:53 20 settlements or just litigation costs?</p> <p>17:30:55 21 A. All of the above.</p> <p>17:30:56 22 Q. So, any -- so, just by way of</p> <p>17:31:00 23 example, I don't know if you have reached the</p> <p>17:31:04 24 settlement with Assured -- well, I don't know if</p> <p>17:31:07 25 you reached the settlement with Bank of New York</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:28:47 2 Q. That is not related to</p> <p>17:28:50 3 representation and warranty liabilities?</p> <p>17:28:56 4 A. No, they two different things.</p> <p>17:29:02 5 Q. At page two of that transcript, the</p> <p>17:29:15 6 fifth paragraph down.</p> <p>17:29:24 7 A. Okay.</p> <p>17:29:24 8 Q. It says, "By far the biggest legacy</p> <p>17:29:28 9 issue that we continue to deal with" on this --</p> <p>17:29:31 10 with this -- "with is on the mortgage side." Do</p> <p>17:29:38 11 you see that paragraph?</p> <p>17:29:38 12 A. Yes.</p> <p>17:29:41 13 Q. And then later on in the paragraph</p> <p>17:29:42 14 it says, "This year we it took a total of 7 billion of</p> <p>17:29:44 15 representation warranty costs as to offset to</p> <p>17:29:48 16 revenues and a significant portion of our</p> <p>17:29:50 17 litigation expense this year was also due to</p> <p>17:29:53 18 mortgage issues"?</p> <p>17:29:55 19 A. That is what it says, yes.</p> <p>17:29:56 20 Q. And were those expenses again</p> <p>17:30:00 21 charged to the mortgage business?</p> <p>17:30:03 22 A. No.</p> <p>17:30:04 23 Q. Where were they charged in this</p> <p>17:30:06 24 instance?</p> <p>17:30:07 25 A. I'm going to take that you're</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:31:09 2 by this date, but just by way of example, where</p> <p>17:31:12 3 would the settlement with Bank of New York be</p> <p>17:31:14 4 booked?</p> <p>17:31:15 5 A. I have to go back and look at where</p> <p>17:31:17 6 it is booked. There are many different claims and</p> <p>17:31:19 7 many different things.</p> <p>17:31:21 8 Q. You don't know whether that would</p> <p>17:31:22 9 be booked against mortgage revenues or against</p> <p>17:31:25 10 expenses?</p> <p>17:31:25 11 A. I could get someone to check it. I</p> <p>17:31:28 12 don't recall off the top of my head.</p> <p>17:31:49 13 Q. Go to page five of that transcript.</p> <p>17:32:15 14 You see the statement in the first full paragraph</p> <p>17:32:19 15 this begins on the page, but is the second</p> <p>17:32:21 16 paragraph on this page. "Home loans and insurance</p> <p>17:32:26 17 were significantly impacted by legacy costs</p> <p>17:32:29 18 including the goodwill impairment charge, reps and</p> <p>17:32:33 19 warranty expense, and litigation costs. Our first</p> <p>17:32:38 20 mortgage banking business, however, excluding</p> <p>17:32:40 21 these costs was profitability in the quarter." Do</p> <p>17:32:44 22 you see that?</p> <p>17:32:44 23 A. Yes, that is what it says, yes.</p> <p>17:32:45 24 Q. So taking the last first, the</p> <p>17:32:50 25 mortgage banking business had been profitable</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:32:52 2 without the legacy expenses and costs? 17:32:55 3 MR. ROSENBERG: Objection to the 17:32:56 4 form. 17:32:59 5 A. Yes. That it what it says. Our 17:33:00 6 first mortgage banking business -- 17:33:00 7 Q. What does it mean to say home loans 17:33:02 8 and insurance was significantly impacted by legacy 17:33:06 9 costs? 17:33:06 10 A. That is the line of business that 17:33:09 11 we report to the public. 17:33:11 12 Q. And that line of business is held 17:33:13 13 in a legal entity, is that not correct? 17:33:16 14 A. My guess more than one. 17:33:18 15 Q. Home loans is certainly held in a 17:33:21 16 legal entity? 17:33:21 17 A. It could be more than one. 17:33:22 18 Q. And insurance would be in a 17:33:24 19 separate one? 17:33:25 20 A. It could be, it could not be. 17:33:26 21 MR. ROSENBERG: Objection. 17:33:27 22 Q. Go back to the second of those two 17:34:17 23 exhibits, which was 3367, page 20. Page 20 you 17:35:02 24 see at the top it says, "22.4 percent of loans 17:35:06 25 sold have defaulted or are is severely</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:36:26 2 there are a couple of bullet points and subbullet 17:36:34 3 points and I'm looking at the subbullet point 17:36:42 4 two-thirds down the page it says, "A significant 17:36:43 5 portion of this possible range of loss relates to 17:36:51 6 loans originated through Countrywide, our 17:36:51 7 acquisition." Is that right? 17:36:51 8 MR. ROSENBERG: It doesn't say that. 17:36:52 9 MR. CALAMARI: Did I miss a word. 17:36:54 10 Prior to our acquisition, right. Sorry. 17:36:55 11 A. That it what it says, yes. 17:36:58 12 Q. That is your experience; is that 17:37:00 13 correct? Namely these problems were generated for 17:37:03 14 the most part by Countrywide practices from prior 17:37:08 15 to the acquisition? 17:37:09 16 MR. ROSENBERG: Objection to the 17:37:10 17 form. 17:37:10 18 A. This is -- this statement is 17:37:13 19 talking about nonGSE loans involved in a possible 17:37:18 20 loss. That is what it says. 17:37:20 21 Q. That is your understanding? 17:37:22 22 A. That is what the statement says, 17:37:23 23 yes, sir. That is my understanding too, yes. 17:37:25 24 Q. Go to 2011, quarter 2, 2011. 17:40:54 25 MS. BEA: These will be marked as</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:35:09 2 delinquent."? 17:35:13 3 A. That what it says, yes. 17:35:15 4 Q. Now, put back claims are claims 17:35:22 5 that transcend simply defaulted loans; is that 17:35:27 6 right? 17:35:27 7 MR. ROSENBERG: Objection to form. 17:35:30 8 A. Potentially. 17:35:31 9 Q. In fact put back claims can relate 17:35:33 10 to any loans that don't comply with the reps and 17:35:38 11 warranties; is that right? 17:35:38 12 A. There is a lot of claims about it. 17:35:40 13 There is lot of possibilities. That's one. There 17:35:43 14 is many other things. 17:35:44 15 Q. In estimating your reserves you 17:35:46 16 don't limit it to only loans that defaulted, do 17:35:49 17 you? 17:35:49 18 A. We establish reserves based on a 17:35:52 19 series of factors which encompass that and many 17:35:54 20 other things. 17:35:55 21 Q. Do you know what those factors are? 17:35:57 22 A. All the types of things that he we 17:36:00 23 talk about in or public statements in the 10-Qs 17:36:02 24 and 10-Ks. 17:36:09 25 Q. Further down on the page it says,</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:41:01 2 Exhibit 3368 and 3369. 17:41:05 3 (Exhibit 3368 for identification, 17:41:06 4 Factset transcript dated July 19, 2011.) 17:41:06 5 (Exhibit 3369 for identification, Bank 17:41:06 6 of America Q2 Earnings call dated July 19, 17:42:00 7 2011.) 17:42:00 8 MR. ROSENBERG: Same objection to the 17:42:01 9 use of additional unBates stamped documents. 17:42:05 10 MR. CALAMARI: Same statement 17:42:07 11 regarding who should have produced them. 17:42:30 12 Q. Turning to 3368 and particularly -- 17:42:36 13 well, let me ask you if you can -- if you 17:42:44 14 recognize 3368? 17:42:46 15 A. I do not. 17:42:46 16 Q. This is a transcript of a 17:42:53 17 presentation that was made respecting Bank Of 17:42:57 18 America's earnings on July 19th, 2011? 17:43:01 19 A. It appears to be that, from 17:43:03 20 somebody else. 17:43:03 21 Q. Do you remember making this 17:43:05 22 presentation? 17:43:05 23 A. I remember giving a -- we had an 17:43:07 24 earnings call around that date. 17:43:09 25 Q. The second document is a Bank Of</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:43:16 2 America presentation that is Exhibit 3369? 17:43:24 3 A. That appears to be the earnings 17:43:26 4 slides for the quarter. 17:43:27 5 Q. And you recall preparing these 17:43:31 6 slides or having these slides prepared? 17:43:34 7 A. The chief financial officer has 17:43:36 8 them prepared. 17:43:46 9 Q. Page three of the transcript. 17:43:50 10 A. Yes. 17:44:01 11 Q. You can see at the middle of the 17:44:02 12 page it says, "In all, as you can see from these 17:44:05 13 materials, we took almost 20 billion in charges 17:44:08 14 related to the mortgage business that has 17:44:10 15 translated into a .90 per share loss in the range 17:44:15 16 that we gave you a few weeks ago." Do you see 17:44:17 17 that? 17:44:17 18 A. I see that, yes. 17:44:18 19 Q. Where was the 20 billion charge 17:44:22 20 booked? 17:44:23 21 A. In Bank Of America Corporation. 17:44:27 22 Q. And the .90 percent share loss is 17:44:31 23 Bank Of America shares? 17:44:32 24 A. Per Bank of America share, yes. 17:44:36 25 Q. These were predominantly expenses</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:45:28 2 things that we could do for our customers that 17:45:30 3 would be beneficial. 17:45:43 4 Q. How does that compare with the 17:45:44 5 statements that you made about what a good 17:45:46 6 acquisition it was? 17:45:47 7 A. As I said, we have a great mortgage 17:45:50 8 business. The problem is working through the 17:45:52 9 issues with the delinquent borrowers. It is very 17:45:56 10 touch on the customers and very tough on the 17:45:57 11 company and very tough on the employees. It takes 17:46:00 12 a lot of work, and the financial ramifications of 17:46:04 13 all of that, including these charges. 17:46:57 14 Q. Flipping through this chart, which 17:47:01 15 is the chart that is exhibit, I shouldn't say the 17:47:05 16 chart, the presentation that is Exhibit 3369. I 17:47:14 17 notice there are on pages 14, 15, 16, some groups 17:47:28 18 that were not mentioned in the earlier chart and 17:47:30 19 these are consumer real estate services. Home 17:47:33 20 loan businesses within CRES. Legacy asset 17:47:37 21 servicing business within CRES. That were not in 17:47:47 22 the charts, similar charts from 2010. 17:47:53 23 Was there any kind of reorganization 17:47:55 24 of the business units between 2010 and 2011 that 17:48:00 25 you're aware of?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:44:40 2 caused by the Countrywide acquisition? 17:44:42 3 A. Again, I wouldn't speculate at 17:44:43 4 that. There was expenses settled cases and stuff, 17:44:49 5 so I have to go back and check the record. 17:44:50 6 Q. Is it fair to say that the majority 17:44:51 7 of the expenses were caused by the Countrywide 17:44:53 8 acquisition? 17:44:55 9 MR. ROSENBERG: Objection to the 17:44:55 10 form. 17:44:55 11 A. In particular we put up other 17:44:59 12 reserves during this quarter for specifically 17:45:01 13 things not related to that. 17:45:03 14 Q. Do you recall giving an interview 17:45:06 15 where you said that not a day goes by when don't 17:45:09 16 regret the Countrywide transaction? 17:45:12 17 A. I may have said it, yes. 17:45:13 18 Q. What did you mean when you said 17:45:15 19 that? 17:45:15 20 A. That we have 50,000 people in our 17:45:17 21 company, more than 25 percent of the people 17:45:19 22 working to help people through the most difficult 17:45:22 23 thing in their life, and we would rather not being 17:45:24 24 doing that right now. Not in terms of not 17:45:26 25 accepting the obligation, but there is other</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 17:48:01 2 MR. ROSENBERG: Objection to form. 17:48:02 3 A. Yes. We, as I said earlier, we 17:48:05 4 took the from the line of business perspective and 17:48:09 5 operational perspective we took the legacy asset 17:48:10 6 and servicing business and separated it from the 17:48:15 7 home loans business. And that is what this 17:48:18 8 reflects. We restate the financials from the 17:48:20 9 operating company. 17:48:20 10 Q. In said of mortgage revenues now, 17:48:23 11 you're referring to home loan business? 17:48:25 12 A. That is not -- that is what I was 17:48:29 13 trying to make clear to you before. Mortgage 17:48:31 14 banking income is a line item in the overall P&L 17:48:34 15 in the company. So you have line items in the 17:48:38 16 P&L. This is line items broken up by the lines of 17:48:44 17 business. This is two different presentations of 17:48:44 18 the same information, so. 17:48:54 19 Q. On page 35 you provide another 17:48:59 20 summary of rep and warranty liabilities? 17:49:06 21 A. Yes, that is what page 35 is. 17:49:13 22 Q. And the footnote, the bullet under 17:49:21 23 commentary says "Outstanding claims decreased 2 17:49:24 24 billion primarily driven by the Assured settlement 17:49:27 25 earlier in the quarter." Correct?</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
17:49:28 2 A. I'm not sure where you are, sir.	17:52:51 2 Q. Of that --
17:49:30 3 Q. Right-hand column under commentary	17:52:52 3 A. Of the second quarter of the
17:49:32 4 the third bullet down.	17:52:54 4 presentation.
17:49:34 5 A. Yes. That says "Outstanding claims	17:52:54 5 Q. Let me identified the exhibit so we
17:49:34 6 decreased 2 billion primarily driven by the	17:52:57 6 know what we are talking about?
17:49:38 7 assured settlement early in the quarter."	17:52:59 7 A. Of 3369.
17:50:17 8 Q. So, when I add it up by June of	17:53:00 8 Q. 3369, it's a presentation -- we are
17:50:35 9 2011 Bank Of America had announced a total rep and	17:53:06 9 look at different documents?
17:50:37 10 warranty expense of \$22 billion over six quarters;	17:53:07 10 A. You were looking for the expense
17:50:37 11 is that correct?	17:53:09 11 thing it is on page 18 of the prior document. It
17:50:42 12 A. I don't think -- I'm not sure that	17:53:12 12 is laid out.
17:50:43 13 is correct. But it was significant. I'm not sure	17:53:12 13 Q. What does it say?
17:50:47 14 that you have the numbers exactly correct.	17:53:13 14 A. It says second quarter 11
17:50:49 15 Q. In the second quarter of 2011 a	17:53:17 15 litigation expense, mortgage-related items
17:50:52 16 loan you booked 14 billion in reserves for rep and	17:53:19 16 litigation expense 1.9, mortgage-related
17:50:56 17 warranty liability; is that correct?	17:53:21 17 assessment and waivers .7, goodwill impairment
17:50:57 18 MR. ROSENBERG: Objection to the	17:53:27 18 2.6.
17:50:57 19 form.	17:53:27 19 Q. Let me give you -- let's look at
17:50:57 20 A. I have to go back and look at the	17:53:28 20 the other exhibit that we just put in,
17:50:58 21 exact financials.	17:53:32 21 Exhibit 3370. Presentation addressing legacy
17:51:20 22 Q. I ask you to --	17:53:41 22 mortgage issues dated June 29th, 2011. Do you see
17:51:21 23 A. It was 14 billion in the second	17:53:45 23 that?
17:51:22 24 quarter.	17:53:47 24 A. Yes.
17:51:23 25 Q. And you also announced reserves of	17:53:48 25 Q. Let me ask you to go to page four
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
17:51:27 2 4 billion additional for, among other things,	17:53:53 2 of that exhibit?
17:51:30 3 litigation costs?	17:53:54 3 A. Yes.
17:51:32 4 A. Again, I have to go -- I have to go	17:54:04 4 Q. And at the top it says, "Continued
17:51:38 5 find it.	17:54:06 5 and substantial progress in addressing R&W
17:51:38 6 Q. Page five.	17:54:09 6 exposure."
17:51:41 7 A. Are you asking about page five?	17:54:09 7 A. Right.
17:51:44 8 Q. It is on page five.	17:54:10 8 Q. The fourth bullet there says,
17:51:46 9 A. There is not -- I'm not sure what	17:54:13 9 "Total R&W exposure expense of approximately 22
17:51:52 10 you're referring to.	17:54:17 10 billion over the last six quarters. Including
17:51:52 11 Q. I will have to put in another	17:54:20 11 expected second quarter '11 actions."
17:51:54 12 exhibit to give it to you.	17:54:24 12 A. That it what it says, yes
17:51:55 13 A. What are you asking about?	17:54:25 13 Q. And that is correct; is that right?
17:51:58 14 Q. Just if you recall announcing an	17:54:25 14 A. Yes.
17:52:01 15 additional reserves for 4 billion for, among	17:54:41 15 Q. The next page, page five, it says
17:52:04 16 others things, for litigation costs?	17:54:46 16 "Expect to record additional second quarter '11
17:52:06 17 A. I don't know the exact number off	17:54:50 17 mortgage items, additional 5.5 billion provision
17:52:08 18 the top of my head right now.	17:54:54 18 for R&W liability." That is rep and warranty
17:52:09 19 Q. I will just give you one more	17:54:57 19 liability. "for nonGSE exposure and to a lesser
17:52:12 20 exhibit.	17:55:00 20 extent GSE exposure."
17:52:16 21 MS. BEA: Exhibit 3370.	17:55:02 21 A. That is what it says, yes, sir.
17:52:18 22 (Exhibit 3370 for identification,	17:55:04 22 Q. And then an additional 2. -- I'm
17:52:18 23 Presentation addressing legacy mortgage	17:55:09 23 sorry, additional \$4 billion including litigation
17:52:46 24 issues dated June 29th, 2011.)	17:55:13 24 costs?
17:52:46 25 A. Actually if you look at page 18.	17:55:14 25 A. It says including litigation costs

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:55:16 2 MSR valuation charge and compensatory fees and</p> <p>17:55:20 3 assessment. It is related to foreclosure -- that</p> <p>17:55:25 4 is what it says, sir.</p> <p>17:55:25 5 Q. Is there anyway in your view that</p> <p>17:55:26 6 the Countrywide Financial Corporation had the</p> <p>17:55:29 7 assets to pay for any of this?</p> <p>17:55:30 8 MR. ROSENBERG: Objection to the</p> <p>17:55:31 9 form.</p> <p>17:55:31 10 A. Again, I don't have an opinion on</p> <p>17:55:32 11 that. You have to get the people who booked the</p> <p>17:55:34 12 things to take you through that.</p> <p>17:55:36 13 Q. Let me take you to another exhibit?</p> <p>17:56:12 14 MS. BEA: Exhibit 3371.</p> <p>17:56:13 15 (Exhibit 3371 for identification,</p> <p>17:56:13 16 Section of the Bank Of America 10-Q filed on</p> <p>17:56:43 17 August 4th, 2011.)</p> <p>17:56:43 18 MR. ROSENBERG: I note my continuing</p> <p>17:56:44 19 objection to use of documents without Bates</p> <p>17:56:47 20 numbers.</p> <p>17:56:50 21 MR. CALAMARI: Note my continuing</p> <p>17:56:52 22 objection to your not having produced these</p> <p>17:57:24 23 documents.</p> <p>17:57:24 24 Q. Exhibit 3371 is a section of the</p> <p>17:57:30 25 Bank Of America 10-Q filed on August 4th, 2011.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:59:12 2 Q. Do you see page 174, the third</p> <p>17:59:43 3 paragraph on the page it says, "The corporation</p> <p>17:59:47 4 has vigorously contested any requests for</p> <p>17:59:50 5 repurchase when it concludes that a valid basis</p> <p>17:59:53 6 for purchase claim did not exist and will continue</p> <p>18:00:00 7 to do so in the future. However, in an effort to</p> <p>18:00:02 8 resolve these legacy mortgage-related issues, the</p> <p>18:00:06 9 corporation has reached bulk settlements or</p> <p>18:00:08 10 agreements for bulk settlements, including</p> <p>18:00:12 11 settlement amounts which have been material with</p> <p>18:00:15 12 counterparties in lieu of a loan by loan review</p> <p>18:00:18 13 process."</p> <p>18:00:20 14 Then it goes on to say, "The</p> <p>18:00:22 15 corporation may reach other settlements in the</p> <p>18:00:24 16 future in opportunities arise on terms determined</p> <p>18:00:28 17 to be advantageous to the corporation. The</p> <p>18:00:32 18 following provides a summary of the larger bulk</p> <p>18:00:35 19 settlement actions beginning in the fourth quarter</p> <p>18:00:39 20 of 2010 followed by details of the corporation's</p> <p>18:00:41 21 representation and warranty liability including</p> <p>18:00:49 22 claim status." Do you see that?</p> <p>18:00:50 23 A. I see that, yes.</p> <p>18:00:51 24 Q. By the corporation here, there is</p> <p>18:00:53 25 no doubt you were referring to Bank Of America</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>17:57:40 2 And I have included page one and then pages 173</p> <p>17:57:46 3 through 222.</p> <p>17:57:57 4 MS. ROEDER: There are additional</p> <p>17:57:58 5 breaks.</p> <p>17:57:59 6 Q. Well this is selected pages then</p> <p>17:58:00 7 from your 10-Q which is a voluminous document.</p> <p>17:58:04 8 Is this a document that you had a</p> <p>17:58:26 9 role in drafting?</p> <p>17:58:28 10 A. No. I would have reviewed it but I</p> <p>17:58:31 11 don't draft the 10-Qs.</p> <p>17:58:32 12 Q. It is a document that you reviewed;</p> <p>17:58:32 13 is that correct?</p> <p>17:58:32 14 A. Yes.</p> <p>17:58:35 15 Q. And it is also a document that you</p> <p>17:58:38 16 have personal responsibility for the accuracy of?</p> <p>17:58:40 17 A. We do.</p> <p>17:58:41 18 Q. When you say we do, you mean you</p> <p>17:58:43 19 personally?</p> <p>17:58:44 20 A. I do and the company does and the</p> <p>17:58:46 21 chief financial officer does. All the employees</p> <p>17:58:53 22 that certify it to me in the process do.</p> <p>17:58:53 23 Q. Once again the words chosen in</p> <p>17:58:56 24 these documents are chosen very carefully?</p> <p>17:58:57 25 A. Yes.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:00:56 2 Corporation; is that right?</p> <p>18:00:57 3 MR. ROSENBERG: Objection to form.</p> <p>18:00:57 4 A. Yes. This is the issuer under the</p> <p>18:01:00 5 registration under the 10-Q, yes, the corporation.</p> <p>18:01:02 6 Q. And it is Bank Of America</p> <p>18:01:04 7 Corporation that has reached the settlements that</p> <p>18:01:07 8 are referred to in this sentence?</p> <p>18:01:10 9 MR. ROSENBERG: Objection to form.</p> <p>18:01:11 10 A. I think it refers to the 3,000</p> <p>18:01:13 11 subsidiaries that we have in the company. This is</p> <p>18:01:15 12 collective term.</p> <p>18:01:16 13 Q. It's a collective term, but it</p> <p>18:01:18 14 refers to the overall corporation. It doesn't</p> <p>18:01:19 15 refer to any individual --</p> <p>18:01:21 16 A. And as a collected all of the</p> <p>18:01:25 17 activities you only talk about the corporation</p> <p>18:01:28 18 because it is the issuer. Everything else rolls</p> <p>18:01:29 19 up to it. So it is 3000 subsidiaries and this a</p> <p>18:01:31 20 collective statement about everything that went on</p> <p>18:01:33 21 in the companies' enterprise.</p> <p>18:01:34 22 Q. If you look at page 174 where it</p> <p>18:01:54 23 says, "Settlement with Bank of New York trustee".</p> <p>18:02:00 24 A. Right.</p> <p>18:02:00 25 Q. You see that?</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
18:02:01 2 A. Yes.	18:05:02 2 sir, yes.
18:02:06 3 Q. Again, it says "On June 28th, the	18:05:02 3 Q. You notice that it again says "On
18:02:08 4 corporation BAC Home Loans Servicing LP, BAC HLS,	18:05:10 4 April 14th, 2011 the corporation, including its
18:02:19 5 which was subsequently merged with and into BANA	18:05:13 5 legacy Countrywide affiliates, entered into an
18:02:22 6 in July, 2011 and its legacy Countrywide	18:05:16 6 agreement with Assured Guaranty."
18:02:26 7 affiliates enter into a settle agreement with Bank	18:05:17 7 A. That is what it says, yes.
18:02:30 8 of New York Mellon. Do you see that?	18:05:18 8 Q. Again, Bank Of America Corporation
18:02:30 9 A. That is what it says, sir.	18:05:20 9 actually entered into that agreement with Assured;
18:02:33 10 Q. So in the subparagraph you're	18:05:24 10 is that right?
18:02:35 11 treating the corporation separately, are you not,	18:05:24 11 MR. ROSENBERG: Objection to the
18:02:39 12 from the affiliates?	18:05:24 12 form.
18:02:45 13 A. It lists the companies, sir. It	18:05:24 13 A. Again, sir, I don't know the exact
18:02:47 14 stands for itself.	18:05:26 14 parties to the settlement agreement here. Because
18:02:49 15 Q. So the company itself entered into	18:05:30 15 it is -- the corporation is making all of these
18:02:51 16 the settlement with Bank of New York as well as	18:05:33 16 statement because we are the issuer.
18:02:55 17 Countrywide Financial; is that right?	18:05:34 17 Q. But it does say including its
18:02:57 18 MR. ROSENBERG: Objection to the	18:05:37 18 legacy Countrywide affiliates, so that would
18:02:58 19 form.	18:05:39 19 suggest that the corporation entered into the
18:02:58 20 A. Sir, as I said earlier, the	18:05:42 20 agreement?
18:03:00 21 settlement is going through a public court process	18:05:42 21 A. I'm going to make it easy for you.
18:03:06 22 and the legal terms are all well known. If you	18:05:44 22 On April 14th -- it says exactly "On April 14th,
18:03:08 23 want to get somebody to come in and go through	18:05:47 23 2011 the corporation, including its legacy
18:03:10 24 those with you, I'm happy to do it. This is what	18:05:49 24 Countrywide affiliates, entered into an agreement
18:03:14 25 this document says.	18:05:51 25 with Assured Guaranty Limited and subsidiaries
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
18:03:18 2 Q. Can you give me a reason why you	18:05:54 2 (Assured Guaranty)." That it what it says.
18:03:20 3 itemized the three entities entering into the	18:05:58 3 Q. What does that mean?
18:03:23 4 settlement agreement here, but in the proceeding	18:05:59 4 A. It means what it says. That that
18:03:27 5 paragraph you just talked about the corporation	18:06:00 5 is what happened.
18:03:29 6 generally?	18:06:02 6 Q. So that means that the corporation,
18:03:29 7 MR. ROSENBERG: Objection to form.	18:06:05 7 Bank Of America Corporation, entered into an
18:03:30 8 A. The people drafting it would be the	18:06:06 8 agreement with Assured, correct?
18:03:33 9 people doing it. I think it is just being	18:06:07 9 A. I don't know the exact parties to
18:03:35 10 precise, I don't know.	18:06:09 10 the agreement. This is about the company and its
18:03:38 11 Q. Is there any doubt in your mind	18:06:11 11 results in its position. The company does all of
18:03:40 12 that Bank Of America Corporation was a party to	18:06:23 12 this, even if it is a specific subsidiary.
18:03:45 13 that settlement?	18:06:23 13 Q. You notice below under government
18:03:45 14 A. Again you could look at the -- the	18:06:23 14 sponsored enterprises it says "On December 31st,
18:03:47 15 settlement is not a mystery. It is being taken	18:06:23 15 2010 the corporation entered into agreements with
18:03:49 16 through the court. You can look exactly the	18:06:25 16 the GSEs." It doesn't say anything about
18:03:51 17 parties. I don't know off the top of my head	18:06:30 17 including Countrywide affiliates in that sentence.
18:03:53 18 exactly which legal entities are parties.	18:06:33 18 MR. ROSENBERG: Objection.
18:03:56 19 Q. This is a correct statement, isn't	18:06:33 19 A. I don't know why it says that. I
18:03:57 20 it?	18:06:35 20 know what it says, I could read it just like you
18:03:58 21 A. As far as I know, yes, that is.	18:06:37 21 can. I don't know why the distinction exists. I
18:04:45 22 That's --	18:06:40 22 don't off the top of my head. You have to get
18:04:45 23 Q. Go to page 177. You see it says	18:06:43 23 somebody to look at the agreements.
18:04:59 24 "Settlement with Assured Guaranty"?	18:06:48 24 Q. Well, are these agreements that
18:05:00 25 A. That is what the document says,	18:06:51 25 you're willing to produce to us?

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
18:06:55 2 A. You have to talk to our counsel	18:09:10 2 MR. ROSENBERG: Subject to your
18:06:56 3 about that. I'm telling you that this document is	18:09:11 3 reserving your rights to --
18:06:59 4 a 10-Q for our corporation. So everything the	18:09:13 4 MR. CALAMARI: I'm going to
18:07:01 5 3,000 companies do is part of what we disclose	18:09:15 5 definitely reserve our rights, but I'm not
18:07:04 6 here.	18:09:16 6 going to -- assuming nothing miraculous
18:07:04 7 Q. When you say Bank Of America	18:09:20 7 happens in the next hour, I'm not going to
18:07:06 8 Corporation entered into an agreement, you mean	18:09:24 8 say that we didn't have enough time to
18:07:09 9 Bank Of America Corporation entered into an	18:09:29 9 complete today. Notwithstanding your guy
18:07:10 10 agreement?	18:09:32 10 showing up late and the long breaks, I think
18:07:10 11 MR. ROSENBERG: Objection to the	18:09:34 11 we will complete.
18:07:11 12 form.	18:09:35 12 MR. ROSENBERG: Well the long breaks
18:07:11 13 A. That's what this says, and I'm not	18:09:37 13 have been attributable to you looking for
18:07:13 14 the person -- I'm saying this is the company	18:09:39 14 document.
18:07:15 15 saying we entered into an agreement among our	18:09:40 15 MR. CALAMARI: I don't think so. I
18:07:17 16 3,000 companies. I don't know exactly which	18:09:40 16 think we have been sitting in the room. I
18:07:20 17 entities did or didn't do it.	18:09:43 17 think the reporter will testify that he has
18:07:22 18 Q. And you see no distinction between	18:09:45 18 been going where are you guys to us.
18:07:24 19 saying the corporation including legacy	18:09:47 19 MR. ROSENBERG: I think that is a
18:07:27 20 Countrywide affiliates entered into an agreement	18:09:49 20 mischaracterization,
18:07:30 21 and between saying the corporation entered into an	18:09:49 21 MR. CALAMARI: I don't want to go
18:07:33 22 agreement?	18:09:50 22 into a fight because we don't look like we
18:07:34 23 A. I see the distinction, but you're	18:09:53 23 are going to have a fight over time. We are
18:07:37 24 ascribing to a meaning that I don't know is right.	18:09:55 24 going to have a fight whether he has to get
18:07:39 25 Q. You did review this before it went	18:09:57 25 back when we get additional documents.
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
18:07:41 2 out?	18:10:00 2 MR. HOLLAND: Peter, if we skip
18:07:41 3 A. Correct.	18:10:01 3 dinner how much time would you need?
18:07:41 4 Q. You understand that people read it	18:10:06 4 MR. CALAMARI: I still need 20
18:07:43 5 and rely on it?	18:10:07 5 minutes to a half hour to get ready to make
18:07:44 6 A. I understand people read it and	18:10:09 6 sure that I consolidate everything.
18:07:47 7 rely on it.	18:10:12 7 You know it is more we have gone
18:07:47 8 Q. So you would expect that it would	18:10:13 8 longer than we would to the normal lunch
18:07:48 9 be accurate?	18:10:16 9 break. So, I need the time to get ready.
18:07:49 10 A. I expect that if we paid the	18:10:22 10 MR. ROSENBERG: Okay, it is 6:15 now,
18:07:50 11 settlement amounts here, that is a material thing	18:10:30 11 when do you want to resume?
18:07:52 12 and we disclosed it. The legal entities I think	18:10:32 12 MR. CALAMARI: 6:45, that should be
18:07:54 13 you have to -- it is what it says.	18:10:35 13 enough time for us.
18:07:57 14 Q. And you have no other knowledge?	18:10:37 14 MR. HOLLAND: And you think you will
18:07:59 15 A. I have no other knowledge.	18:10:38 15 be done by 7:45 if we do that.
18:08:37 16 MR. CALAMARI: We have dinner coming	18:10:41 16 MR. CALAMARI: I think we might, yes.
18:08:44 17 in about ten minutes. I don't have too much	18:10:44 17 THE VIDEOGRAPHER: We are off the
18:08:47 18 more to go, but I need a break before we	18:10:45 18 record the time is 6:10 p.m.
18:08:49 19 finish up. So, I suggest we take a break	18:10:50 19 (Dinner recess taken at 6:10 p.m.)
18:08:56 20 starting now and I will get organized. I	20
18:08:59 21 would guess in the half hour to hour range.	21
18:09:00 22 MR. ROSENBERG: And you will be done.	22
18:09:05 23 MR. CALAMARI: I will be done subject	23
18:09:06 24 to calling him back when we get the documents	24
18:09:09 25 that you haven't produced.	25

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 2 EVENING SESSION 3 6:47 p.m. 4 BRIAN T. MOYNIHAN, 5 resumed, having been previously duly sworn, 6 was examined and testified further as 18:47:45 7 follows: 18:47:45 8 THE VIDEOGRAPHER: We are back on the 18:47:48 9 record, the time is 6:47 p.m. 18:48:00 10 BY MR. CALAMARI: 18:48:07 11 Q. Can we ask you, Mr. Moynihan, to 18:48:10 12 turn back to Exhibit 3363 and turn to page 24. 18:48:51 13 The bottom of page 24 you see I had asked you a 18:49:10 14 couple of questions about the Vega and the 18:49:14 15 Cadillac earlier. And at the bottom of page 24 18:49:29 16 you make the following statement, "But the fact 18:49:32 17 that the loan has performed for 36 months or more 18:49:37 18 obviously is defect that said this was a problem 18:49:39 19 with the origination is getting a little harder to 18:49:42 20 prove. Specially on a no doc loan or something 18:49:46 21 like that. So think through that." 18:49:48 22 Can you tell me what you meant by 18:49:50 23 that? 18:49:50 24 A. What we were talking about in the 18:49:55 25 context of this would have been if people paid for</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 18:50:49 2 Q. So that was just an arbitrary 18:50:51 3 number, you weren't meaning to suggest anything 18:50:54 4 magic about 36 months? 18:50:55 5 A. We were trying get them to think 18:50:57 6 through the fact that these loans have paid a lot 18:50:59 7 of payments before and a lot of them defaulted. 18:51:03 8 Q. And as far as you were referring 18:51:06 9 here, what you meant was that as the loan performs 18:51:11 10 for a longer time it is harder to accept that 18:51:14 11 there is a defect in it? 18:51:16 12 A. I think that totally makes senses, 18:51:19 13 yes. 18:51:20 14 Q. But not that there couldn't be a 18:51:22 15 defect in it? 18:51:23 16 A. You want to play wordsmith. The 18:51:25 17 answer it could be, it could not be. It depends 18:51:30 18 on the facts of the case. 18:51:37 19 Q. You also mentioned when you were 18:51:38 20 talking about cleaning up messes about it being 18:51:41 21 good for America. Do you recall that? 18:51:43 22 A. Yes. 18:51:49 23 Q. Your duty, is it not, is to Bank Of 18:51:51 24 America and its shareholders? 18:51:52 25 A. And its customers and its</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 18:49:58 2 three years -- what I said is if people paid for 18:50:05 3 36 months the chances of the defect being related 18:50:08 4 to what they -- why they aren't paying you later 18:50:12 5 after that I think are limited. 18:50:15 6 Q. You said that the defect would be a 18:50:17 7 little harder to prove. So by that I trust you mean that 18:50:19 8 that doesn't mean that there still couldn't be a 18:50:28 9 defect; is that correct?I? 18:50:28 10 MR. HOLLAND: Objection. 18:50:28 11 MR. ROSENBERG: Objection to the 18:50:28 12 form. 18:50:28 13 A. It depends on the facts of each 18:50:28 14 case. 18:50:28 15 Q. What did you mean it would be 18:50:29 16 harder to prove? 18:50:29 17 A. It's a loan by loan thing. If you 18:50:33 18 went loan by loan the facts will be what the facts 18:50:35 19 are. 18:50:35 20 Q. And how did the 36 months relate to 18:50:41 21 that? 18:50:41 22 A. Just picked a period of time out of 18:50:45 23 the air. 18:50:45 24 Q. Just arbitrary? 18:50:47 25 A. Longer than a month and less than 37.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL 18:51:53 2 communities and its creditors and to its teammates 18:51:56 3 and to a lot things. 18:51:57 4 Q. So you might do something that is 18:51:59 5 bad for shareholders if it is good for consumers? 18:52:04 6 MR. ROSENBERG: Objection to the 18:52:04 7 form. 18:52:06 8 A. Ultimately you make that judgment 18:52:07 9 and you factor in all of those factors, and we 18:52:09 10 have to make sure. So if something is long-term 18:52:11 11 good for consumers my guess for Bank Of America it 18:52:15 12 would be long-term good for our shareholders too. 18:52:19 13 Q. And equally with regard to other 18:52:22 14 constituents that you just mentioned? 18:52:24 15 MR. ROSENBERG: Objection to the 18:52:24 16 form. 18:52:24 17 A. We look at all the facts and 18:52:26 18 circumstances. 18:52:28 19 Q. I also asked you right at the 18:52:31 20 beginning if you had discussions with the SEC 18:52:38 21 regarding Countrywide matters. Do you recall 18:52:41 22 that? 18:52:41 23 A. I don't think you asked me that 18:52:43 24 question. 18:52:44 25 Q. Okay, well, then I will ask you</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:52:46 2 now. Have you had any discussions with the SEC</p> <p>18:52:48 3 regarding Countrywide matters?</p> <p>18:52:50 4 MR. ROSENBERG: Objection to the</p> <p>18:52:50 5 form.</p> <p>18:52:50 6 A. I had no such discussions with SEC.</p> <p>18:52:52 7 Q. And have you had discussions with</p> <p>18:52:54 8 any other regulators regarding Countrywide</p> <p>18:52:56 9 matters?</p> <p>18:52:57 10 A. We talked to our banking regulators</p> <p>18:53:00 11 about matters relating to our mortgage business,</p> <p>18:53:02 12 of course.</p> <p>18:53:02 13 Q. Was that you personally?</p> <p>18:53:04 14 A. No, the company would.</p> <p>18:53:06 15 Q. I'm asking you personally.</p> <p>18:53:08 16 A. I would have had discussions about</p> <p>18:53:09 17 the types of things that are in our earnings call</p> <p>18:53:11 18 with our regulators, yes.</p> <p>18:53:13 19 Q. And personally would have done</p> <p>18:53:15 20 that?</p> <p>18:53:16 21 A. When we are talking about earnings.</p> <p>18:53:24 22 Q. Do you know if either you or people</p> <p>18:53:26 23 at your direction have had conversations with the</p> <p>18:53:30 24 New York Insurance Department?</p> <p>18:53:32 25 A. People in our company met -- you</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:54:28 2 New York Insurance Department are not privileged;</p> <p>18:54:28 3 is that right?</p> <p>18:54:30 4 A. That is a legal matter for counsel.</p> <p>18:54:32 5 We have had discussions with the New York</p> <p>18:54:36 6 Insurance Department including the one today that</p> <p>18:54:37 7 you were at, I assume.</p> <p>18:54:41 8 MR. CALAMARI: I again jointly move</p> <p>18:54:42 9 to strike that last answer.</p> <p>18:54:48 10 Q. Again I'm only asking for</p> <p>18:54:50 11 independent discussions that your counsel may have</p> <p>18:54:54 12 had with the insurance department.</p> <p>18:54:55 13 A. They have had discussions with the</p> <p>18:54:57 14 insurance department.</p> <p>18:54:57 15 Q. Do you know what the substance of</p> <p>18:54:59 16 those discussions were?</p> <p>18:55:00 17 A. Not outside what the counsel told</p> <p>18:55:02 18 me on a privilege basis.</p> <p>18:55:04 19 Q. Is there any part of the former</p> <p>18:55:18 20 Countrywide business that is currently operating</p> <p>18:55:25 21 as an independent business from Bank Of America?</p> <p>18:55:30 22 MR. ROSENBERG: Objection to form.</p> <p>18:55:31 23 A. I don't know what you're asking,</p> <p>18:55:31 24 sir.</p> <p>18:55:34 25 Q. To your knowledge is any part of</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:53:38 2 met with members of our company today with the New</p> <p>18:53:42 3 York Insurance Department, didn't you?</p> <p>18:53:43 4 MR. CALAMARI: Should we jointly move</p> <p>18:53:47 5 to strike that answer?</p> <p>18:53:48 6 MR. ROSENBERG: I don't know why</p> <p>18:53:49 7 you're proceeding down this line of</p> <p>18:53:50 8 questioning him in the first place. If you</p> <p>18:53:52 9 want to strike the whole thing?</p> <p>18:53:53 10 MR. CALAMARI: No, I don't want to</p> <p>18:53:54 11 strike the whole thing. I think that answer</p> <p>18:53:56 12 both of us would want to have that stricken,</p> <p>18:53:59 13 but you can take it under advisement.</p> <p>18:54:01 14 MR. ROSENBERG: We will.</p> <p>18:54:02 15 Q. I'm talking about independent</p> <p>18:54:04 16 meetings that Bank Of America has had with the New</p> <p>18:54:08 17 York Insurance Department about the MBIA or</p> <p>18:54:12 18 Countrywide matters?</p> <p>18:54:13 19 A. I think our counsel has met with</p> <p>18:54:16 20 people and I think discussions would be subject to</p> <p>18:54:19 21 the privilege in terms of what I talked to them</p> <p>18:54:20 22 about.</p> <p>18:54:21 23 Q. Well, you're discussion with your</p> <p>18:54:23 24 counsel might be privileged, but the discussions</p> <p>18:54:25 25 that you would agree between your counsel and the</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:55:36 2 the former Countrywide business operation still</p> <p>18:55:41 3 operating under the Countrywide entity?</p> <p>18:55:45 4 MR. ROSENBERG: Objection to form.</p> <p>18:55:45 5 A. I still don't know what you're</p> <p>18:55:47 6 asking, sir.</p> <p>18:55:53 7 Q. Well, before Legal Day One,</p> <p>18:55:56 8 Countrywide engaged in several businesses; is that</p> <p>18:55:56 9 right?</p> <p>18:55:56 10 A. Yes.</p> <p>18:56:06 11 Q. A business in loan origination?</p> <p>18:56:09 12 A. Countrywide -- yes.</p> <p>18:56:11 13 Q. And a business in insurance?</p> <p>18:56:13 14 A. Yes.</p> <p>18:56:15 15 Q. And a bank?</p> <p>18:56:17 16 A. Yes.</p> <p>18:56:18 17 Q. And a loan servicing business?</p> <p>18:56:20 18 A. The best that I recall, yes.</p> <p>18:56:21 19 Q. Are any of those -- and all of</p> <p>18:56:25 20 those businesses were combined with Bank Of</p> <p>18:56:27 21 America businesses?</p> <p>18:56:28 22 A. Operationally.</p> <p>18:56:29 23 MR. ROSENBERG: Objection to the</p> <p>18:56:30 24 form.</p> <p>18:56:30 25 A. Operationally we combined</p>

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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:56:32 2 businesses. Legal entities, what runs through</p> <p>18:56:34 3 them you have to get someone to tell you about it.</p> <p>18:56:37 4 We have 3,000 legal entities, all the questions</p> <p>18:56:39 5 you're asking me today, I'm answering on behalf of</p> <p>18:56:41 6 the 3,000. I told you the same thing before,</p> <p>18:56:44 7 operationally, we operate things, but what legal</p> <p>18:56:53 8 entities it goes through someone else could</p> <p>18:56:53 9 answer.</p> <p>18:56:53 10 Q. What I'm trying to find out is</p> <p>18:56:53 11 whether any of the Countrywide businesses, and I</p> <p>18:56:53 12 think I named all of them, well I left out one</p> <p>18:56:55 13 other one, the one that you are probably most</p> <p>18:56:58 14 knowledgeable about, Countrywide Securities.</p> <p>18:57:01 15 Countrywide Securities -- Countrywide also ran a</p> <p>18:57:03 16 securities business, right?</p> <p>18:57:04 17 A. I don't know the legal entities</p> <p>18:57:05 18 structure that is left in those divisions. You</p> <p>18:57:08 19 have to get someone else that is closer to it.</p> <p>18:57:09 20 Q. I'm trying to ask a slightly</p> <p>18:57:11 21 different question. The different question is</p> <p>18:57:16 22 whether any of those businesses that were formally</p> <p>18:57:20 23 at Countrywide are still operating independently</p> <p>18:57:26 24 of a combination with Bank Of America?</p> <p>18:57:28 25 MR. ROSENBERG: Objection to form.</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:58:26 2 business that Countrywide was engaged in that are</p> <p>18:58:29 3 still operating independently as an independent</p> <p>18:58:32 4 line of business?</p> <p>18:58:32 5 MR. ROSENBERG: Objection to form.</p> <p>18:58:33 6 A. I don't know what you mean by</p> <p>18:58:34 7 independently.</p> <p>18:58:35 8 Q. In other words without regard to a</p> <p>18:58:38 9 combination with a similar Bank Of America</p> <p>18:58:40 10 business?</p> <p>18:58:40 11 MR. ROSENBERG: Objection to the</p> <p>18:58:40 12 form.</p> <p>18:58:40 13 A. Again, I don't know what you mean</p> <p>18:58:42 14 by independently. We own the stock of all of</p> <p>18:58:45 15 those subsidiaries and they operate -- there is</p> <p>18:58:48 16 not independent in terms of -- they operate as</p> <p>18:58:51 17 part of our family 3,000 enterprises.</p> <p>18:59:08 18 MR. CALAMARI: Let me introduce one</p> <p>18:59:13 19 more -- well not one more, but an exhibit.</p> <p>18:59:18 20 MS. BEA: This is 3372.</p> <p>18:59:20 21 (Exhibit 3372 for identification,</p> <p>18:59:49 22 Document Bates stamped BAC 1390.).</p> <p>18:59:49 23 Q. This is an e-mail from you to Amy</p> <p>18:59:56 24 Brinkley dated June 30th, 2008 and it's Bates</p> <p>19:00:02 25 stamped BAC 1390. Do you see that?</p>
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<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>18:57:29 2 A. I don't know what you mean by</p> <p>18:57:30 3 independently of a combination of.</p> <p>18:57:32 4 Q. Well, you did say that the</p> <p>18:57:34 5 businesses had been combined; is that right?</p> <p>18:57:38 6 A. I said the operations, the people</p> <p>18:57:40 7 servicing the loans we put them in a single</p> <p>18:57:42 8 facility operating under a single loan servicing</p> <p>18:57:45 9 system. Loans where they are booked, again, you</p> <p>18:57:47 10 have to get somebody else could take you through</p> <p>18:57:49 11 that. I don't know where they are booked exactly.</p> <p>18:57:50 12 Q. And I'm only asking whether any of</p> <p>18:57:53 13 the general businesses that Countrywide did are</p> <p>18:57:57 14 operating independently, that is, without being</p> <p>18:58:01 15 combined with some similar Bank Of America</p> <p>18:58:04 16 business?</p> <p>18:58:04 17 MR. ROSENBERG: Objection to form.</p> <p>18:58:05 18 A. I'm saying we combined operations.</p> <p>18:58:07 19 I don't know what businesses are running in what</p> <p>18:58:10 20 legal entities. As we drive the business by line</p> <p>18:58:15 21 of business is now how I look at it.</p> <p>18:58:17 22 Q. I was trying to ask it without</p> <p>18:58:19 23 regard to line of business -- without regard to</p> <p>18:58:22 24 legal entities, just as to lines of business.</p> <p>18:58:25 25 Do you know of any lines of</p>	<p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>19:00:09 2 A. Yes.</p> <p>19:00:12 3 Q. Do you remember this e-mail?</p> <p>19:00:12 4 A. I don't recall it.</p> <p>19:00:13 5 Q. Do you remember the subject matter</p> <p>19:00:15 6 of it?</p> <p>19:00:16 7 A. I don't recall.</p> <p>19:00:21 8 Q. Do you have any reason to suspect</p> <p>19:00:25 9 that you were seeking or discussing legal advice</p> <p>19:00:29 10 in connection with this e-mail?</p> <p>19:00:30 11 MR. ROSENBERG: Objection to the</p> <p>19:00:31 12 form.</p> <p>19:00:31 13 A. No, I don't recall.</p> <p>19:00:35 14 Q. You see there is a redaction at the</p> <p>19:00:37 15 bottom of the page?</p> <p>19:00:39 16 A. I could see the word redact is</p> <p>19:00:40 17 there, yes, sir.</p> <p>19:00:41 18 Q. Do you have any explanation of why</p> <p>19:00:43 19 a piece of an e-mail between you and Amy Brinkley</p> <p>19:00:47 20 would be redacted?</p> <p>19:00:48 21 MR. ROSENBERG: Objection, no</p> <p>19:00:49 22 foundation.</p> <p>19:00:49 23 A. I don't know.</p> <p>19:01:09 24 MS. BEA: This is Exhibit 3373.</p> <p>19:01:13 25 (Exhibit 3373 for identification,</p>

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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
19:01:13 2 Bloomberg article dated November 16th,	19:03:34 2 to leave any blanks in the deposition.
19:01:31 3 2010..)	19:03:36 3 A. I think it says an investor
19:01:31 4 Q. I want to introduce a document	19:03:39 4 conference, I think we do figure out what one it
19:01:36 5 dated November 16th, 2010. It's a Bloomberg	19:03:42 5 was.
19:01:49 6 article and it contains certain quotations from	19:03:42 6 Q. A little further down the page it
19:01:55 7 you.	19:03:47 7 says, "There is lot people out there with a lot of
19:01:56 8 MR. ROSENBERG: Same objection to the	19:03:49 8 thoughts about how we should solve this, but at
19:01:57 9 use of a document in the deposition without a	19:03:51 9 the end of the day, we will pay for the things
19:02:00 10 Bates number.	19:03:54 10 that Countrywide did, said Moynihan." Do you see
19:02:02 11 Q. First of all, did you recall	19:03:58 11 that?
19:02:08 12 speaking to Bloomberg with regard to these issues?	19:03:58 12 A. That is what it says.
19:02:14 13 A. I don't recall speaking to	19:03:59 13 Q. Did you say that?
19:02:16 14 Bloomberg. This is off, I think this is off the	19:04:01 14 A. It's a quote, I assume that the
19:02:19 15 earnings call.	19:04:02 15 reporter got it right, I don't recall.
19:02:19 16 Q. This is something off the earnings	19:04:05 16 Q. It reflects your thoughts, does it
19:02:21 17 call?	19:04:13 17 not?
19:02:21 18 A. Yes, or something it says "During	19:04:13 18 A. It is what it is, I mean.
19:02:25 19 an investor conference held by a lender in New	19:04:13 19 Q. Did you mean it when you said it?
19:02:27 20 York." Some sort of conference.	19:04:17 20 A. That we end up paying a lot of
19:02:32 21 Q. Would that conference have been	19:04:20 21 money for Countrywide. Yes, we paid a lot money
19:02:35 22 transcribed?	19:04:21 22 for Countrywide. In terms of operational cost, in
19:02:36 23 A. I don't know.	19:04:24 23 terms of rep and warranty expenses, a lot of
19:02:37 24 Q. It says at the top "It is	19:04:26 24 things. At Bank Of America we paid a lot of money
19:02:46 25 day-to-day hand-to-hand combat Moynihan said today	19:04:28 25 in the 3,000 legal entities throughout our company
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1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL	1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL
19:02:49 2 during an investor conference held by the lender	19:04:30 2 and booked in appropriately in the entities and
19:02:53 3 in New York."	19:04:32 3 everything else that we talked about all day.
19:02:55 4 Does this refresh your recollection	19:04:33 4 Q. At the end of the day do you think
19:02:56 5 as to the conference?	19:04:36 5 Bank Of America is responsible for the legitimate
19:02:59 6 A. It doesn't. Because it could have	19:04:40 6 Countrywide liabilities?
19:03:01 7 been a securities conference where I was speaking	19:04:42 7 MR. ROSENBERG: Objection to form.
19:03:04 8 at somebody else conference. I don't know. I	19:04:42 8 A. I think we will make a decision
19:03:06 9 have to go back and check the dates.	19:04:45 9 about what our responsibility is for each
19:03:09 10 Q. Is there any way that you could	19:04:47 10 liability, what the merits of the claims are and
19:03:10 11 check what conference that referred to?	19:04:50 11 make those decisions every single time based on
19:03:14 12 A. I don't know off the top of my	19:04:53 12 the facts of the case.
19:03:17 13 head.	19:05:23 13 Q. If a claim is meritorious, no
19:03:17 14 Q. Would you have a calendar, for	19:05:29 14 longer subject to contest, will Bank Of America
19:03:18 15 example, that might show the conference?	19:05:31 15 pay it?
19:03:21 16 A. Somebody could check the calendar,	19:05:32 16 MR. ROSENBERG: Objection to the
19:03:23 17 sure.	19:05:32 17 form.
19:03:23 18 Q. And who could check that?	19:05:32 18 A. We have lots of rights, lots of
19:03:24 19 A. Counsel will check it and get back	19:05:35 19 procedural rights, lot of contest, lot of the base
19:03:27 20 to you.	19:05:38 20 and lots of the things that we will look at. You
19:03:27 21 Q. Get back to me?	19:05:40 21 can't decide that in the abstract. We will make a
19:03:28 22 A. Yes.	19:05:44 22 decision on each one as it comes along.?
19:03:28 23 Q. If we leave a blank in the	19:05:53 23 MR. CALAMARI: If you give me about
19:03:30 24 deposition somebody will fill it in?	19:05:54 24 30 seconds, maybe a minute, I have one last
19:03:33 25 MR. ROSENBERG: I don't think we need	19:05:56 25 question and then we are done.

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<p style="text-align: right;">Page 222</p> <p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>19:06:10 2 THE VIDEOGRAPHER: Off the record the</p> <p>19:06:11 3 time is 7:05 p.m.</p> <p>19:06:14 4 (Recess taken.)</p> <p>19:08:14 5 THE VIDEOGRAPHER: We are back on the</p> <p>19:08:15 6 record the time is 7:07 p.m.</p> <p>19:08:17 7 MR. CALAMARI: I have no further</p> <p>19:08:18 8 questions at this time. I reserve our right</p> <p>19:08:21 9 to reopen the deposition at the time we get</p> <p>19:08:23 10 the documents that we have demanded and that</p> <p>19:08:27 11 is all I have to say.</p> <p>19:08:28 12 MR. ROSENBERG: We reserve our right</p> <p>19:08:29 13 to object. And we also will designate this</p> <p>19:08:33 14 transcript a highly confidential. And I just</p> <p>19:08:36 15 have a couple of --</p> <p>19:08:37 16 MR. CALAMARI: Pending review, I</p> <p>19:08:39 17 trust?</p> <p>19:08:39 18 MR. ROSENBERG: Yes. I have just a</p> <p>19:08:41 19 couple of follow up questions.</p> <p>19:08:43 20 EXAMINATION CONDUCTED BY MR. ROSENBERG:</p> <p>19:08:44 21 Q. Mr. Moynihan, you were asked about</p> <p>19:08:48 22 Exhibit 3368 which was the July, 2011 earnings</p> <p>19:08:54 23 call transcript?</p> <p>19:08:56 24 A. Correct.</p> <p>19:08:56 25 Q. Do you remember being asked about</p>	<p style="text-align: right;">Page 224</p> <p>1</p> <p>19:09:44 2 before. Other people would have where it's</p> <p>19:09:50 3 booked.</p> <p>19:09:51 4 MR. CALAMARI: Then nothing further</p> <p>19:09:51 5 with the same reservation I'm sure for both</p> <p>19:09:54 6 of us.</p> <p>19:09:55 7 THE VIDEOGRAPHER: This concludes</p> <p>19:09:57 8 today's videotape deposition. The time is</p> <p>19:09:59 9 currently 7:09 p.m. and this end of tape</p> <p>19:10:01 10 three and we are now off the record..</p> <p>19:10:07 11 (TIME NOTED: 7:09 P.M.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p style="text-align: center;">_____ BRIAN T. MOYNIHAN</p> <p>16</p> <p>17 Subscribed and sworn to before me</p> <p>18 this ____ day of _____, 2012.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 223</p> <p>1 BRIAN T. MOYNIHAN - HIGHLY CONFIDENTIAL</p> <p>19:08:58 2 that?</p> <p>19:08:59 3 A. Yes.</p> <p>19:09:00 4 Q. And do you remember you were asked</p> <p>19:09:02 5 about the \$20 billion charge?</p> <p>19:09:06 6 A. Yes.</p> <p>19:09:08 7 Q. And you were asked where was the 20</p> <p>19:09:13 8 billion charge booked, and I believe your answer</p> <p>19:09:15 9 was in Bank Of America Corporation.</p> <p>19:09:17 10 Can you explain what you meant by</p> <p>19:09:19 11 in Bank Of America Corporation?</p> <p>19:09:21 12 A. When we are giving our earnings</p> <p>19:09:23 13 release we are talking about the consolidated</p> <p>19:09:26 14 accounts of the entire company. So it's booked</p> <p>19:09:28 15 somewhere in the consolidated accounts of the</p> <p>19:09:29 16 entire company. So, all the subsidiaries and</p> <p>19:09:31 17 legal entities that we work through.</p> <p>19:09:33 18 MR. ROSENBERG: That is all I have.</p> <p>19:09:37 19 THE VIDEOGRAPHER: Any follow up</p> <p>19:09:38 20 counsel?</p> <p>19:09:39 21 MR. CALAMARI: Yes, just one.</p> <p>19:09:41 22 EXAMINATION CONTINUED BY MR. CALAMARI:</p> <p>19:09:41 23 Q. But you don't know where it was</p> <p>19:09:42 24 booked?</p> <p>19:09:43 25 A. I have answered that question</p>	<p style="text-align: right;">Page 225</p> <p>1</p> <p>2 STATE OF NEW YORK) Pg__ of __Pgs</p> <p>3 ss:</p> <p>4 COUNTY OF NEW YORK)</p> <p>5</p> <p>6 I wish to make the following changes, for the</p> <p>7 following reasons:</p> <p>8 PAGE LINE</p> <p>9 _____ CHANGE: _____</p> <p>10 _____ REASON: _____</p> <p>11 _____ CHANGE: _____</p> <p>12 _____ REASON: _____</p> <p>13 _____ CHANGE: _____</p> <p>14 _____ REASON: _____</p> <p>15 _____ CHANGE: _____</p> <p>16 _____ REASON: _____</p> <p>17 _____ CHANGE: _____</p> <p>18 _____ REASON: _____</p> <p>19 _____ CHANGE: _____</p> <p>20 _____ REASON: _____</p> <p>21 _____ CHANGE: _____</p> <p>22 _____ REASON: _____</p> <p>23 _____ CHANGE: _____</p> <p>24 _____ REASON: _____</p> <p>25</p>

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