

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK - CIVIL TERM - PART 45

3 -----X

4 CHEYNE EUROPEAN STRATEGIC VALUE CREDIT Index No.
5 RAIF-CHEYNE EUROPEAN SPECIAL SITUATIONS FUND, 659297/24
6 CHEYNE EUROPEAN STRATEGIC VALUE CREDIT
7 RAIF-CHEYNE EUROPEAN STRATEGIC VALUE CREDIT
8 FUND II, MAN FUNDS VI PLC - MAN GLG HIGH YIELD
9 OPPORTUNITIES DE, MAN GLG GLOBAL CREDIT
10 OPPORTUNITIES, MAN FIXED INTEREST ICVC - MAN
11 GLG HIGH YIELD OPPORTUNITIES FUND, ST. JAMES'S
12 PLACE DIVERSIFIED BOND UNIT TRUST, MAN FUNDS
13 VI PLC - MAN GLG HIGH YIELD OPPORTUNITIES, MAN
14 FUNDS VI PLC - MAN GLG SENIOR SECURED
15 OPPORTUNITIES, MAN FUNDS VI PLC - MAN GLG
16 EUROPEAN HIGH YIELD OPPORTUNITIES, MAN FUNDS
17 XII SPC - MAN 1783 II SP, CONTRARIAN CAPITAL
18 FUND I LP, AND CONTRARIAN OPPORTUNITY FUND
19 III, LP,

20 Plaintiffs,

21 -against-

22 HUNKEMÖLLER INTERNATIONAL BV, REDWOOD CAPITAL
23 MANAGEMENT, LLC, AND BNY MELLON CORPORATE
24 TRUSTEE SERVICES LIMITED,

25 Defendants.

-----X
26 PROCEEDINGS 60 Centre Street
27 New York, New York
28 July 17, 2025

29 B E F O R E:

30 HONORABLE ANAR R. PATEL,

31 JUSTICE

32 (Appearances on following page)

LD

1 A P P E A R A N C E S:

2

3 PALLAS PARTNERS (US) LLP
4 ATTORNEYS FOR THE PLAINTIFFS
5 75 Rockefeller Plaza
6 New York, New York 10019
7 BY: DUANE L. LOFT, ESQ.
8 BRIANNA HILLS SIMOPOULOS, ESQ.

9 MORGAN LEWIS & BOCKIUS, LLP
10 ATTORNEYS FOR THE DEFENDANT BNY
11 101 Park Avenue
12 New York, New York 10178
13 BY: MICHAEL S. KRAUT, ESQ.
14 JOSHUA MOSES, ESQ.
15 GRANT R. MAC QUEEN, ESQ.

16 AO SHEARMAN
17 ATTORNEYS FOR THE DEFENDANT HUNKEMOLLER
18 599 Lexington Avenue
19 New York, New York
20 BY: MALLORY TOSCH HOGGART, ESQ.
21 RANDAL MARTIN, ESQ.

22 KOBRE & KIM
23 ATTORNEYS FOR THE DEFENDANT REDWOOD
24 800 Third Avenue
25 New York, New York 10022
BY: ZACHARY D. ROSENBAUM, ESQ.
SOPHIE J. LIPMAN, ESQ.

LISA M. DE CRESCENZO,
OFFICIAL COURT REPORTER

LD

Proceedings

1 THE COURT: We are back on the record in the
2 case of Cheyne et. al v. Hunkemoller. Motion sequence
3 numbers 1, 2, 3.

4 Counsel, your appearances, please.

5 MR. LOFT: For the plaintiffs, Duane Loft from
6 Pallas Partners joined by my colleague, Brianna
7 Simopoulos.

8 MS. HOGGART: For the company Hunkemoller,
9 Mallory Tosch Hoggart from AO Shearman together with my
10 colleague, Randal Martin.

11 THE COURT: Good afternoon.

12 MR. ROSENBAUM: Zachary Rosenbaum for the
13 Redwood Holders defendants, along with Sophie Lipman.

14 MR. KRAUT: Michael Kraut of Morgan Lewis for
15 defendant BNY Mellon Corporate Trustee Services Limited.

16 THE COURT: Good afternoon, and thank you again
17 for your flexibility in returning today.

18 Unless there's anything else, Mr. Loft, I think
19 we're back to you.

20 MR. LOFT: Thank you, your Honor. I'm going to
21 respond briefly to the point made by counsel for the
22 trustee, and I'm going to limit my remarks to the issue
23 of post EOD duties, mindful of the Court'S guidance at
24 the start of yesterday's hearing.

25 As the Court will be aware, under section 7.01

LD

Proceedings

1 of the indenture post-EOD duties arise upon an event of
2 default of which the trustee has received written notice.
3 As the Court also knows, on September 20th, the trustee
4 received a notice of an event of default from the
5 plaintiffs.

6 Now, the trustee says, nevertheless, the trustee
7 did not at that time assume post-EOD duties because
8 several weeks prior, on September 5th, they received a
9 waiver.

10 Now, the issue with that argument becomes
11 evident if we look, again, at the waiver itself because
12 there are a number of issues that preclude reliance on
13 that waiver even under a pre-EOD standard and, therefore,
14 prevent it from denying the trustee post-EOD duties.

15 So, this is NYSCEF 76, exhibit H of the
16 trustee's motion. This is the purported waivers from
17 September 5, 2024 and at the risk of repetition, the
18 principal issue with this waiver is that it lacked
19 authorization from anyone. We'll see this as we page
20 through the waiver.

21 Again, as we've pointed out in previous
22 exchanges, the waiver letter itself does not purport to
23 speak for a, capital H, Holder or capital H, Holders. It
24 does not on its face purport to have authorization from
25 the, capital H, Holder or, capital H, Holders and it does

LD

Proceedings

1 not purport to attach any authorization.

2 It says in the third paragraph from the bottom
3 on the first page: We're attaching, quote, holding
4 statements annexed hereto as Annex B. Now, if you page
5 to Annex B, the holding statements that appear in what
6 the trustee has attached to its motion, as what it
7 received on September 5th, are simply brokerage
8 statements from Goldman Sachs.

9 There is no document from EuroClear, no document
10 from ClearStream, no document from any, capital H, Holder
11 saying anything, let alone that the Redwood beneficial
12 owners have authorization. In this moment, September 5,
13 2024, the waiver is being asserted, quote, in accordance
14 with Section 6.03 and so, the trustee cannot benefit from
15 the protections it would otherwise have under Section 9
16 of the indenture that we talked about yesterday.

17 There is no officer certificate attached to this
18 waiver. There is no opinion of counsel attached to this
19 waiver. So, the question is: Could the trustee rely, in
20 good faith and without gross negligence, on a waiver on
21 September 5th that did not attach any authorization from
22 any registered holder and did not purport to do so; and
23 we believe our complaint adequately pleads gross
24 negligence and lack of good faith under that standard.

25 That's all I have to say on the trustees'

LD

Proceedings

1 issues, unless the Court has further questions.

2 THE COURT: Nothing further. Thank you,
3 counsel.

4 MR. KRAUT: Your Honor, I don't think there's
5 anything that wasn't covered in yesterday's argument or
6 our papers, which I know the Court is familiar with.
7 Unless the Court has any questions for me, we'll rest on
8 our argument from yesterday and pass the baton.

9 MS. HOGGART: I'll assure the Court I'll be
10 brief but not quite as brief as Mr. Kraut.

11 May it please the Court, Mallory Tosch Hoggart
12 with AO Shearman on behalf of the company Hunkemoller.
13 I'll address three points on rebuttal. First, the
14 arguments about section 418. Second, the new argument
15 that was presented in court yesterday concerning the
16 affect of Redwood's waivers and third, the affect of the
17 amendment to Section 2.01.

18 Mr. Loft argued yesterday that Redwood wouldn't
19 consent to the removal of Section 418 for free. We agree
20 that investors, typically, are self-interested actors.
21 Redwood could have had any number of reasons to want
22 Section 418 out, including, as your Honor noted
23 yesterday, because they were hoping to be able to be the
24 source of the company's financing and receive an up-tier
25 of their notes in exchange for that financing.

LD

Proceedings

1 At the end of the day, it doesn't matter why.
2 It does not mean that the company paid Redwood a quid pro
3 quo or that the parties had already agreed to the June
4 transaction in April, which plaintiff's do not and cannot
5 plead, but even if this Court concludes that plaintiffs
6 have adequately alleged a quid pro quo, the outcome does
7 not change.

8 These claims have to be dismissed under Mitel
9 and here's why. In that case, the First Department held
10 that even if plaintiff's allege a provision in the
11 indenture was breached because the company did the very
12 thing it was prohibited, that breach can be waived. The
13 language on page 616 of the decision could not be more
14 clear.

15 There is no viable claim for breach, quote,
16 because any rights conferred under that provision were
17 not sacred rights and, thus, could be validly waived with
18 the consent of a majority of lenders. Your Honor, that
19 reasoning applies with equal force to Section 418 and
20 every other breach that plaintiff's allege here.

21 It is for that reason, your Honor, that
22 plaintiffs raised yesterday a new theory to attempt to
23 undercut the effective Redwood's waivers. They said, for
24 the first time in this Court, that the waivers came too
25 early. Now, since I think we all agree, I have

LD

Proceedings

1 established that I care very much about words.

2 I want to look at the actual language of the
3 indenture which I acknowledge that Mr. Loft did not have
4 before him yesterday. The definition of a default is on
5 page 29. Capital D, Default, means any event which is or
6 after notice or passage of time or both would be an event
7 of default, provided that any other event which requires
8 the satisfaction of a condition or determination,
9 including as to materiality has been satisfied.

10 Your Honor, a default, any default occurs at the
11 time of the event, not when a note holder issues notice,
12 not when it becomes an event of the default, when the
13 event happens. The waivers in the supplemental indenture
14 were not prospective. They waived any possible defaults
15 that arose as a result of the amendments affected by
16 those supplemental indentures.

17 The Court in Mitel ruled that those were valid
18 and enforceable and that they negated any claim for
19 breach.

20 Finally, your Honor, I will turn to the allege
21 breaches of Sections 2.01 (A) and (B), the indenture.
22 You may be pleased to know I will not take us on a forced
23 march back through those terms but, instead, I will
24 direct the Court's attention to the fourth supplement
25 indenture on page 3, which is Exhibit 4 to the affidavit

LD

Proceedings

1 and in support of the companies's motion.

2 That section, section 3(B) of the fourth
3 supplemental indenture added a provision to Section 2.01
4 that reads: For the avoidance of doubt, the notes
5 including the notes represented by the 2024 global note
6 and the other notes issued under this indenture will be
7 treated, along with all other series of notes, as a
8 single class for the purposes of this indenture with
9 respect to waivers, amendments, and all other matters not
10 otherwise specifically distinguished.

11 The words of indenture permitted the company to
12 amend. The amendments negated any potential claims that
13 plaintiffs have breached; and, if those didn't do it,
14 your Honor, the waivers did at the time the supplemental
15 indentures were admitted, and even if those didn't do it,
16 your Honor, the waivers that were issued in September and
17 the second set of waivers in the fall did.

18 Under Mitel, plaintiffs' claims must be
19 dismissed.

20 THE COURT: Okay. I've got a few questions for
21 you.

22 So, taking a step back, and this is kind of the
23 advantage that we have for being able to digest
24 yesterday's argument. Defendants' position is that the
25 up-tier in transaction was conducted pursuant to 9.04,

LD

Proceedings

1 correct?

2 MS. HOGGART: That's correct.

3 THE COURT: So, plaintiffs' are saying: Well,
4 there could be a cancellation and reassurance. It could
5 be a redemption, all sorts of other things that are in
6 9.04.

7 Setting all of that aside, walk me through the
8 transaction and why it would fit under 9.04, the
9 mechanics, I mean.

10 MS. HOGGART: Sure. So, when we say
11 "transaction," I guess I should probably start by
12 explaining how the company thinks of that. There is the
13 financing, which has an entirely separate set of terms.
14 Plaintiffs are not challenging the finances itself, to my
15 knowledge, but I'm sure Mr. Loft would correct me on
16 that, but that is not the subject matter of this
17 litigation.

18 In order to facilitate the financing, there were
19 amendments that were made and those are under the fourth
20 supplemental indenture. Now, those amendments included a
21 provision on conditionality that said: We're not
22 changing Section 610 unless the financing closes. None
23 of these other amendments are happening unless the
24 company gets the money; and so, the fourth supplemental
25 indenture had to come before there was a financing, and

LD

Proceedings

1 we had to have consent from the majority holders before
2 the fourth supplemental indenture could be affected.

3 After the fourth supplemental indenture was
4 affected, you'll note in the indenture itself, that all
5 of the changes that occurred were made in the indenture
6 itself.

7 Now, there are other separate notes and
8 documents we attached, the 2022 global note, the 2024
9 global note. Those and the comparison are exhibits to
10 our motion but those documents weren't changed by the
11 fourth supplemental indenture. They had to be changed
12 afterwards.

13 Because, as Mr. Loft noted, the change in
14 Section 610, the entire indenture is attached to the
15 notes and so is, effectively, part of the notes. So, in
16 fact, the terms changed for both the 2022 global note and
17 the 2024 global note because the revisions in the
18 indenture carried through to each.

19 The reason that there had to be a 2024 global
20 note is because the payment priorities were different and
21 so they couldn't remain under the same reason and so
22 that's how we came to have a 2024 global note that, as
23 your Honor noted yesterday, is the same in terms of the
24 payment terms and things like that are all the same but
25 the payment priority in Section 610, that's different.

LD

Proceedings

1 I hope that --

2 THE COURT: I guess what I'm getting at is we've
3 got a 2022 and then we go to 2024. Now, does it have to
4 be that that transition was a function of cancel one
5 reissue the other at the same time so there is no gap in
6 time? Does it have to be that they're amended, as you
7 state?

8 Because, you know, the mechanics matter here in
9 terms of what provision this falls under and I'm not
10 convinced that it's got to be 9.04 particularly, whereas
11 you conceded yesterday, there's no reference to 9.04
12 anywhere. Right?

13 So, is it that the notes are redeemed? I don't
14 really think they are but I think there is an argument
15 that they're canceled and reissued as a 2024 note.

16 Does that make sense?

17 MS. HOGGART: I do understand the question, your
18 Honor, and here is how I would answer it. 9.04 is in
19 place for events just like this where you have a change
20 to the indenture that you then have to carry through to
21 the notes. I don't think -- so, that's what that
22 provision is designed to cover.

23 I don't think there's any question that when the
24 portion of the 2022 global note was moved to the 2024
25 global note, it didn't double the amount of money that

LD

Proceedings

1 was owed to Redwood.

2 THE COURT: It also didn't necessarily reduce
3 either the principal.

4 MS. HOGGART: The principal is the same amount
5 and so that's why 904 is the provision because it wasn't
6 really a redemption. It wasn't an exchange for money.

7 THE COURT: The company says it is an exchange.

8 MS. HOGGART: They do refer to an exchange and
9 if you look at 904, 904 also refers to an exchange
10 because you've got to move them somehow.

11 So, I guess, maybe to bring what feels like a
12 very longwinded answer to conclusion, at the end of the
13 day, it candidly, doesn't matter whether the company is
14 right or plaintiffs are right. Obviously, we agree with
15 ourselves.

16 Having said that, even if this was an improper
17 redemption that didn't redeem anything, that breach was
18 waived and it was waived enforceably under the waivers
19 that were provided. I know I've listed them a lot.

20 THE COURT: In order to get there, though, and
21 going back to what Mr. Loft just said, I would have to
22 accept that a motion on a motion to dismiss that those
23 waivers presented a valid authorization, correct?

24 MS. HOGGART: To rely on the waiver component,
25 yes, you would.

LD

Proceedings

1 THE COURT: Okay. So, same concept of old
2 notes, new notes, additional notes, whatever we want to
3 call them but based on the wording of the indenture, are
4 we calling these new shares original? Are they the same?

5 MS. HOGGART: They're the same, your Honor.
6 Additional notes, although -- well, it's not spelled out
7 in the indenture, generally speaking. Additional notes
8 means when you're issuing new debt and I think we're all
9 agreed that this is the same debt regardless of whether
10 we disagree about the labels or the mechanics, the debt
11 is the same.

12 So, I think I lost your question. I apologize.

13 THE COURT: That is what I was getting at.

14 MS. HOGGART: I did realize in responding to your
15 first question, and I know this is all in our papers, but
16 since you've asked it, I do want to underscore it, and
17 that is, there are a specific series.

18 All of the things that plaintiffs allege
19 happened here, a redemption and the issuance of
20 additional notes, there are a series of specific steps
21 that have to be undertaken in order to do that. It's
22 kind of like the sacred right concerning collateral.

23 It doesn't just happen, and it always calls to
24 mind for me the approach in the pleading is like The
25 Office, like Michael Scott, I declare bankruptcy. You

LD

Proceedings

1 can't declare redemption. There is a process that has to
2 happen for it and that is not alleged anywhere in the
3 complaint.

4 So, it's not as though we just skipped all the
5 steps. You don't have a redemption if they don't happen,
6 right?

7 THE COURT: Okay. That's helpful. Thank you.

8 MS. HOGGART: Thank you.

9 MR. ROSENBAUM: Good afternoon, your Honor.
10 Zachary Rosenbaum Kobre & Kim, again, for the Redwood
11 Holders.

12 Barring any questions from your Honor, I also
13 have a few quick points to make; and if the Court still
14 has it, I might refer to the handy-dandy low-tech deck
15 that I handed out.

16 So, the first point I want to address is there
17 was an argument made by counsel for the plaintiffs that
18 somehow a waiver under 6.03 is different than a waiver
19 under 9.02, and I think that is a misreading of this
20 indenture.

21 Article 6 deals with events of default. Article
22 9 deals with amendments and waivers and it's the Court's
23 undertaking here to read them in harmony, not disharmony,
24 and if you look at them together, in the section that
25 deals with default, 6.03 says that a majority-- and I'm

LD

Proceedings

1 paraphrasing, that a majority can waive a default.

2 Then 9.02 addresses how that might occur or does
3 occur. Under 9.02, in the lead-in and now I'm on slide
4 2, it doesn't just address amendments, supplements, it
5 specifically says: Any default or compliance with any
6 provisions thereof, and it's that same language that then
7 incorporates or includes the permissive grant to the
8 trustee in 9.02 that says: In formulating its decision
9 on such matters described in 9.01 and the Section 9.02,
10 the trustee shall be entitled to require and rely
11 absolutely on such evidence as it deems necessary,
12 including, but not limited to, officer certificates.

13 So, that same grant of authority to the trustee
14 that's in 9.02, clearly applies to 6.03 because they're
15 functionally one in the same. That's point A.

16 Point B, let's go to the indenture itself and
17 9.02, this is actually a portion that is not in the
18 slides but I do think it's important to reiterate. The
19 way this indenture works, and 9.02 works, any provision
20 or any breach or any default can be waived by a majority
21 except for those enumerated in A through K of the sacred
22 rights.

23 G says: Make any change therefore amend Section
24 4.12. It does not say 4.18. If anyone, who's drafting
25 this indenture wanted that right, they had to put it in

LD

Proceedings

1 expressly, and the fact they put another portion, another
2 covenant in the sacred right under 4, Section 4, and not
3 that one is dispositive. A simple majority can and, here
4 did, alter 4.18, full stop.

5 It goes further and says: Under I and, again,
6 this is a sacred right, waive a default or event of
7 default with respect to nonpayment of principal, premium
8 or interest. It does not say default by violating
9 Section 4.18.

10 So, the only way to read this indenture is that
11 a simple majority can, and did, waive any alleged breach
12 of 4.18. I know your Honor is interested in the waivers
13 themselves.

14 THE COURT: Yeah, I am because, you know, first,
15 it certainly is a threshold issue here, as Ms. Hoggart
16 eluded to, and I think, based on your presentation
17 yesterday, and Mr. Locks's, I frankly-- just to kind of
18 avoid the suspension, I don't know that I can make a
19 determination on a motion to dismiss that the waivers
20 have the requisite authorization here.

21 I just don't think I can but I'm happy for you
22 to respond to that, and, Mr. Loft, I will give you that
23 opportunity as well but that is certainly one of my
24 hang-ups and I thought yesterday, kind of surgically
25 going through it with both sides was really helpful but

LD

Proceedings

1 on a motion to dismiss, I don't know how I can do it, but
2 maybe you'll tell me.

3 MR. ROSENBAUM: I'm not going to go back through
4 intricacies of each of the documents, ClearStream
5 documents because I think it will numb all of our minds
6 but I will say this and it's slide 87, and I dealt with
7 it yesterday, and one reason I-- one place I think this
8 Court can ground itself in a motion to dismiss is if the
9 waivers weren't valid. They were, but, if they weren't
10 valid, neither was the notice of default by plaintiffs.

11 You cannot reconcile those two things because
12 the notices-- and without a notice of default, we're not
13 here. There is nothing to litigate, and if you look at
14 slide 8, this is the statement of account, right. It's
15 got the same title from EuroClear as the Redwood
16 statements of account and the only difference is that it
17 includes-- and I'll read it.

18 It says: Upon request of our client, we,
19 furthermore, confirm. So, they're just reconfirming
20 what's already in their authorization, that in accordance
21 with paragraph A of section 5.3 1.3, and it continues of
22 the operating procedures of the EuroClear system, we
23 authorize our clients and/or the underlying beneficial
24 owners of securities held in EuroClear system to maintain
25 proceeding against issuers and guarantors of these

LD

Proceedings

1 securities.

2 That is actually only partially capturing what's
3 in the rule itself which I think is really interesting.
4 So, again, as I said, it doesn't say you can notice an
5 event of default. It is not an authorization to do
6 anything other than what the rules allow for except save
7 one thing, if you look at the rule and thankfully -- or
8 on the guideline. We put it in the same slide. It says
9 a little bit more.

10 It says: We authorize you and/or the underlying
11 beneficial owner of such securities to maintain
12 proceedings against issuers, guarantors, and any other
13 parties. If you go back to the language of the letter
14 that was produced by the plaintiffs, it doesn't say "any
15 other parties."

16 So, by virtue of their own document, the one
17 that they claim to have given them authority to both
18 notice default and to bring this suit, they couldn't sue
19 my client. My client is neither the guarantor nor
20 issuer. It's a holder. So, the point I'm making is that
21 the --

22 Both sides, the plaintiffs and the Redwood
23 holders and the company are relying on the very same
24 thing for the notice and for the waiver and, therefore,
25 if the Court were to find that there was a fact issue as

LD

Proceedings

1 to the waiver then there's no notice, and I think that is
2 the ultimate point.

3 I'll sit down after that.

4 THE COURT: Very helpful. Thank you.

5 Mr. Loft, I do want to give you the opportunity
6 to respond to that point and also I'm going to ask you
7 the same question I asked your adversary which is walk me
8 through what you believe and allege the mechanics of the
9 transaction are such that 2.07, 2.11 those other
10 provisions actually kick in.

11 MR. LOFT: First, with respect to the
12 authorization issue, which is fresh in our mind, I do
13 want to address the last point of how the authorization
14 that the plaintiffs have is very different.

15 Now, no matter what, this is an intensely
16 factual issue that is very difficult, if not impossible,
17 to resolve at the pleading stage. In fact, I think it's
18 impossible. If you look at docket 53, NYSCEF 53, which
19 we attach to our complaint and which we cite in our
20 complaint as one of two bases for our authorization, it's
21 not just the letter from EuroClear that we say gives us
22 authorization to file suit and to take all preconditions
23 to filing suit. It is equally that EuroClear operating
24 rules.

25 The EuroClear rules on their own-- and there was

LD

Proceedings

1 a recent decision on this from Justice Cohen in the BFAM
2 case where Justice Cohen relied, not only on the same
3 statement of account letters that we have from EuroClear
4 but equally on Section 5.3.1.3 of the EuroClear rules to
5 uphold authorization to file suit and take all
6 preconditions to filing suit.

7 5.3.1.3 begins: We will not take any action,
8 any action, legal or otherwise, to enforce your rights.
9 What that is saying right there, and we can take
10 discovery on this, we can have a factual debate about
11 this at trial or summary judgment. What that is saying
12 right there, there's a delegation and authorization for
13 to you to do the things to enforce your rights.

14 We EuroClear are not going to do it, and to make
15 that crystal clear, it then goes on to say: We authorize
16 you and/or the underlying beneficial owners. It's
17 speaking to the prime brokers. We authorize you, the
18 prime broker, and/or underlying beneficial owners of such
19 securities to maintain proceedings against issuers,
20 guarantors and, by the way, any other parties, it goes on
21 to say.

22 So, this would cover the trustee, contrary to
23 what Mr. Kraut told you yesterday and then in Subsection
24 D, it says: Once we issue the statement of account, for
25 purpose of filing a claim, we will do these things.

LD

Proceedings

1 We'll block the security.

2 We say, again, subject to discovery and factual
3 disputes, that that not only covers the commencement of
4 the proceedings but, necessarily, all things that are
5 prerequisite to the commencement of those proceedings.
6 It has to and that includes the notice of default.

7 The statements that Redwood received as
8 beneficial owners are just that. They're statements.
9 They're not authorizations. Redwood does not and cannot
10 seek to invoke 5.3.1.3 in the EuroClear operating rules
11 and, not to repeat myself, but just to step back from the
12 authorization issue and address the comment from the
13 company's counsel about these prospective waivers.

14 First of all, the prospective waiver does not
15 exist in the indenture of that default. The section that
16 she read to you, she read the last part very, very
17 quickly but that is the part that matters. It's not a
18 default until certain preconditions have been satisfied,
19 and, in the case of default, they need to be noticed by
20 30 percent of holders that precondition is the notice of
21 the 30 percent holders.

22 So, that event doesn't become a default until
23 that happens, but just stepping back, if supplemental
24 indenture number two was the product of a violation of
25 the payment for consent clause, then supplemental

LD

Proceedings

1 indenture number two is invalid; and on a collapsing
2 basis, the January supplemental indenture to effectuate
3 the up-tiering were also violations of the payment
4 consent clause, then how can it be that any of the
5 waivers in the supplemental indentures are valid if this
6 -- if every other aspect of the supplemental indenture
7 was valid for breach of payment for consent clause?

8 Just stepping back, that is an independent basis
9 to invalidate those waivers even before reaching the
10 authorize issue.

11 So, just lastly, your Honor, on the mechanics,
12 the one thing that we don't have in the record right now,
13 and this is very important to understanding the mechanics
14 of this transaction, is how it was that Redwood, as
15 beneficial owners, actually came to be subscribed into
16 the new 2024 global note.

17 We see references in the authentication order to
18 the trustee or the registrar awaiting instructions as to
19 the beneficial owners who will come to be allocated
20 beneficial interests in this new instrument. We don't
21 have those. So, that really makes it difficult to
22 assess, certainly, at a pleading stage whether an
23 exchange occurred, whether a redemption occurred, what
24 occurred.

25 What we do know is that there was a 2022 note

LD

Proceedings

1 and then there was a new note issued, a 2024 global note,
2 and one was not exchanged for the other. Under our
3 reading of 9.04, by its plain terms, it only allows for
4 the exchange of the old note for the new note. That
5 didn't happen.

6 The company has tried to create what we believe
7 is a vision that some other so-called Redwood notes were
8 exchanged under 9.04 but that's just not how,
9 mechanically, this happens. There is only a global note
10 and then there are beneficial interests in that global
11 note.

12 A new note was issued with the 2024 note.
13 Somehow, we don't know, Redwood came to have beneficial
14 interests in that new instrument and, as your Honor
15 pointed out, there will be a lot of discovery that needs
16 to be taken on the mechanics of this in light of the June
17 notice announcing this transaction, which said: In no
18 uncertain terms, participating note holders, that is
19 Redwood, have exchanged their SSN at par into a new
20 first-out tranche. That is not 904.

21 That is an exchange, possibly a redemption. We
22 don't know until we see the mechanics.

23 THE COURT: Thank you, Mr. Loft. Okay. It's
24 2:36. Give us ten minutes and I'll be ready to issue a
25 decision. Thanks very much.

LD

Proceedings

1 (Recess taken.)

2 THE COURT: We're on the record. The Court is
3 prepared to issue a decision and ruling with respect to
4 motion sequence 1, 2, 3.

5 Let me start by thanking counsel for your
6 submissions, oral advocacy, and your flexibility in
7 returning today. It was truly a pleasure. So, thank you
8 for that.

9 The parties do not dispute that the heartland of
10 this action is the de-prioritization of the plaintiffs'
11 interests and that those interests, rights, and duties
12 are governed by a highly negotiated and sophisticated
13 indenture agreement.

14 Plaintiffs allege that through a series of
15 amendments, defendants Redwood and Hunkemoller
16 effectuated the up-tiering transaction in violation of
17 certain terms of the indenture. Plaintiffs concede that
18 the purpose, however, of the transaction was to inject 50
19 million Euros in financing into the company, which was
20 obtained from Redwood.

21 Plaintiffs allege eight causes of action that
22 the Court categorizes as follows:

23 First, with respect to the declaratory judgment
24 against defendant Hunkemoller, that essentially seeks the
25 declaration as to the parties rights and obligations

LD

Proceedings

1 related to Section 9.02c and h, 6.03, 6.06, 4.18, 2.01
2 and/or 2.11 and 2.07 and 3.02 of the indenture.

3 Second, are the contract or quasi-contractual
4 claims of breach of contract against Hunkemoller for
5 violation of following sections of the indenture 9.02c
6 and h, 2.01, 3.02, 4.18, 2.11 and 2.07.

7 The breach of implied covenant of good faith and
8 fair dealing against defendant Hunkemoller and the breach
9 of contract claims against BNY Mellon as the indentured
10 trustee.

11 Finally counts 4, 5, 6 are fraudulent transfer
12 claims for intentional or constructive fraudulent
13 transfer under New York DCL 273, 274 or in, the
14 alternative, Dutch civil code, Articles 340(1) or 345.

15 For the reasons, as the Court will set forth,
16 the Court grants motion sequence number 1 and dismisses
17 the breach of contract claim against defendant BNY
18 Mellon. The Court grants motion sequence numbers 2 and 3
19 to the extent of dismissing counts 4, 5, 6, 7 against
20 defendants Hunkemoller and Redwood and counts 1 and 3
21 against defendant Hunkemoller.

22 Starting with the declaratory judgment cause of
23 action, the declarations that plaintiff seek in count 1
24 are duplicative of the breach of contract claims asserted
25 in count 2 which necessarily implicate the question of

LD

Proceedings

1 whether the waivers are valid under Section 6.03 and
2 whether the no action clause precludes the suit under
3 Section 6.06.

4 The question of whether the up-tiering
5 transaction is invalid and whether the supplemental
6 indenture numbers 2 and 4 and the 2024 global note as
7 well as Redwood's purported waivers of defaults and
8 counter-direction to the indenture trustee necessarily
9 require interpretation of the parties' rights and duties
10 under the contract.

11 Plaintiffs' claim for declaratory judgment is,
12 therefore, nonviable where, in particular, it's
13 unnecessary and inappropriate because plaintiffs have an
14 adequate alternative remedy in another form of action
15 such as breach of contract. See *Apple recs, Inc. V.*
16 *Capital Recs, Inc.*, 137 AD2d 50, 54 from the First
17 Department 1988.

18 Accordingly, count 1 of the first amended
19 complaint for declaratory judgment is dismissed.

20 With respect to the breach of contract claim
21 against defendant BNY Mellon, plaintiff alleges written
22 notice of default was provided to the trustee on
23 September 20th of 2024. See the complaint at paragraph
24 111(c).

25 Accordingly, plaintiffs' duties under the

LD

Proceedings

1 indenture prior to December 20, 2024 are governed by
2 Section 7.01(ii)(A) and (B) which bind the trustee to
3 perform only the ministerial duties as specifically set
4 forth in the indenture and nothing more.

5 Absent a showing of gross negligence, willful
6 misconduct, or fraud, the trustee is entitled
7 conclusively to rely, as to the truth of the statements
8 and correctness of the opinions expressed therein, upon
9 certificates or opinions furnished to the trustee and
10 conforming to the requirements of this indenture.

11 In fact, 7.02(ii) specifically entitles the
12 trustee to conclusively rely and, "be fully protected in
13 relying on any document believed by it to be genuine and
14 to have been sign or presented by the proper person."
15 Accordingly, the indenture explicitly exculpates the
16 trustee from any duty to investigate and states: "The
17 trustee need not investigation any fact or matters stated
18 in the document."

19 The Court does not countenance plaintiffs'
20 attempt to manufacture duties beyond what the parties
21 agreed to in the indenture agreement. The trustee was
22 entitled to rely upon the officers' certificates and
23 opinions of counsel for the second, third, and fourth
24 indentures delivered in accordance with Section 12.02.
25 See NYSCEF 69 through 74, as well as the authentication

LD

Proceedings

1 order in the September 2024 waiver filed at NYSCEF
2 document numbers 75 through 77.

3 The complaint does not allege any conduct on the
4 part of the trustee that remotely approaches bad faith or
5 gross negligence. See Eaton Vance, the First Department
6 case from 2019, 99 NYS3d 28, 30.

7 With respect to the November 2024 waiver and
8 counter direction, the trustee was under no obligation to
9 investigate the validity of these documents and, in fact,
10 there is no allegation that the trustee knew or could
11 have known of the purported breaches associated with the
12 up-tiering transaction or transactions.

13 Based on Mr. Loft's argument today, even if the
14 Court were to consider the September 2024 waiver under
15 the heightened duty, the complaint still fails to allege
16 gross negligence on behalf of the trustee. Accordingly,
17 the Court grants motion 1 and dismisses count 8.

18 I'm now going to turn to the breach of contract
19 claims against defendant Hunkemoller. So, here, let me
20 start by addressing the threshold issues of standing and
21 waivers.

22 With respect to the no-action clause, the Court
23 determines that the no-action clause at Section 6.06(E)
24 does not bar plaintiffs' claims where the Court cannot
25 determine, at this stage, that the November 19, 2024

LD

Proceedings

1 counter-direction was valid because the complaint
2 sufficiently alleges that there was an inadequate
3 authorization from a registered holder of the notes, and
4 there's no irrefutable evidence to the contrary. See the
5 first amended complaint at paragraph 118.

6 With respect to the waivers and the
7 counter-direction, likewise, plaintiffs have sufficiently
8 pled that the waivers and counter-direction were
9 unauthorized by the registered holders and, therefore,
10 invalid.

11 As Mr. Loft argued, based on the purported
12 waivers, a holding statement, or confirmation of a
13 holding is not the equivalent of an authorization. Here,
14 Redwood sent the trustee two waivers of alleged default,
15 the first on September 25, 2024. The Court refers to
16 NYSCEF Document 76, which we reviewed today, which
17 contains only a Goldman Sachs brokerage statement and
18 does not provide any document from ClearStream or
19 EuroStream, let alone-- sorry. Or EuroClear. Excuse me.
20 Let alone, purports to provide an authorization.

21 The second was the November 19, 2024 waiver
22 which is riddled with the same inadequacies. The
23 November letter also saw Redwood issue a
24 counter-direction to the trustee that ordered trustee not
25 to seek remedies against Hunkemoller.

LD

Proceedings

1 Plaintiffs argue that Redwood needed, but
2 failed, to get authorization from the holders, either
3 EuroClear or ClearStream. Redwood claims that EuroClear
4 and ClearStream's issuance to trustee of certificates of
5 holding confirmed Redwood's ownership for each amendment
6 and, therefore, is valid pursuant to 2.1(b).

7 However, the Court credits the arguments made by
8 plaintiff that the counter-direction letter presents only
9 a certificate of holding and does not claim to authorize
10 Redwood as a holder to issue the counter-direction.
11 Accordingly, the Court determines at this stage that the
12 counter-direction is inadequate to confer the requisite
13 authorization and, therefore, undermined the no-action
14 clause.

15 Turning now to the actual up-tiering transaction
16 and whether it implicates breaches of the indenture.
17 Here, as evident by my questions today on the record, the
18 Court cannot determine, at this stage, exactly how this
19 up-tiering transaction was carried out and structured.
20 Was it pursuant to amendment to the notes pursuant to
21 Section 9.04, as defendant Hunkemoller maintains, or for
22 which there is no reference whatsoever in the
23 contemporaneous documents that the Court presently has
24 before it?

25 Was it the issuance of additional notes under

LD

Proceedings

1 Section 2.1, the cancellation and re-issuance of notes
2 under Section 2.11, the exchange of notes under Section
3 2.1 or, perhaps, the redemption or repurchasing of notes
4 under Section 3.02?

5 The Court simply cannot resolve these questions
6 as a matter of law at this juncture and plaintiffs have
7 sufficiently pled that it is possible that the
8 transaction could implicate certain of these or a
9 combination of these provisions.

10 Starting with Section 4.18, that Section does
11 employ broad terminology. It states: The issuer and
12 restricted subsidiaries will not directly or indirectly
13 pay or cause to be paid any consideration to or for the
14 benefit of the holders for or as an inducement to any
15 consent, waiver or amendment of any of the terms or
16 provisions of this indenture or the notes, unless such
17 consideration is offered to be paid and is paid to all
18 holders that consent, waive or agree to amend in the time
19 frame set forth in the solicitation documents relating to
20 such consent, waiver or agreement.

21 The parties do not dispute that the removal of
22 Section 4.18 was necessary to effectuate the up-tiering
23 transaction. The Court determines that is plaintiffs
24 have sufficiently alleged that the removal of 4.18 itself
25 could constitute a violation of four 4.18 if it's

LD

Proceedings

1 ultimately established that it was part of the up-tiering
2 transaction, whether as a form of any consideration,
3 directly or indirectly, or to induce consent, waiver or
4 amendment. See the first amended complaint at paragraphs
5 43 and 52.

6 Now, as the Court did indicate during oral
7 argument yesterday, these allegations do seem light,
8 however, to the extent the plaintiffs' allegations that
9 the removal of 4.18 is part in parcel of an agreement to
10 effectuate the transaction, they must survive at the
11 motion to dismiss stage.

12 Independently, the Court also considers the
13 application of the collapsing doctrine and determines
14 that, at this stage, plaintiffs have sufficiently pled
15 that the following factors militate in their favor: The
16 removal of 4.18 and the balance of the transaction
17 involve the same parties with knowledge of each step of
18 the transaction and for the same purpose to effectuate
19 the up-tiering.

20 Further, defendants do not contest that the
21 removal of 4.18 was necessary to execute the up-tiering
22 such that it was a necessary step or condition to the
23 transaction. Certainly, as defendants argue, the
24 temporary connection is relevant but not dispositive at
25 this stage.

LD

Proceedings

1 Now I'm going to turn to Sections 2.01 and 9.02.
2 Plaintiffs have sufficiently alleged that the 2024 global
3 note could be deemed as an additional note under Section
4 2.01 because there is a substantial discrepancy in
5 payment priority. See the first amended complaint at
6 paragraph 56.

7 The Court observes that substantially identical,
8 which are the specific words used in 2.01, is an
9 undefined term and it would seem possible that a change
10 in payment priority deems the notes as substantially
11 dissimilar. Due to this ambiguity as to whether the 2024
12 global note is substantially identical to the 2022 note,
13 the Court cannot foreclose the possibility that the 2024
14 note is, in fact, an additional note under Section 2.01.

15 Because there is a question of whether the new
16 notes are additional notes or part of the same series of
17 notes, that necessarily implicates Section 9.02 and the
18 validity of the consents provided in connection with the
19 supplemental indentures at 2 and 4.

20 Turning to sections 2.07 and 2.11. The Court
21 determines that, again, it is possible that the
22 transaction was an exchange of notes under Section 2.07
23 whereby the original notes were exchanged simultaneously
24 for the 2024 global notes.

25 Logically, the transformation or transition,

LD

Proceedings

1 this remains to be seen, it's the need for discovery,
2 from the 2022 to 2024 notes has to happen simultaneously
3 so there's no gap. Accordingly, the value could not have
4 been reduced to zero. I refer to Section 9.02c which
5 I'll get to momentarily.

6 So, that necessarily implies that the original
7 notes could have been canceled under Section 11, 2.11
8 which defendants do not dispute that the notes were
9 canceled but purport that they were canceled pursuant to
10 Section 9.04 which, essentially, allows for the
11 cancellation of the notes that are delivered for
12 exchange.

13 Further, as alleged at paragraph 59 of the first
14 amended complaint, the company's public statements
15 indicate that "the participating note holders have
16 exchanged their SSN's into a new first-out tranche and
17 the annual report reiterates that Redwood exchanged their
18 notes.

19 Accordingly, with respect to Section 3.02,
20 however, the Court determines that plaintiffs have not
21 alleged that this transaction involved a redemption as
22 set forth under Article III of the indenture, including
23 with respect to issuing specific notices, certificates,
24 and payment.

25 Defendants correctly point out that the

LD

Proceedings

1 complaint does not allege that any of these events
2 occurred. Further, there's no allegation that the notes
3 were tendered or that the relationship with Redwood was
4 terminated.

5 I'm now going to turn to Section 9.02c and h.
6 As the Court indicated at the outset in this case, the
7 Court does not believe that this case presents a sacred
8 rights case. Rather, the Court cannot determine, based
9 on the clear provisions in Section 9.2c and h that the
10 up-tiering transaction violated plaintiffs' sacred rights
11 or any other sacred rights memorialized in indenture.

12 Preliminarily, the key provisions that
13 facilitated the up-tiering transaction of 4.18 and 6.10,
14 are not sacred rights, and consistent with Mitel and
15 Quadrant, if plaintiff wanted to include ratable payment
16 priority as a sacred right, they could have agreed to do
17 so.

18 The Court cannot expand the sacred rights beyond
19 what the parties contracted to, and nothing in 9.02
20 refers to rights attaching to those holders adversely
21 affected, whereas the parties did intentionally use that
22 language elsewhere in the indenture such as at Sections
23 4.04, 4.07, 4.11, just as example.

24 With respect to 9.02c, plaintiffs have not
25 sufficiently alleged that the principal balance of the

LD

Proceedings

1 notes was reduced in connection with the up-tiering
2 transaction for the reasons as previously discussed and
3 with respect to, at a minimum, the allegation that the
4 transaction involved an exchange of notes.

5 With respect to 9.02h, likewise, plaintiffs have
6 not alleged that the transaction released collateral and
7 the allegations thereto at paragraphs 75 and 76 of the
8 complaint are speculation.

9 Here, the secured original notes still were
10 secured by and had access to the collateral pool, albeit
11 on a subordinated basis. The Court also refers to Mitel
12 which forecloses plaintiffs' argument that the
13 transaction could have the effect of a release.

14 Ultimately, as it relates to 9.02c and h, the
15 up-tiering transaction did not affect the amount
16 outstanding under the notes, rather it impacted only the
17 prioritization of interest under Section 6.10 which is
18 not a sacred right.

19 Accordingly, the Court denies defense motion to
20 dismiss as to the breach of contract claims brought under
21 Sections 2.01 and 9.02 as related to whether the consents
22 are valid, 4.18, 2.07 and 2.11. The Court grants the
23 motion to dismiss to the extent that the Court dismisses
24 the breach of contract claims brought pursuant to
25 Sections 3.02, 9.02c and 9.02h.

LD

Proceedings

1 I'm now going to turn to the breach of implied
2 covenant of good faith and fair dealing claim. The Court
3 determines that the breach of implied covenant claim
4 should be dismissed based on the clear application of
5 Mitel. The indenture is of a "bespoke agreement" as
6 Justice Schechter put it, negotiated by sophisticated
7 parties, containing specific and detailed provisions that
8 form the basis of the terms of the contract alone.

9 Every action challenged by plaintiffs was
10 undertaken pursuant to specific provisions in the
11 indenture, and plaintiffs cannot use an alternative
12 theory "to create new duties that negate the specific
13 rights under a contract." That's from *Richbell Info.*
14 *Services v. Jupiter Partners* 309, AD2d 288, 302 from the
15 First Department 2003.

16 Now, the fraudulent transfer claims. Plaintiffs
17 allege that the company required a capital infusion and
18 that the purpose of the up-tiering transaction was to
19 directly address the need for additional liquidity,
20 consistent with the company's public statements, since
21 the first amended complaint at paragraph 39, 41 and 103.

22 In fact, plaintiffs endeavored to negotiate with
23 the company "toward a new money transaction." That's from
24 the complaint at paragraph 42. Consistent with the
25 decision in *Mitel* where the complaint pleads that the

LD

Proceedings

1 purpose of the transaction was a 50 million euro capital
2 infusion into the company, that can hardly be indicia of
3 fraudulent intent even where the transaction may have
4 favored certain lenders over others.

5 Further, the complaint does not sufficiently
6 allege other badges of the fraud under DCL 273 that would
7 overcome this common sense conclusion: The purported
8 transfer or obligation was not to an insider. The
9 transaction was disclosed, although the Court concedes
10 the amendments predating the June 2024 announcement were
11 not publicly disclosed but the fact of the need for a
12 capital infusion was certainly known to the plaintiff as
13 alleged in the complaint.

14 Value of consideration was reasonably equivalent
15 to the value of the asset transferred or obligation
16 incurred, meaning the company received cash for debt in
17 the same amount. See Board of Managers of Love
18 Condominium v. Gateway IV, 169 AD3d 617, 618 from the
19 First Department of 2019.

20 As to the claim for constructive fraudulent
21 transfer, the complaint does not sufficiently allege the
22 company was insolvent at the time or became insolvent as
23 a result of the transaction other than in purely
24 conclusory terms.

25 While insolvency is ordinarily a question of

LD

Proceedings

1 fact, here the complaints pleads in wholly conclusory
2 term that "the company was insolvent at the time of the
3 up-tiering." Paragraph 18. "By the time of the
4 up-tiering, the company was insolvent, a fact obvious to
5 both the company and Redwood." Paragraph 103.

6 "The company was insolvent at the time of the
7 up-tiering." Paragraph 171. Consistent with the Court's
8 finding In Re Nanobeak Biotech, Southern District of New
9 York Bankruptcy Court applying DCL 273 and 274,
10 plaintiffs' conclusory allegations that the company was
11 or became insolvent are insufficient to allege or
12 otherwise trigger a presumption of insolvency. The cite
13 for that is 656 B.R. 350, 364 Bankruptcy Court Southern
14 District, 2024.

15 Likewise, the fraudulent transfer claims under
16 Dutch law fail because the complaint does not
17 sufficiently allege that Dutch law applies to these
18 claims.

19 Plaintiffs concede that this action is distilled
20 to the de-prioritization of their interest in violation
21 of certain provisions of the indenture and, accordingly,
22 the action sounds in a breach of contract claim under the
23 indenture. It's undisputed that the indenture contains a
24 choice-of-law provision at Section 12.07 which states
25 that the indenture and the notes and rights and duties of

LD

Proceedings

1 the parties thereunder shall be governed by and construed
2 in accordance with the laws of the State of New York.

3 Accordingly, the parties explicitly agreed, in
4 broad terms, that New York law would govern the terms of
5 the indenture. Whether a choice-of-law provision applies
6 to tort claims is a question of the provision's language.

7 Consistent with the First Department's ruling in
8 Capital Z Financial Services V. Health Net 840 NYS2d 16,
9 23 from the First Department 2007, "while a
10 limited-choice provision may not apply to determine
11 claims of fraud, the challenged claims here fall squarely
12 within the broad terminology used in the choice-of-law
13 provisions as was the circumstance in Capital Z.

14 Plaintiffs' claims require a construction of the
15 terms of the indenture. For example, the payment
16 waterfall, the payments for consent provision and,
17 ultimately, the interpretation and enforcement of the
18 rights and duties of the parties thereunder.

19 And while it maybe the case that such a finding
20 is rare, that is of no consequence where the plaintiffs'
21 claims necessarily require the interpretation of the
22 parties' rights and obligations under the indenture.

23 Even setting aside the choice-of-law provision,
24 however, the amended complaint alleges that New York is
25 the locus of a significant portion of the acts that

LD

Proceedings

1 constituted the up-tiering, including all, or nearly all,
2 the actions taken by Redwood. For example, see the first
3 amended complaint at paragraphs 157 and 169 and
4 plaintiffs plead their tort claims primarily under New
5 York law. See the complaint at paragraphs 155 through 61
6 and 167 through 73.

7 The Court agrees with Redwood's argument that
8 "plaintiffs thus make clear that they expect New York law
9 to govern the defendant's conduct, and there is no
10 unfairness in holding them to that expectation." From
11 Redwood's brief at page 23 NYSCEF 93.

12 Accordingly, the Court grants motion sequence
13 numbers 2 and 3 to the extent of dismissing counts 4, 5,
14 6 and 7.

15 Okay, thanks very much, everyone. With that,
16 counsel, if you'd obtain a copy of today's transcript and
17 file it on NYSCEF in 30 days. We'll issue a short form
18 order today that sets forth the Court's ruling.

19 One more item I believe we still need to address
20 is with respect to the discovery issue in the parties'
21 pre-motion letters. Let me pause there.

22 Is anything else on the motions? Okay, I've got
23 them. So, let me first hear maybe from Mr. Rosenbaum.

24 MR. ROSENBAUM: My clients were just dismissed
25 from the case, but I'll argue this, nonetheless.

LD

Proceedings

1 THE COURT: Well, it's your letter. That is why
2 I turned to you.

3 MR. ROSENBAUM: Why don't I go to the podium
4 then. Good afternoon. Zachary Rosenbaum for the Redwood
5 holders. We submitted a pre-motion letter to seek the
6 Court's permission to file a motion to compel.

7 I know sometimes these issues are resolved
8 without the necessity of a motion. So, I'll just walk
9 through, and I think your Honor's ruling just a few
10 moments ago underscores why this discovery is
11 particularly relevant for discovery purposes.

12 Both we and counsel for the company when we
13 issued a written discovery request to the plaintiffs,
14 among them were requests for discovery or document
15 discovery on consents, waivers, and similar
16 authorizations that these three plaintiffs have obtained
17 or utilized in functionally similar transactions; and as
18 we see here, that can run the gamut of consents to
19 amendments. That can include waivers. That can include
20 counter-directions.

21 As we saw in UMB, it can include replacing
22 trustees. These things happen all the time. The three
23 plaintiffs are active in this market, and I have little
24 doubt that they have, as we even see from their notice of
25 default, that give instructions quite often.

LD

Proceedings

1 Particularly now that the Court has found fact issues
2 with respect to the waivers, particularly, and the
3 counter-directions, I'll go back to-- I think I have it.
4 Section 2.1(b) of the note terms that are appended to the
5 indentures; and the indentures and note terms comprise
6 the parties' agreement, and this was touched on during
7 the arguments yesterday.

8 A part of that-- and it's slide four, in case
9 your Honor wants to pull my deck back up, but in addition
10 to the language that I referred to yesterday dealing with
11 any written certification proxy or other authorizations
12 furnished by EuroClear or ClearStream, it continues. It
13 says: Or impair as between EuroClear or ClearStream and
14 the respective agent members, the operation of customary
15 practices thereof governing the exercise of rights of
16 holders of a beneficial interest in the global note.

17 And now that we've gotten through the motion to
18 dismiss stage, I'm keenly interested to see what the
19 files of the plaintiffs reflect on this subject matter,
20 and I think it would bear heavily on, ultimately, the
21 Court's assessment of what might be customary practices
22 in this market.

23 I find it interesting and telling that the
24 plaintiffs are fighting as much as they have. They're
25 not giving us this. It makes me think they have exactly

LD

Proceedings

1 what we expect, which is that they provide consents and
2 waivers in a similar fashion all the time but we won't
3 know that until we get this discovery.

4 So, given the quite liberal rules of discovery,
5 and I don't think the rules of discovery would have to be
6 so liberal for this to be relevant, and we cite several
7 cases on this, the relevance of custom and practice and
8 the use of evidence from other transactions to establish
9 or not establish customer practice, which happens quite
10 often for purposes of discovery, I actually think this is
11 a pretty easy call, but that is up to your Honor.

12 So, that's the reason that we put that letter
13 in. I would hope that we would avoid motion practice on
14 this subject but I know there was a contra-letter from
15 plaintiffs.

16 THE COURT: Thank you.

17 MR. LOFT: Thank you, your Honor. Obviously,
18 after standing up a moment ago and telling you that there
19 needed to be discovery on the issue of authorization, I'm
20 going to be careful about how I address this motion.

21 I think really the question is whether it should
22 be this discovery. The provision that Mr. Rosenbaum
23 correctly took you to is at slide 4 of his deck and it
24 references the operation of customary practices thereof.

25 That is, the customary practices of EuroClear

LD

Proceedings

1 and ClearStream. What it does not say is, it does not
2 say the customary practices of people out there in the
3 market, of anyone on the street.

4 So, if you look at the document request that's
5 being posed to us, is for each plaintiff, and there are
6 three, copies of all proxies, whether standing or
7 otherwise, authorizations or proof of holding of any kind
8 relied on by such entities in connection with the
9 provision of any consents under any indenture within the
10 last ten years.

11 These are not small organizations. They will,
12 in any given year, conduct tens, if not hundreds of
13 transactions that may or may not involve an indenture.
14 This is an incredibly burdensome exercise. In fact, I
15 don't even know how to fathom, and we can start to look
16 for the documents that are called for by this request.

17 It would require three different large
18 alternative investment managers to go and open the files
19 and look first to find out whether there was even an
20 indenture at issue then to dig through those files and
21 look at whether the indenture was actually a EuroClear or
22 ClearStream indenture; because, as the Court knows, a lot
23 of instruments are cleared with DTC, which would be
24 nonresponsive to this request.

25 So, the exercise is really just an unfathomable

LD

Proceedings

1 exercise. Then the Court has to ask itself: What do we
2 get out of that exercise. What happens if we dig through
3 one of these files and find an indenture and we verify it
4 as a EuroClear or ClearStream indenture and then we find
5 some consent that was rendered by one of these plaintiffs
6 and then we look behind that consent to see what was
7 there in terms of authorization or proof of holding or
8 whatever.

9 What do we do with that? What does that prove
10 or disprove as relevant to this case at trial? We don't
11 know whether or how that consent was relied on, whether
12 it was ever challenged to the extent to which it was
13 accepted by the trustee in that case and, certainly, we
14 don't know how it was resolved by a Court as to whether
15 it was valid or not.

16 So, it isn't going to tell us anything as a
17 matter of probative value if we ultimately we find one of
18 these needles in a haystack. So, the issue is really
19 scope, burden and, ultimately, the probative value in the
20 end.

21 THE COURT: Okay-- of course, go ahead.

22 MR. ROSENBAUM: I just want to note, as to the
23 burden and scope, this request was flat out rejected.
24 So, we never had an opportunity to meet and confer and
25 attempt to narrow it because it was rejected. So, we'd

LD

Proceedings

1 be happy to do that, if that's the issue here.

2 THE COURT: Great, because you kind of read my
3 mind which is, I do think it's relevant to customary
4 practice, based on what we did yesterday and today,
5 right, and I can certainly anticipate that it could
6 become relevant in terms of whatever answer and perhaps
7 future claims are filed in this case.

8 So, I think there's got to be a response but,
9 Mr. Loft, and I think, as your adversary conceded, we
10 have to come up with a more reasonable scope, whether
11 it's based on cutting down the time period considerably
12 from ten years, particularly in light of the fact these
13 waivers and indentures have evolved quite swiftly during
14 that period, I would focus on the recent past.

15 Also, at least as of the date of Mr. Loft's
16 letter on July 10th, it appeared that subpoenas had not
17 been served on EuroClear and ClearStream. That would,
18 obviously, seem to be-- again, you can do both. Nothing
19 in the rules prevent you but also it seems like a
20 reasonable path to take.

21 MR. ROSENBAUM: We don't disagree. EuroClear,
22 as the name connotes, is in Europe and we'll have
23 issues in doing that. From what we've seen so far,
24 ClearStream is also in Europe. I think Luxembourg but it
25 has some type of registered office in the US. So, we

LD

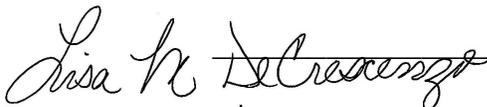
1 have thought about that as well.

2 THE COURT: Fair enough. That is helpful. So,
3 my suggestion is meet and confer on scope. So, see how
4 you can whittle this down. I think it is going to be
5 relevant; and, if there's issues on scope, let me know.
6 As I always say, I am not telling you that you can't file
7 the motion. You can file the motion, but I'm giving a
8 directive, so we, hopefully, don't have to do that.

9 Anything else? Thanks very much, everyone.
10 Have a great rest of the day.

11 * * *

12
13 Certified to be a true and accurate transcript of the
14 above matter.

15 

16 Lisa M. De Crescenzo

17 Official Court Reporter

18
19
20
21
22
23
24
25

LD

<p style="text-align: center;">1</p> <p>1 [7] - 3:3, 25:4, 26:16, 26:20, 26:23, 27:18, 29:17 1.3 [1] - 18:21 10019 [1] - 2:4 10022 [1] - 2:17 101 [1] - 2:8 10178 [1] - 2:8 103 [2] - 38:21, 40:5 10th [1] - 48:16 11 [1] - 35:7 111(c) [1] - 27:24 118 [1] - 30:5 12.02 [1] - 28:24 12.07 [1] - 40:24 137 [1] - 27:16 155 [1] - 42:5 157 [1] - 42:3 16 [1] - 41:8 167 [1] - 42:6 169 [2] - 39:18, 42:3 17 [1] - 1:19 171 [1] - 40:7 1783 [1] - 1:9 18 [1] - 40:3 19 [2] - 29:25, 30:21 1988 [1] - 27:17</p>	<p>29:7, 29:14, 29:25, 30:15, 30:21, 34:2, 34:11, 34:13, 34:24, 35:2, 39:10, 40:14 2025 [1] - 1:19 20th [2] - 4:3, 27:23 23 [2] - 41:9, 42:11 25 [1] - 30:15 273 [3] - 26:13, 39:6, 40:9 274 [2] - 26:13, 40:9 28 [1] - 29:6 288 [1] - 38:14 291 [1] - 8:5 2:36 [1] - 24:24</p>	<p>21:7, 22:10 50 [3] - 25:18, 27:16, 39:1 52 [1] - 33:5 53 [2] - 20:18 54 [1] - 27:16 56 [1] - 34:6 59 [1] - 35:13 599 [1] - 2:12 5th [3] - 4:8, 5:7, 5:21</p>	<p>16:2, 16:3, 16:8, 16:9, 16:14, 16:17, 16:19, 34:1, 34:17, 36:19, 37:21 9.02c [7] - 26:1, 26:5, 35:4, 36:5, 36:24, 37:14, 37:25 9.02h [2] - 37:5, 37:25 9.04 [10] - 9:25, 10:6, 10:8, 12:10, 12:11, 12:18, 24:3, 24:8, 31:21, 35:10 9.2c [1] - 36:9 904 [4] - 13:5, 13:9, 24:20 93 [1] - 42:11 99 [1] - 29:6</p>	<p>31:25, 34:3, 34:14, 34:16, 38:19 address [8] - 6:13, 15:16, 16:4, 20:13, 22:12, 38:19, 42:19, 45:20 addresses [1] - 16:2 addressing [1] - 29:20 adequate [1] - 27:14 adequately [2] - 5:23, 7:6 admitted [1] - 9:15 advantage [1] - 9:23 adversary [2] - 20:7, 48:9 adversely [1] - 36:20 advocacy [1] - 25:6 affect [3] - 6:16, 37:15 affected [4] - 8:15, 11:2, 11:4, 36:21 affidavit [1] - 8:25 afternoon [4] - 3:11, 3:16, 15:9, 43:4 afterwards [1] - 11:12 against [14] - 1:12, 18:25, 19:12, 21:19, 25:24, 26:4, 26:8, 26:9, 26:17, 26:19, 26:21, 27:21, 29:19, 30:25 agent [1] - 44:14 ago [2] - 43:10, 45:18 agree [4] - 6:19, 7:25, 13:14, 32:18 agreed [5] - 7:3, 14:9, 28:21, 36:16, 41:3 agreement [6] - 25:13, 28:21, 32:20, 33:9, 38:5, 44:6 agrees [1] - 42:7 ahead [1] - 47:21 al [1] - 3:2 albeit [1] - 37:10 allegation [3] - 29:10, 36:2, 37:3 allegations [4] - 33:7, 33:8, 37:7, 40:10 allege [15] - 7:10, 7:20, 8:20, 14:18, 20:8, 25:14, 25:21, 29:3, 29:15, 36:1, 38:17, 39:6, 39:21, 40:11, 40:17 alleged [11] - 7:6, 15:2, 17:11, 30:14, 32:24, 34:2, 35:13, 35:21, 36:25, 37:6,</p>
<p style="text-align: center;">2</p>	<p style="text-align: center;">3</p> <p>3 [6] - 3:3, 8:25, 25:4, 26:18, 26:20, 42:13 3(B) [1] - 9:2 3.02 [5] - 26:2, 26:6, 32:4, 35:19, 37:25 30 [4] - 22:20, 22:21, 29:6, 42:17 302 [1] - 38:14 309 [1] - 38:14 340(1) [1] - 26:14 345 [1] - 26:14 350 [1] - 40:13 364 [1] - 40:13 39 [1] - 38:21</p>	<p style="text-align: center;">6</p> <p>6 [4] - 15:21, 26:11, 26:19, 42:14 6.03 [6] - 5:14, 15:18, 15:25, 16:14, 26:1, 27:1 6.06 [2] - 26:1, 27:3 6.06(E) [1] - 29:23 6.10 [2] - 36:13, 37:17 60 [1] - 1:18 61 [1] - 42:5 610 [3] - 10:22, 11:14, 11:25 616 [1] - 7:13 617 [1] - 39:18 618 [1] - 39:18 656 [1] - 40:13 659297/24 [1] - 1:3 69 [1] - 28:25</p>	<p style="text-align: center;">A</p> <p>able [2] - 6:23, 9:23 absent [1] - 28:5 absolutely [1] - 16:11 accept [1] - 13:22 accepted [1] - 47:13 access [1] - 37:10 accordance [4] - 5:13, 18:20, 28:24, 41:2 accordingly [11] - 27:18, 27:25, 28:15, 29:16, 31:11, 35:3, 35:19, 37:19, 40:21, 41:3, 42:12 account [4] - 18:14, 18:16, 21:3, 21:24 accurate [1] - 49:13 acknowledge [1] - 8:3 action [13] - 21:7, 21:8, 25:10, 25:21, 26:23, 27:2, 27:14, 29:22, 29:23, 31:13, 38:9, 40:19, 40:22 actions [1] - 42:2 active [1] - 43:23 actors [1] - 6:20 acts [1] - 41:25 actual [2] - 8:2, 31:15 actually [6] - 16:17, 19:2, 20:10, 23:15, 45:10, 46:21 AD2d [2] - 27:16, 38:14 AD3d [1] - 39:18 added [1] - 9:3 addition [1] - 44:9 additional [9] - 14:2, 14:6, 14:7, 14:20,</p>	
<p>2 [8] - 3:3, 16:4, 25:4, 26:18, 26:25, 27:6, 34:19, 42:13 2.01 [10] - 6:17, 8:21, 9:3, 26:1, 26:6, 34:1, 34:4, 34:8, 34:14, 37:21 2.07 [6] - 20:9, 26:2, 26:6, 34:20, 34:22, 37:22 2.1 [2] - 32:1, 32:3 2.1(b) [1] - 44:4 2.1(b) [1] - 31:6 2.11 [7] - 20:9, 26:2, 26:6, 32:2, 34:20, 35:7, 37:22 20 [1] - 28:1 2003 [1] - 38:15 2007 [1] - 41:9 2019 [2] - 29:6, 39:19 2022 [7] - 11:8, 11:16, 12:3, 12:24, 23:25, 34:12, 35:2 2024 [29] - 4:17, 5:13, 9:5, 11:8, 11:17, 11:19, 11:22, 12:3, 12:15, 12:24, 23:16, 24:1, 24:12, 27:6, 27:23, 28:1, 29:1,</p>	<p style="text-align: center;">4</p> <p>4 [9] - 8:25, 17:2, 26:11, 26:19, 27:6, 34:19, 42:13, 45:23 4.04,4.07 [1] - 36:23 4.11 [1] - 36:23 4.12 [1] - 16:24 4.18 [15] - 16:24, 17:4, 17:9, 17:12, 26:1, 26:6, 32:10, 32:22, 32:24, 32:25, 33:9, 33:16, 33:21, 36:13, 37:22 41 [1] - 38:21 418 [4] - 6:14, 6:19, 6:22, 7:19 42 [1] - 38:24 43 [1] - 33:5 45 [1] - 1:1</p>	<p style="text-align: center;">7</p> <p>7 [2] - 26:19, 42:14 7.01 [1] - 3:25 7.01(ii)(A) [1] - 28:2 7.02(ii) [1] - 28:11 73 [1] - 42:6 74 [1] - 28:25 75 [3] - 2:4, 29:2, 37:7 76 [3] - 4:15, 30:16, 37:7 77 [1] - 29:2</p>	<p style="text-align: center;">8</p> <p>8 [2] - 18:14, 29:17 800 [1] - 2:16 840 [1] - 41:8 87 [1] - 18:6</p>	
	<p style="text-align: center;">5</p> <p>5 [5] - 4:17, 5:12, 26:11, 26:19, 42:13 5.3 [1] - 18:21 5.3.1.3 [3] - 21:4,</p>	<p style="text-align: center;">8</p>	<p style="text-align: center;">9</p> <p>9 [2] - 5:15, 15:22 9.01 [1] - 16:9 9.02 [12] - 15:19,</p>	

<p>39:13 alleges [3] - 27:21, 30:2, 41:24 allocated [1] - 23:19 allow [1] - 19:6 allows [2] - 24:3, 35:10 alone [4] - 5:11, 30:19, 30:20, 38:8 along [2] - 3:13, 9:7 alter [1] - 17:4 alternative [4] - 26:14, 27:14, 38:11, 46:18 although [2] - 14:6, 39:9 always [2] - 14:23, 49:6 ambiguity [1] - 34:11 amend [3] - 9:12, 16:23, 32:18 amended [9] - 12:6, 27:18, 30:5, 33:4, 34:5, 35:14, 38:21, 41:24, 42:3 amendment [5] - 6:17, 31:5, 31:20, 32:15, 33:4 amendments [11] - 8:15, 9:9, 9:12, 10:19, 10:20, 10:23, 15:22, 16:4, 25:15, 39:10, 43:19 amount [4] - 12:25, 13:4, 37:15, 39:17 ANAR [1] - 1:21 AND [2] - 1:10, 1:14 Annex [2] - 5:4, 5:5 annexed [1] - 5:4 announcement [1] - 39:10 announcing [1] - 24:17 annual [1] - 35:17 answer [3] - 12:18, 13:12, 48:6 anticipate [1] - 48:5 AO [3] - 2:11, 3:9, 6:12 apologize [1] - 14:12 appear [1] - 5:5 appearances [1] - 3:4 Appearances [1] - 1:24 appeared [1] - 48:16 appended [1] - 44:4 Apple [1] - 27:15 application [2] - 33:13, 38:4 applies [4] - 7:19, 16:14, 40:17, 41:5</p>	<p>apply [1] - 41:10 applying [1] - 40:9 approach [1] - 14:24 approaches [1] - 29:4 April [1] - 7:4 argue [3] - 31:1, 33:23, 42:25 argued [2] - 6:18, 30:11 argument [11] - 4:10, 6:5, 6:8, 6:14, 9:24, 12:14, 15:17, 29:13, 33:7, 37:12, 42:7 arguments [3] - 6:14, 31:7, 44:7 arise [1] - 4:1 arose [1] - 8:15 article [1] - 15:21 Article [2] - 15:21, 35:22 Articles [1] - 26:14 aside [2] - 10:7, 41:23 aspect [1] - 23:6 asserted [2] - 5:13, 26:24 assess [1] - 23:22 assessment [1] - 44:21 asset [1] - 39:15 associated [1] - 29:11 assume [1] - 4:7 assure [1] - 6:9 attach [3] - 5:1, 5:21, 20:19 attached [5] - 5:6, 5:17, 5:18, 11:8, 11:14 attaching [2] - 5:3, 36:20 attempt [3] - 7:22, 28:20, 47:25 attention [1] - 8:24 ATTORNEYS [4] - 2:3, 2:7, 2:12, 2:16 authentication [2] - 23:17, 28:25 authority [2] - 16:13, 19:17 authorization [23] - 4:19, 4:24, 5:1, 5:12, 5:21, 13:23, 17:20, 18:20, 19:5, 20:12, 20:13, 20:20, 20:22, 21:5, 21:12, 22:12, 30:3, 30:13, 30:20, 31:2, 31:13, 45:19, 47:7 authorizations [4] - 22:9, 43:16, 44:11, 46:7</p>	<p>authoriz - 18:23, 19:10, 21:15, 21:17, 23:10, 21:9 Avenue [3] - 2:8, 2:12, 2:16 avoid [2] - 17:18, 45:13 avoidance [1] - 9:4 awaiting [1] - 23:18 aware [1] - 3:25</p> <p style="text-align: center;">B</p> <p>B.R [1] - 40:13 bad [1] - 29:4 badges [1] - 39:6 balance [2] - 33:16, 36:25 bankruptcy [1] - 14:25 Bankruptcy [2] - 40:9, 40:13 bar [1] - 29:24 barring [1] - 15:12 based [8] - 14:3, 17:16, 29:13, 30:11, 36:8, 38:4, 48:4, 48:11 bases [1] - 20:20 basis [4] - 23:2, 23:8, 37:11, 38:8 baton [1] - 6:8 bear [1] - 44:20 became [2] - 39:22, 40:11 become [2] - 22:22, 48:6 becomes [2] - 4:10, 8:12 begins [1] - 21:7 behalf [2] - 6:12, 29:16 behind [1] - 47:6 being [3] - 5:13, 9:23, 46:5 believe [5] - 5:23, 20:8, 24:6, 36:7, 42:19 believed [1] - 28:13 beneficial [12] - 5:11, 18:23, 19:11, 21:16, 21:18, 22:8, 23:15, 23:19, 23:20, 24:10, 24:13, 44:16 benefit [2] - 5:14, 32:14 bespoke [1] - 38:5 between [1] - 44:13 beyond [2] - 28:20, 36:18 BFAM [1] - 21:1 bind [1] - 28:2</p>	<p>Biotech [1] - 40:8 bit [1] - 19:9 block [1] - 22:1 BNY [6] - 1:14, 2:7, 3:15, 26:9, 26:17, 27:21 Board [1] - 39:17 BOND [1] - 1:7 both [8] - 8:6, 11:16, 17:25, 19:17, 19:22, 40:5, 43:12, 48:18 bottom [1] - 5:2 breach [21] - 7:12, 7:15, 7:20, 8:19, 13:17, 16:20, 17:11, 23:7, 26:4, 26:7, 26:8, 26:17, 26:24, 27:15, 27:20, 29:18, 37:20, 37:24, 38:1, 38:3, 40:22 breached [2] - 7:11, 9:13 breaches [3] - 8:21, 29:11, 31:16 BRIANNA [1] - 2:5 Brianna [1] - 3:6 brief [3] - 6:10, 42:11 briefly [1] - 3:21 bring [2] - 13:11, 19:18 broad [3] - 32:11, 41:4, 41:12 broker [1] - 21:18 brokerage [2] - 5:7, 30:17 brokers [1] - 21:17 brought [2] - 37:20, 37:24 burden [2] - 47:19, 47:23 burdensome [1] - 46:14 but [37] - 6:10, 7:5, 8:23, 10:15, 10:16, 11:10, 11:24, 12:14, 14:3, 14:15, 16:12, 16:18, 17:21, 17:23, 17:25, 18:1, 18:6, 18:9, 21:4, 22:4, 22:11, 22:17, 22:23, 24:8, 31:1, 33:24, 35:9, 39:11, 42:25, 44:9, 45:2, 45:11, 45:14, 48:8, 48:19, 48:24, 49:7 BV [1] - 1:14 BY [2] - 2:13, 2:17 by [38] - 2:5, 2:9, 3:6, 3:21, 8:15, 9:5, 10:11, 11:10, 15:17, 16:20, 17:8, 18:10, 19:14, 19:16, 21:20, 22:19, 24:3, 25:5, 25:12,</p>	<p>28:1, 28:13, 28:14, 29:20, 30:9, 31:7, 31:17, 37:10, 38:6, 38:9, 40:3, 41:1, 42:2, 44:12, 46:8, 46:16, 47:5, 47:13, 47:14</p> <p style="text-align: center;">C</p> <p>C [1] - 2:1 call [2] - 14:3, 45:11 called [2] - 24:7, 46:16 calling [1] - 14:4 calls [1] - 14:23 came [4] - 7:24, 11:22, 23:15, 24:13 can [23] - 7:12, 16:1, 16:20, 17:3, 17:11, 17:18, 17:21, 18:1, 18:8, 19:4, 21:9, 21:10, 23:4, 39:2, 43:18, 43:19, 43:21, 46:15, 48:5, 48:18, 49:4, 49:7 can't [2] - 15:1, 49:6 cancel [1] - 12:4 canceled [4] - 12:15, 35:7, 35:9 cancellation [3] - 10:4, 32:1, 35:11 candidly [1] - 13:13 cannot [11] - 5:14, 7:4, 18:11, 22:9, 29:24, 31:18, 32:5, 34:13, 36:8, 36:18, 38:11 Capital [2] - 41:8, 41:13 CAPITAL [2] - 1:9, 1:14 capital [10] - 4:23, 4:25, 5:10, 8:5, 27:16, 38:17, 39:1, 39:12 capturing [1] - 19:2 care [1] - 8:1 careful [1] - 45:20 carried [2] - 11:18, 31:19 carry [1] - 12:20 case [14] - 3:2, 7:9, 21:2, 22:19, 29:6, 36:6, 36:7, 36:8, 41:19, 42:25, 44:8, 47:10, 47:13, 48:7 cases [1] - 45:7 cash [1] - 39:16 categorizes [1] - 25:22 cause [2] - 26:22, 32:13 causes [1] - 25:21</p>
--	--	---	--	---

<p>Centre [1] - 1:18 certain [5] - 22:18, 25:17, 32:8, 39:4, 40:21 certainly [7] - 17:15, 17:23, 23:22, 33:23, 39:12, 47:13, 48:5 certificate [2] - 5:17, 31:9 certificates [5] - 16:12, 28:9, 28:22, 31:4, 35:23 certification [1] - 44:11 Certified [1] - 49:13 challenged [3] - 38:9, 41:11, 47:12 challenging [1] - 10:14 change [5] - 7:7, 11:13, 12:19, 16:23, 34:9 changed [3] - 11:10, 11:11, 11:16 changes [1] - 11:5 changing [1] - 10:22 Cheyne [1] - 3:2 CHEYNE [4] - 1:3, 1:3, 1:4, 1:4 choice [5] - 40:24, 41:5, 41:10, 41:12, 41:23 choice-of-law [4] - 40:24, 41:5, 41:12, 41:23 circumstance [1] - 41:13 cite [3] - 20:19, 40:12, 45:6 civil [1] - 26:14 CIVIL [1] - 1:1 claim [12] - 7:15, 8:18, 19:17, 21:25, 26:17, 27:11, 27:20, 31:9, 38:2, 38:3, 39:20, 40:22 claims [22] - 7:8, 9:12, 9:18, 26:4, 26:9, 26:12, 26:24, 29:19, 29:24, 31:3, 37:20, 37:24, 38:16, 40:15, 40:18, 41:6, 41:11, 41:14, 41:21, 42:4, 48:7 class [1] - 9:8 clause [7] - 22:25, 23:4, 23:7, 27:2, 29:22, 29:23, 31:14 clear [5] - 7:14, 21:15, 36:9, 38:4, 42:8 cleared [1] - 46:23 clearly [1] - 16:14</p>	<p>ClearStream [11] - 5:10, 18:4, 30:18, 31:3, 44:12, 44:13, 46:1, 46:22, 47:4, 48:17, 48:24 ClearStream's [1] - 31:4 client [3] - 18:18, 19:19 clients [2] - 18:23, 42:24 closes [1] - 10:22 code [1] - 26:14 Cohen [2] - 21:1, 21:2 collapsing [2] - 23:1, 33:13 collateral [3] - 14:22, 37:6, 37:10 colleague [2] - 3:6, 3:10 combination [1] - 32:9 come [3] - 10:25, 23:19, 48:10 commencement [2] - 22:3, 22:5 comment [1] - 22:12 common [1] - 39:7 companies's [1] - 9:1 company [23] - 3:8, 6:12, 7:2, 7:11, 9:11, 10:12, 10:24, 13:7, 13:13, 19:23, 24:6, 25:19, 38:17, 38:23, 39:2, 39:16, 39:22, 40:2, 40:4, 40:5, 40:6, 40:10, 43:12 company's [4] - 6:24, 22:13, 35:14, 38:20 comparison [1] - 11:9 compel [1] - 43:6 complaint [25] - 5:23, 15:3, 20:19, 20:20, 27:19, 27:23, 29:3, 29:15, 30:1, 30:5, 33:4, 34:5, 35:14, 36:1, 37:8, 38:21, 38:24, 38:25, 39:5, 39:13, 39:21, 40:16, 41:24, 42:3, 42:5 complaints [1] - 40:1 compliance [1] - 16:5 component [1] - 13:24 comprise [1] - 44:5 concede [2] - 25:17, 40:19</p>	<p>concede [] - 12:11, 48:9 concedes [1] - 39:9 concepts [1] - 14:1 concerning [2] - 6:15, 14:22 concludes [1] - 7:5 conclusion [2] - 13:12, 39:7 conclusively [2] - 28:7, 28:12 conclusory [3] - 39:24, 40:1, 40:10 condition [2] - 8:8, 33:22 conditionality [1] - 10:21 Condominium [1] - 39:18 conduct [3] - 29:3, 42:9, 46:12 confer [1] - 9:25 confer [3] - 31:12, 47:24, 49:3 conferred [1] - 7:16 confirm [1] - 18:19 confirmation [1] - 30:12 confirmed [1] - 31:5 conforming [1] - 28:10 connection [4] - 33:24, 34:18, 37:1, 46:8 connotes [1] - 48:22 consent [14] - 6:19, 7:18, 11:1, 22:25, 23:4, 23:7, 32:15, 32:18, 32:20, 33:3, 41:16, 47:5, 47:6, 47:11 consents [6] - 34:18, 37:21, 43:15, 43:18, 45:1, 46:9 consequence [1] - 41:20 consider [1] - 29:14 considerably [1] - 48:11 consideration [4] - 32:13, 32:17, 33:2, 39:14 considers [1] - 33:12 consistent [5] - 36:14, 38:20, 38:24, 40:7, 41:7 constitute [1] - 32:25 constituted [1] - 42:1 construction [1] - 41:14 constructive [2] -</p>	<p>26:12, 39:20 construed [1] - 41:1 containing [1] - 38:7 contains [2] - 30:17, 40:23 contemporaneous [1] - 31:23 contest [1] - 33:20 continues [2] - 18:21, 44:12 contra [1] - 45:14 contra-letter [1] - 45:14 contract [14] - 26:3, 26:4, 26:9, 26:17, 26:24, 27:10, 27:15, 27:20, 29:18, 37:20, 37:24, 38:8, 38:13, 40:22 contracted [1] - 36:19 contractual [1] - 26:3 CONTRARIAN [2] - 1:9, 1:10 contrary [2] - 21:22, 30:4 convinced [1] - 12:10 copies [1] - 46:6 copy [1] - 42:16 Corporate [1] - 3:15 CORPORATE [1] - 1:14 correct [4] - 10:1, 10:2, 10:15, 13:23 correctly [2] - 35:25, 45:23 correctness [1] - 28:8 could [16] - 5:19, 6:21, 7:13, 7:17, 10:4, 11:2, 29:10, 32:8, 32:25, 34:3, 35:3, 35:7, 36:16, 37:13, 48:5 couldn't [2] - 11:21, 19:18 counsel [10] - 3:4, 3:21, 5:18, 6:3, 15:17, 22:13, 25:5, 28:23, 42:16, 43:12 count [4] - 26:23, 26:25, 27:18, 29:17 countenance [1] - 28:19 counter [11] - 27:8, 29:8, 30:1, 30:7, 30:8, 30:24, 31:8, 31:10, 31:12, 43:20, 44:3 counter-direction [8] - 27:8, 30:1, 30:7, 30:8, 30:24, 31:8,</p>	<p>31:10, 31:12 counter-directions [2] - 43:20, 44:3 counts [4] - 26:11, 26:19, 26:20, 42:13 COUNTY [1] - 1:1 course [1] - 47:21 court [1] - 6:15 COURT [24] - 1:1, 2:23, 3:1, 3:11, 3:16, 6:2, 9:20, 10:3, 12:2, 13:2, 13:7, 13:20, 14:1, 14:13, 15:7, 17:14, 20:4, 24:23, 25:2, 43:1, 45:16, 47:21, 48:2, 49:2 Court [55] - 3:25, 4:3, 6:1, 6:6, 6:7, 6:9, 6:11, 7:5, 7:24, 8:17, 15:13, 18:8, 19:25, 25:2, 25:22, 26:15, 26:16, 26:18, 28:19, 29:14, 29:17, 29:22, 29:24, 30:15, 31:7, 31:11, 31:18, 31:23, 32:5, 32:23, 33:6, 33:12, 34:7, 34:13, 34:20, 35:20, 36:6, 36:7, 36:8, 36:18, 37:11, 37:19, 37:22, 37:23, 38:2, 39:9, 40:9, 40:13, 42:7, 42:12, 44:1, 46:22, 47:1, 47:14, 49:17 Court's [7] - 3:23, 8:24, 15:22, 40:7, 42:18, 43:6, 44:21 covenant [4] - 17:2, 26:7, 38:2, 38:3 cover [2] - 12:22, 21:22 covered [1] - 6:5 covers [1] - 22:3 create [2] - 24:6, 38:12 CREDIT [4] - 1:3, 1:4, 1:4, 1:5 credits [1] - 31:7 Crescenzo [1] - 49:16 CRESCENZO [1] - 2:23 crystal [1] - 21:15 custom [1] - 45:7 customary [6] - 44:14, 44:21, 45:24, 45:25, 46:2, 48:3 customer [1] - 45:9 cutting [1] - 48:11</p>
---	--	--	--	---

<p style="text-align: center;">D</p> <p>D [3] - 2:17, 8:5, 21:24 dandy [1] - 15:14 date [1] - 48:15 day [3] - 7:1, 13:13, 49:10 days [1] - 42:17 DCL [3] - 26:13, 39:6, 40:9 DE [2] - 1:5, 2:23 De [1] - 49:16 de [2] - 25:10, 40:20 de-prioritization [2] - 25:10, 40:20 dealing [3] - 26:8, 38:2, 44:10 deals [3] - 15:21, 15:22, 15:25 dealt [1] - 18:6 debate [1] - 21:10 debt [4] - 14:8, 14:9, 14:10, 39:16 December [1] - 28:1 decision [6] - 7:13, 16:8, 21:1, 24:25, 25:3, 38:25 deck [3] - 15:14, 44:9, 45:23 declaration [1] - 25:25 declarations [1] - 26:23 declaratory [4] - 25:23, 26:22, 27:11, 27:19 declare [2] - 14:25, 15:1 deemed [1] - 34:3 deems [2] - 16:11, 34:10 default [27] - 4:2, 4:4, 8:4, 8:7, 8:10, 8:12, 15:21, 15:25, 16:1, 16:5, 16:20, 17:6, 17:7, 17:8, 18:10, 18:12, 19:5, 19:18, 22:6, 22:15, 22:18, 22:19, 22:22, 27:22, 30:14, 43:25 Default [1] - 8:5 defaults [2] - 8:14, 27:7 DEFENDANT [3] - 2:7, 2:12, 2:16 defendant [8] - 3:15, 25:24, 26:8, 26:17, 26:21, 27:21, 29:19, 31:21 defendant's [1] - 42:9</p>	<p>Defendants [1] - 1:16 defendants [7] - 3:13, 25:15, 26:20, 33:20, 33:23, 35:8, 35:25 defendants' [1] - 9:24 defense [1] - 37:19 definition [1] - 8:4 delegation [1] - 21:12 delivered [2] - 28:24, 35:11 denies [1] - 37:19 denying [1] - 4:14 Department [6] - 7:9, 27:17, 29:5, 38:15, 39:19, 41:9 Department's [1] - 41:7 described [1] - 16:9 designed [1] - 12:22 detailed [1] - 38:7 determination [2] - 8:8, 17:19 determine [4] - 29:25, 31:18, 36:8, 41:10 determines [7] - 29:23, 31:11, 32:23, 33:13, 34:21, 35:20, 38:3 did [14] - 4:7, 5:21, 5:22, 7:11, 8:3, 9:14, 9:17, 14:14, 17:4, 17:11, 33:6, 36:21, 37:15, 48:4 didn't [6] - 9:13, 9:15, 12:25, 13:2, 13:17, 24:5 difference [1] - 18:16 different [5] - 11:20, 11:25, 15:18, 20:14, 46:17 difficult [2] - 20:16, 23:21 dig [2] - 46:20, 47:2 digest [1] - 9:23 direct [1] - 8:24 direction [9] - 27:8, 29:8, 30:1, 30:7, 30:8, 30:24, 31:8, 31:10, 31:12 directions [2] - 43:20, 44:3 directive [1] - 49:8 directly [3] - 32:12, 33:3, 38:19 disagree [2] - 14:10, 48:21 disclosed [2] - 39:9, 39:11</p>	<p>discover [6] - 21:10, 22:2, 24:15, 35:1, 42:20, 43:10, 43:11, 43:13, 43:14, 43:15, 45:3, 45:4, 45:5, 45:10, 45:19, 45:22 discrepancy [1] - 34:4 discussed [1] - 37:2 disharmony [1] - 15:23 dismiss [8] - 13:22, 17:19, 18:1, 18:8, 33:11, 37:20, 37:23, 44:18 dismissed [5] - 7:8, 9:19, 27:19, 38:4, 42:24 dismisses [3] - 26:16, 29:17, 37:23 dismissing [2] - 26:19, 42:13 dispositive [2] - 17:3, 33:24 disprove [1] - 47:10 dispute [3] - 25:9, 32:21, 35:8 disputes [1] - 22:3 dissimilar [1] - 34:11 distilled [1] - 40:19 distinguished [1] - 9:10 District [2] - 40:8, 40:14 DIVERSIFIED [1] - 1:7 do [30] - 5:22, 7:4, 9:13, 9:15, 12:17, 13:8, 14:16, 14:21, 16:18, 18:1, 19:5, 20:5, 20:12, 21:13, 21:14, 21:25, 23:25, 25:9, 32:21, 33:7, 33:20, 35:8, 36:16, 47:1, 47:9, 48:1, 48:3, 48:18, 49:8 docket [1] - 20:18 doctrine [1] - 33:13 document [10] - 5:9, 5:10, 19:16, 28:13, 28:18, 29:2, 30:18, 43:14, 46:4 Document [1] - 30:16 documents [8] - 11:8, 11:10, 18:4, 18:5, 29:9, 31:23, 32:19, 46:16 does [27] - 4:22, 4:24, 4:25, 7:2, 7:6, 12:3, 12:6, 12:16, 16:2, 16:24, 17:8,</p>	<p>22:9, 22:14, 28:19, 29:3, 29:24, 30:18, 31:9, 32:10, 36:1, 36:7, 39:5, 39:21, 40:16, 46:1, 47:9 doesn't [7] - 7:1, 13:13, 14:23, 16:4, 19:4, 19:14, 22:22 doing [1] - 48:23 don't [20] - 6:4, 12:13, 12:21, 12:23, 15:5, 17:18, 17:21, 18:1, 23:12, 23:20, 24:13, 24:22, 43:3, 45:5, 46:15, 47:10, 47:14, 48:21, 49:8 double [1] - 12:25 doubt [2] - 9:4, 43:24 down [3] - 20:3, 48:11, 49:4 drafting [1] - 16:24 DTC [1] - 46:23 Duane [1] - 3:5 DUANE [1] - 2:5 due [1] - 34:11 uplicative [1] - 26:24 during [3] - 33:6, 44:6, 48:13 Dutch [3] - 26:14, 40:16, 40:17 duties [12] - 3:23, 4:1, 4:7, 4:14, 25:11, 27:9, 27:25, 28:3, 28:20, 38:12, 40:25, 41:18 duty [2] - 28:16, 29:15</p>	<p>end [3] - 7:1, 13:12, 47:20 endeavored [1] - 38:22 enforce [2] - 21:8, 21:13 enforceable [1] - 8:18 enforceably [1] - 13:18 enforcement [1] - 41:17 enough [1] - 49:2 entire [1] - 11:14 entirely [1] - 10:13 entities [1] - 46:8 entitled [3] - 16:10, 28:6, 28:22 entitles [1] - 28:11 enumerated [1] - 16:21 EOD [5] - 3:23, 4:1, 4:7, 4:13, 4:14 equal [1] - 7:19 equally [2] - 20:23, 21:4 equivalent [2] - 30:13, 39:14 ESQ [9] - 2:5, 2:5, 2:9, 2:9, 2:10, 2:13, 2:14, 2:17, 2:18 essentially [2] - 25:24, 35:10 establish [2] - 45:8, 45:9 established [2] - 8:1, 33:1 et [1] - 3:2 euro [1] - 39:1 EuroClear [21] - 5:9, 18:15, 18:22, 18:24, 20:21, 20:23, 20:25, 21:3, 21:4, 21:14, 22:10, 30:19, 31:3, 44:12, 44:13, 45:25, 46:21, 47:4, 48:17, 48:21 Europe [2] - 48:22, 48:24 EUROPEAN [5] - 1:3, 1:3, 1:4, 1:4, 1:9 Euros [1] - 25:19 EuroStream [1] - 30:19 even [12] - 4:13, 7:5, 7:10, 9:15, 13:16, 23:9, 29:13, 39:3, 41:23, 43:24, 46:15, 46:19 event [11] - 4:1, 4:4, 8:5, 8:6, 8:7, 8:11, 8:12, 8:13, 17:6, 19:5, 22:22</p>
		<p style="text-align: center;">E</p> <p>E [4] - 1:20, 2:1 each [5] - 11:18, 18:4, 31:5, 33:17, 46:5 early [1] - 7:25 easy [1] - 45:11 Eaton [1] - 29:5 effect [1] - 37:13 effective [1] - 7:23 effectively [1] - 11:15 effectuate [4] - 23:2, 32:22, 33:10, 33:18 effectuated [1] - 25:16 eight [1] - 25:21 either [2] - 13:3, 31:2 elsewhere [1] - 36:22 eluded [1] - 17:16 employ [1] - 32:11</p>		

<p>events [3] - 12:19, 15:21, 36:1 ever [1] - 47:12 every [3] - 7:20, 23:6, 38:9 everyone [2] - 42:15, 49:9 evidence [3] - 16:11, 30:4, 45:8 evident [2] - 4:11, 31:17 evolved [1] - 48:13 exactly [2] - 31:18, 44:25 example [3] - 36:23, 41:15, 42:2 except [2] - 16:21, 19:6 exchange [12] - 6:25, 13:6, 13:7, 13:8, 13:9, 23:23, 24:4, 24:21, 32:2, 34:22, 35:12, 37:4 exchanged [6] - 24:2, 24:8, 24:19, 34:23, 35:16, 35:17 exchanges [1] - 4:22 exculpates [1] - 28:15 excuse [1] - 30:19 execute [1] - 33:21 exercise [5] - 44:15, 46:14, 46:25, 47:1, 47:2 Exhibit [1] - 8:25 exhibit [1] - 4:15 exhibits [1] - 11:9 exist [1] - 22:15 expand [1] - 36:18 expect [2] - 42:8, 45:1 expectation [1] - 42:10 explaining [1] - 10:12 explicitly [2] - 28:15, 41:3 expressed [1] - 28:8 expressly [1] - 17:1 extent [5] - 26:19, 33:8, 37:23, 42:13, 47:12</p>	<p>34:14, 38:22, 39:11, 40:1, 40:4, 44:1, 46:14, 48:12 factors [1] - 33:15 factual [3] - 20:16, 21:10, 22:2 fail [1] - 40:16 failed [1] - 31:2 fails [1] - 29:15 fair [3] - 26:8, 38:2, 49:2 faith [5] - 5:20, 5:24, 26:7, 29:4, 38:2 fall [2] - 9:17, 41:11 falls [1] - 12:9 familiar [1] - 6:6 far [1] - 48:23 fashion [1] - 45:2 fathom [1] - 46:15 favor [1] - 33:15 favored [1] - 39:4 feels [1] - 13:11 few [3] - 9:20, 15:13, 43:9 fighting [1] - 44:24 file [6] - 20:22, 21:5, 42:17, 43:6, 49:6, 49:7 filed [2] - 29:1, 48:7 files [4] - 44:19, 46:18, 46:20, 47:3 filing [3] - 20:23, 21:6, 21:25 finally [2] - 8:20, 26:11 finances [1] - 10:14 Financial [1] - 41:8 financing [7] - 6:24, 6:25, 10:13, 10:18, 10:22, 10:25, 25:19 find [6] - 19:25, 44:23, 46:19, 47:3, 47:4, 47:17 finding [2] - 40:8, 41:19 first [21] - 5:3, 6:13, 7:24, 14:15, 15:16, 17:14, 20:11, 22:14, 24:20, 25:23, 27:18, 30:5, 30:15, 33:4, 34:5, 35:13, 35:16, 38:21, 42:2, 42:23, 46:19 First [7] - 7:9, 27:16, 29:5, 38:15, 39:19, 41:7, 41:9 first-out [2] - 24:20, 35:16 fit [1] - 10:8 FIXED [1] - 1:6 flat [1] - 47:23 flexibility [2] - 3:17,</p>	<p>25:6 focus [1] - 48:14 following [3] - 1:24, 26:5, 33:15 follows [1] - 25:22 FOR [4] - 2:3, 2:7, 2:12, 2:16 for [74] - 3:5, 3:8, 3:12, 3:14, 3:17, 3:21, 4:23, 6:7, 6:19, 6:25, 7:15, 7:21, 7:23, 8:18, 9:4, 9:8, 9:20, 9:23, 11:16, 12:19, 13:6, 14:24, 15:2, 15:10, 15:17, 16:21, 17:21, 19:6, 19:24, 20:20, 21:12, 21:24, 22:25, 23:7, 24:2, 24:3, 24:4, 25:5, 25:8, 26:4, 26:12, 26:15, 27:11, 27:19, 28:23, 31:5, 31:21, 32:13, 32:14, 33:18, 34:24, 35:1, 35:10, 35:11, 37:2, 38:19, 39:11, 39:16, 39:20, 40:13, 41:15, 41:16, 42:2, 43:4, 43:11, 43:12, 43:14, 45:6, 45:10, 46:5, 46:16 force [1] - 7:19 forced [1] - 8:22 foreclose [1] - 34:13 forecloses [1] - 37:12 form [4] - 27:14, 33:2, 38:8, 42:17 formulating [1] - 16:8 forth [5] - 26:15, 28:4, 32:19, 35:22, 42:18 found [1] - 44:1 four [2] - 32:25, 44:8 fourth [8] - 8:24, 9:2, 10:19, 10:24, 11:2, 11:3, 11:11, 28:23 frame [1] - 32:19 frankly [1] - 17:17 fraud [3] - 28:6, 39:6, 41:11 fraudulent [6] - 26:11, 26:12, 38:16, 39:3, 39:20, 40:15 free [1] - 6:19 fresh [1] - 20:12 from [44] - 3:5, 3:9, 4:4, 4:14, 4:16, 4:19, 4:24, 5:2, 5:8, 5:9, 5:10, 5:14, 5:21, 6:8, 11:1, 15:12, 18:15, 20:21, 21:1, 21:3, 22:11, 22:12, 25:20,</p>	<p>27:16, 28:16, 29:6, 30:3, 30:18, 31:2, 35:2, 38:13, 38:14, 38:23, 39:18, 41:9, 42:10, 42:23, 42:25, 43:24, 45:8, 45:14, 48:12, 48:23 full [1] - 17:4 fully [1] - 28:12 function [1] - 12:4 functionally [2] - 16:15, 43:17 FUND [5] - 1:3, 1:5, 1:6, 1:10 FUNDS [5] - 1:5, 1:7, 1:8, 1:8, 1:9 furnished [2] - 28:9, 44:12 further [7] - 6:1, 6:2, 17:5, 33:20, 35:13, 36:2, 39:5 furthermore [1] - 18:19 future [1] - 48:7</p>	<p>18:3, 20:6, 21:14, 29:18, 34:1, 36:5, 38:1, 45:20, 47:16, 49:4 Goldman [2] - 5:8, 30:17 good [8] - 3:11, 3:16, 5:20, 5:24, 15:9, 26:7, 38:2, 43:4 got [7] - 9:20, 12:3, 12:10, 13:10, 18:15, 42:22, 48:8 gotten [1] - 44:17 govern [2] - 41:4, 42:9 governed [3] - 25:12, 28:1, 41:1 governing [1] - 44:15 grant [2] - 16:7, 16:13 GRANT [1] - 2:10 grants [5] - 26:16, 26:18, 29:17, 37:22, 42:12 great [2] - 48:2, 49:10 gross [5] - 5:20, 5:23, 28:5, 29:5, 29:16 ground [1] - 18:8 guarantor [1] - 19:19 guarantors [3] - 18:25, 19:12, 21:20 guess [3] - 10:11, 12:2, 13:11 guidance [1] - 3:23 guideline [1] - 19:8</p>
F			G	
<p>F [1] - 1:20 face [1] - 4:24 facilitate [1] - 10:18 facilitated [1] - 36:13 fact [15] - 11:16, 17:1, 19:25, 20:17, 28:11, 28:17, 29:9,</p>				H
		<i>LD</i>		<p>handed [1] - 15:15 handy [1] - 15:14 handy-dandy [1] - 15:14 hang [1] - 17:24 hang-ups [1] - 17:24 happen [6] - 14:23, 15:2, 15:5, 24:5, 35:2, 43:22 happened [1] - 14:19 happening [1] - 10:23 happens [5] - 8:13, 22:23, 24:9, 45:9, 47:2 happy [2] - 17:21, 48:1 hardly [1] - 39:2 harmony [1] - 15:23 haystack [1] - 47:18 health [1] - 41:8</p>

<p>hear [1] - 42:23 hearing [1] - 3:24 heartland [1] - 25:9 heavily [1] - 44:20 heightened [1] - 29:15 held [2] - 7:9, 18:24 helpful [4] - 15:7, 17:25, 20:4, 49:2 hereto [1] - 5:4 HIGH [4] - 1:5, 1:6, 1:7, 1:9 highly [1] - 25:12 HILLS [1] - 2:5 HOGGART [12] - 2:13, 3:8, 6:9, 10:2, 10:10, 12:17, 13:4, 13:8, 13:24, 14:5, 14:14, 15:8 Hoggart [3] - 3:9, 6:11, 17:15 holder [5] - 5:22, 8:11, 19:20, 30:3, 31:10 Holder [3] - 4:23, 4:25, 5:10 holders [13] - 11:1, 19:23, 22:20, 22:21, 24:18, 30:9, 31:2, 32:14, 32:18, 35:15, 36:20, 43:5, 44:16 Holders [4] - 3:13, 4:23, 4:25, 15:11 holding [9] - 5:3, 5:5, 30:12, 30:13, 31:5, 31:9, 42:10, 46:7, 47:7 Honor [20] - 3:20, 6:4, 6:22, 7:18, 7:21, 8:10, 8:20, 9:14, 9:16, 11:23, 12:18, 14:5, 15:9, 15:12, 17:12, 23:11, 24:14, 44:9, 45:11, 45:17 Honor's [1] - 43:9 HONORABLE [1] - 1:21 hope [2] - 12:1, 45:13 hopefully [1] - 49:8 hoping [1] - 6:23 hundreds [1] - 46:12 HUNKEMOLLER [1] - 2:12 Hunkemoller [12] - 3:2, 3:8, 6:12, 25:15, 25:24, 26:4, 26:8, 26:20, 26:21, 29:19, 30:25, 31:21 HUNKEMÖLLER [1] - 1:14</p>	<p style="text-align: center;">I</p> <p>ICVC [1] - 1:6 identical [2] - 34:7, 34:12 II [2] - 1:5, 1:9 III [2] - 1:10, 35:22 impacted [1] - 37:16 impair [1] - 44:13 implicate [2] - 26:25, 32:8 implicates [2] - 31:16, 34:17 implied [3] - 26:7, 38:1, 38:3 implies [1] - 35:6 important [2] - 16:18, 23:13 impossible [2] - 20:16, 20:18 improper [1] - 13:16 inadequacies [1] - 30:22 inadequate [2] - 30:2, 31:12 inappropriate [1] - 27:13 Inc [2] - 27:15, 27:16 include [4] - 36:15, 43:19, 43:21 included [1] - 10:20 includes [3] - 16:7, 18:17, 22:6 including [6] - 6:22, 8:9, 9:5, 16:12, 35:22, 42:1 incorporates [1] - 16:7 incredibly [1] - 46:14 incurred [1] - 39:16 indenture [65] - 4:1, 5:16, 7:11, 8:3, 8:13, 8:21, 8:25, 9:3, 9:6, 9:8, 9:11, 10:20, 10:25, 11:2, 11:3, 11:4, 11:5, 11:11, 11:14, 11:18, 12:20, 14:3, 14:7, 15:20, 16:16, 16:19, 16:25, 17:10, 22:15, 22:24, 23:1, 23:2, 23:6, 25:13, 25:17, 26:2, 26:5, 27:6, 27:8, 28:1, 28:4, 28:10, 28:15, 28:21, 31:16, 32:16, 35:22, 36:11, 36:22, 38:5, 38:11, 40:21, 40:23, 40:25, 41:5, 41:15, 41:22, 46:9, 46:13, 46:20, 46:21, 46:22, 47:3, 47:4 indentured [1] - 26:9</p>	<p>indentur [8] - 8:16, 9:15, 23:5, 28:24, 34:19, 44:5, 48:13 independent [1] - 23:8 independently [1] - 33:12 Index [1] - 1:3 indicate [2] - 33:6, 35:15 indicated [1] - 36:6 indicia [1] - 39:2 indirectly [2] - 32:12, 33:3 induce [1] - 33:3 inducement [1] - 32:14 Info [1] - 38:13 infusion [3] - 38:17, 39:2, 39:12 inject [1] - 25:18 insider [1] - 39:8 insolvency [2] - 39:25, 40:12 insolvent [6] - 39:22, 40:2, 40:4, 40:6, 40:11 instead [1] - 8:23 instructions [2] - 23:18, 43:25 instrument [2] - 23:20, 24:14 instruments [1] - 46:23 insufficient [1] - 40:11 intensely [1] - 20:15 intent [1] - 39:3 intentional [1] - 26:12 intentionally [1] - 36:21 INTEREST [1] - 1:6 interest [4] - 17:8, 37:17, 40:20, 44:16 interested [3] - 6:20, 17:12, 44:18 interesting [2] - 19:3, 44:23 interests [5] - 23:20, 24:10, 24:14, 25:11 INTERNATIONAL [1] - 1:14 interpretation [3] - 27:9, 41:17, 41:21 intricacies [1] - 18:4 invalid [3] - 23:1, 27:5, 30:10 invalidate [1] - 23:9 investigate [2] - 28:16, 29:9</p>	<p>investigation [1] - 28:17 investment [1] - 46:18 investors [1] - 6:20 invoke [1] - 22:10 involve [2] - 33:17, 46:13 involved [2] - 35:21, 37:4 irrefutable [1] - 30:4 issuance [4] - 14:19, 31:4, 31:25, 32:1 issue [20] - 3:22, 4:10, 4:18, 17:15, 19:25, 20:12, 20:16, 21:24, 22:12, 23:10, 24:24, 25:3, 30:23, 31:10, 42:17, 42:20, 45:19, 46:20, 47:18, 48:1 issued [5] - 9:6, 9:16, 24:1, 24:12, 43:13 issuer [2] - 19:20, 32:11 issuers [3] - 18:25, 19:12, 21:19 issues [8] - 4:12, 6:1, 8:11, 29:20, 43:7, 44:1, 48:23, 49:5 issuing [2] - 14:8, 35:23 item [1] - 42:19 itself [10] - 4:11, 4:22, 10:14, 11:4, 11:6, 16:16, 18:8, 19:3, 32:24, 47:1 IV [1] - 39:18</p> <p style="text-align: center;">J</p> <p>JAMES'S [1] - 1:6 January [1] - 23:2 joined [1] - 3:6 JOSHUA [1] - 2:9 judgment [5] - 21:11, 25:23, 26:22, 27:11, 27:19 July [2] - 1:19, 48:16 junction [1] - 32:6 June [3] - 7:3, 24:16, 39:10 Jupiter [1] - 38:14 Justice [3] - 21:1, 21:2, 38:6 JUSTICE [1] - 1:22</p> <p style="text-align: center;">K</p> <p>keenly [1] - 44:18</p>	<p>key [1] - 36:12 kick [1] - 20:10 KIM [1] - 2:15 Kim [1] - 15:10 kind [6] - 9:22, 14:22, 17:17, 17:24, 46:7, 48:2 knowledge [2] - 10:15, 33:17 known [2] - 29:11, 39:12 knows [2] - 4:3, 46:22 KOBRE [1] - 2:15 Kobre [1] - 15:10 KRAUT [3] - 2:9, 3:14, 6:4 Kraut [3] - 3:14, 6:10, 21:23</p> <p style="text-align: center;">L</p> <p>labels [1] - 14:10 lack [1] - 5:24 lacked [1] - 4:18 language [7] - 7:13, 8:2, 16:6, 19:13, 36:22, 41:6, 44:10 large [1] - 46:17 last [3] - 20:13, 22:16, 46:10 lastly [1] - 23:11 law [10] - 32:6, 40:16, 40:17, 40:24, 41:4, 41:5, 41:12, 41:23, 42:5, 42:8 laws [1] - 41:2 lead [1] - 16:3 lead-in [1] - 16:3 least [1] - 48:15 legal [1] - 21:8 lenders [2] - 7:18, 39:4 letter [10] - 4:22, 19:13, 20:21, 30:23, 31:8, 43:1, 43:5, 45:12, 45:14, 48:16 letters [2] - 21:3, 42:21 LEWIS [1] - 2:7 Lewis [1] - 3:14 Lexington [1] - 2:12 liberal [2] - 45:4, 45:6 light [3] - 24:16, 33:7, 48:12 likewise [3] - 30:7, 37:5, 40:15 limit [1] - 3:22 limited [2] - 16:12, 41:10 LIMITED [1] - 1:15</p>
---	--	---	---	---

<p>Limited [1] - 3:15 limited-choice [1] - 41:10 Lipman [1] - 3:13 LIPMAN [1] - 2:18 liquidity [1] - 38:19 Lisa [1] - 49:16 LISA [1] - 2:23 listed [1] - 13:19 litigate [1] - 18:13 litigation [1] - 10:17 LLC [1] - 1:14 LLP [1] - 2:3 locus's [1] - 17:17 locus [1] - 41:25 LOFT [5] - 2:5, 3:5, 3:20, 20:11, 45:17 Loft [1] - 3:5 loft [11] - 3:18, 6:18, 8:3, 10:15, 11:13, 13:21, 17:22, 20:5, 24:23, 30:11, 48:9 loft's [2] - 29:13, 48:15 logically [1] - 34:25 longwinded [1] - 13:12 look [12] - 4:11, 8:2, 13:9, 15:24, 18:13, 19:7, 20:18, 46:4, 46:15, 46:19, 46:21, 47:6 lost [1] - 14:12 Love [1] - 39:17 low [1] - 15:14 low-tech [1] - 15:14 LP [2] - 1:10, 1:10 Luxembourg [1] - 48:24</p>	<p>market [3] - 43:23, 44:22, 46:3 MARTIN [1] - 2:14 Martin [1] - 3:10 materiality [1] - 8:9 matter [9] - 7:1, 10:16, 12:8, 13:13, 20:15, 32:6, 44:19, 47:17, 49:14 matters [4] - 9:9, 16:9, 22:17, 28:17 mean [2] - 7:2, 10:9 meaning [1] - 39:16 means [2] - 8:5, 14:8 mechanically [1] - 24:9 mechanics [8] - 10:9, 12:8, 14:10, 20:8, 23:11, 23:13, 24:16, 24:22 meet [2] - 47:24, 49:3 Mellon [4] - 3:15, 26:9, 26:18, 27:21 MELLON [1] - 1:14 members [1] - 44:14 memorialized [1] - 36:11 Michael [2] - 3:14, 14:25 MICHAEL [1] - 2:9 might [3] - 15:14, 16:2, 44:21 militate [1] - 33:15 million [2] - 25:19, 39:1 mind [3] - 14:24, 20:12, 48:3 mindful [1] - 3:23 minds [1] - 18:5 minimum [1] - 37:3 ministerial [1] - 28:3 minutes [1] - 24:24 misconduct [1] - 28:6 misreading [1] - 15:19 Mitel [7] - 7:8, 8:17, 9:18, 36:14, 37:11, 38:5, 38:25 moment [2] - 5:12, 45:18 momentarily [1] - 35:5 moments [1] - 43:10 money [4] - 10:24, 12:25, 13:6, 38:23 MORGAN [1] - 2:7 Morgan [1] - 3:14 MOSES [1] - 2:9 motion [27] - 3:2, 4:16, 5:6, 9:1, 11:10,</p>	<p>13:22, 17:1 18:1, 18:8, 25:4, 26:16, 26:18, 29:17, 33:11, 37:19, 37:23, 42:12, 42:21, 43:5, 43:6, 43:8, 44:17, 45:13, 45:20, 49:7 motions [1] - 42:22 move [1] - 13:10 moved [1] - 12:24 MR [13] - 3:5, 3:12, 3:14, 3:20, 6:4, 15:9, 18:3, 20:11, 42:24, 43:3, 45:17, 47:22, 48:21 MS [11] - 3:8, 6:9, 10:2, 10:10, 12:17, 13:4, 13:8, 13:24, 14:5, 14:14, 15:8 must [2] - 9:18, 33:10</p>	<p>14:2, 14:4, 14:8, 23:16, 23:20, 24:1, 24:4, 24:12, 24:14, 24:19, 34:15, 35:16, 38:12, 38:23 no-action [3] - 29:22, 29:23, 31:13 none [1] - 10:22 nonetheless [1] - 42:25 nonpayment [1] - 17:7 nonresponsive [1] - 46:24 nonviable [1] - 27:12 note [35] - 8:11, 9:5, 11:4, 11:8, 11:9, 11:16, 11:17, 11:20, 11:22, 12:15, 12:24, 12:25, 23:16, 23:25, 24:1, 24:4, 24:9, 24:11, 24:12, 24:18, 27:6, 34:3, 34:12, 34:14, 35:15, 44:4, 44:5, 44:16, 47:22 noted [3] - 6:22, 11:13, 11:23 notes [42] - 6:25, 9:4, 9:5, 9:6, 9:7, 11:7, 11:15, 12:13, 12:21, 14:2, 14:6, 14:7, 14:20, 24:7, 30:3, 31:20, 31:25, 32:1, 32:2, 32:3, 32:16, 34:10, 34:16, 34:17, 34:22, 34:23, 34:24, 35:2, 35:7, 35:8, 35:11, 35:18, 36:2, 37:1, 37:4, 37:9, 37:16, 40:25 nothing [5] - 6:2, 18:13, 28:4, 36:19, 48:18 notice [15] - 4:2, 4:4, 8:6, 8:11, 18:10, 18:12, 19:4, 19:18, 19:24, 20:1, 22:6, 22:20, 24:17, 27:22, 43:24 noticed [1] - 22:19 notices [2] - 18:12, 35:23 November [4] - 29:7, 29:25, 30:21, 30:23 numb [1] - 18:5 number [5] - 4:12, 6:21, 22:24, 23:1, 26:16 numbers [5] - 3:3, 26:18, 27:6, 29:2, 42:13 NYS2d [1] - 41:8 NYS3d [1] - 29:6</p>	<p>NYSCEF [7] - 4:15, 20:18, 28:25, 29:1, 30:16, 42:11, 42:17</p> <p style="text-align: center;">O</p> <p>obligation [3] - 29:8, 39:8, 39:15 obligations [2] - 25:25, 41:22 observes [1] - 34:7 obtain [1] - 42:16 obtained [2] - 25:20, 43:16 obvious [1] - 40:4 obviously [3] - 13:14, 45:17, 48:18 occur [2] - 16:2, 16:3 occurred [5] - 11:5, 23:23, 23:24, 36:2 occurs [1] - 8:10 OF [3] - 1:1, 1:1 offered [1] - 32:17 office [1] - 48:25 Office [1] - 14:25 officer [2] - 5:17, 16:12 officers' [1] - 28:22 OFFICIAL [1] - 2:23 Official [1] - 49:17 often [2] - 43:25, 45:10 old [2] - 14:1, 24:4 once [1] - 21:24 one [15] - 12:4, 16:15, 17:3, 17:23, 18:7, 19:7, 19:16, 20:20, 23:12, 24:2, 42:19, 47:3, 47:5, 47:17 open [1] - 46:18 operating [3] - 18:22, 20:23, 22:10 operation [2] - 44:14, 45:24 opinion [1] - 5:18 opinions [3] - 28:8, 28:9, 28:23 OPPORTUNITIES [6] - 1:5, 1:6, 1:6, 1:7, 1:8, 1:9 opportunity [3] - 17:23, 20:5, 47:24 OPPORTUNITY [1] - 1:10 oral [2] - 25:6, 33:6 order [6] - 10:18, 13:20, 14:21, 23:17, 29:1, 42:18 ordered [1] - 30:24 ordinarily [1] - 39:25 organizations [1] -</p>
M		N		
<p>MAC [1] - 2:10 maintain [3] - 18:24, 19:11, 21:19 maintains [1] - 31:21 majority [7] - 7:18, 11:1, 15:25, 16:1, 16:20, 17:3, 17:11 MALLORY [1] - 2:13 Mallory [2] - 3:9, 6:11 MAN [13] - 1:5, 1:5, 1:6, 1:7, 1:7, 1:8, 1:8, 1:9, 1:9 MANAGEMENT [1] - 1:14 managers [1] - 46:18 Managers [1] - 39:17 manufacture [1] - 28:20 march [1] - 8:23</p>	<p>mindful [1] - 3:23 minds [1] - 18:5 minimum [1] - 37:3 ministerial [1] - 28:3 minutes [1] - 24:24 misconduct [1] - 28:6 misreading [1] - 15:19 Mitel [7] - 7:8, 8:17, 9:18, 36:14, 37:11, 38:5, 38:25 moment [2] - 5:12, 45:18 momentarily [1] - 35:5 moments [1] - 43:10 money [4] - 10:24, 12:25, 13:6, 38:23 MORGAN [1] - 2:7 Morgan [1] - 3:14 MOSES [1] - 2:9 motion [27] - 3:2, 4:16, 5:6, 9:1, 11:10,</p>	<p>name [1] - 48:22 Nanobeak [1] - 40:8 narrow [1] - 47:25 nearly [1] - 42:1 necessarily [7] - 13:2, 22:4, 26:25, 27:8, 34:17, 35:6, 41:21 necessary [4] - 16:11, 32:22, 33:21, 33:22 necessity [1] - 43:8 need [6] - 22:19, 28:17, 35:1, 38:19, 39:11, 42:19 needed [2] - 31:1, 45:19 needles [1] - 47:18 needs [1] - 24:15 negate [1] - 38:12 negated [2] - 8:18, 9:12 negligence [5] - 5:20, 5:24, 28:5, 29:5, 29:16 negotiate [1] - 38:22 negotiated [2] - 25:12, 38:6 Net [1] - 41:8 never [1] - 47:24 nevertheless [1] - 4:6 NEW [2] - 1:1, 1:1 New [17] - 1:18, 2:4, 2:8, 2:13, 2:17, 26:13, 40:8, 41:2, 41:4, 41:24, 42:4, 42:8 new [16] - 6:14, 7:22,</p>		

<p>46:11 original [4] - 14:4, 34:23, 35:6, 37:9 otherwise [5] - 5:15, 9:10, 21:8, 40:12, 46:7 ourselves [1] - 13:15 outcome [1] - 7:6 outset [1] - 36:6 outstanding [1] - 37:16 overcome [1] - 39:7 owed [1] - 13:1 own [2] - 19:16, 20:25 owner [1] - 19:11 owners [7] - 5:12, 18:24, 21:16, 21:18, 22:8, 23:15, 23:19 ownership [1] - 31:5</p>	<p>parties' [4] - 27:9, 41:22, 42:20, 44:6 PARTNERS [1] - 2:3 Partners [2] - 3:6, 38:14 pass [1] - 6:8 passage [1] - 8:6 past [1] - 48:14 PATEL [1] - 1:21 path [1] - 48:20 pause [1] - 42:21 pay [1] - 32:13 payment [11] - 11:20, 11:24, 11:25, 22:25, 23:3, 23:7, 34:5, 34:10, 35:24, 36:15, 41:15 payments [1] - 41:16 people [1] - 46:2 percent [2] - 22:20, 22:21 perform [1] - 28:3 perhaps [2] - 32:3, 48:6 period [2] - 48:11, 48:14 permission [1] - 43:6 permissive [1] - 16:7 permitted [1] - 9:11 person [1] - 28:14 PLACE [1] - 1:7 place [2] - 12:19, 18:7 plain [1] - 24:3 plaintiff [6] - 26:23, 27:21, 31:8, 36:15, 39:12, 46:5 plaintiff's [3] - 7:4, 7:10, 7:20 plaintiffs [41] - 1:11, 3:5, 4:5, 7:5, 7:22, 9:13, 10:14, 13:14, 14:18, 15:17, 18:10, 19:14, 19:22, 20:14, 25:14, 25:17, 25:21, 27:13, 30:7, 31:1, 32:6, 32:23, 33:14, 34:2, 35:20, 36:24, 37:5, 38:9, 38:11, 38:16, 38:22, 40:19, 42:4, 42:8, 43:13, 43:16, 43:23, 44:19, 44:24, 45:15, 47:5 PLAINTIFFS [1] - 2:3 plaintiffs' [13] - 9:18, 10:3, 25:10, 27:11, 27:25, 28:19, 29:24, 33:8, 36:10, 37:12, 40:10, 41:14, 41:20 Plaza [1] - 2:4 PLC [4] - 1:5, 1:7, 1:8, 1:8 plead [2] - 7:5, 42:4</p>	<p>pleading - 14:24, 20:17, 23:22 pleads [3] - 5:23, 38:25, 40:1 pleased [1] - 8:22 pleasure [1] - 25:7 pled [3] - 30:8, 32:7, 33:14 podium [1] - 43:3 point [9] - 3:21, 15:16, 16:15, 16:16, 19:20, 20:2, 20:6, 20:13, 35:25 pointed [2] - 4:21, 24:15 points [2] - 6:13, 15:13 pool [1] - 37:10 portion [4] - 12:24, 16:17, 17:1, 41:25 posed [1] - 46:5 position [1] - 9:24 possibility [1] - 34:13 possible [4] - 8:14, 32:7, 34:9, 34:21 possibly [1] - 24:21 post [4] - 3:23, 4:1, 4:7, 4:14 post-EOD [3] - 4:1, 4:7, 4:14 potential [1] - 9:12 practice [4] - 45:7, 45:9, 45:13, 48:4 practices [5] - 44:15, 44:21, 45:24, 45:25, 46:2 pre [3] - 4:13, 42:21, 43:5 pre-EOD [1] - 4:13 pre-motion [2] - 42:21, 43:5 preclude [1] - 4:12 precludes [1] - 27:2 precondition [1] - 22:20 preconditions [3] - 20:22, 21:6, 22:18 predating [1] - 39:10 preliminarily [1] - 36:12 premium [1] - 17:7 prepared [1] - 25:3 prerequisite [1] - 22:5 presentation [1] - 17:16 presented [3] - 6:15, 13:23, 28:14 presently [1] - 31:23 presents [2] - 31:8, 36:7</p>	<p>presumption [1] - 40:12 pretty [1] - 45:11 prevent [2] - 4:14, 48:19 previous [1] - 4:21 previously [1] - 37:2 primarily [1] - 42:4 prime [2] - 21:17, 21:18 principal [5] - 4:18, 13:3, 13:4, 17:7, 36:25 priorities [1] - 11:20 prioritization [3] - 25:10, 37:17, 40:20 priority [4] - 11:25, 34:5, 34:10, 36:16 pro [2] - 7:2, 7:6 probative [2] - 47:17, 47:19 procedures [1] - 18:22 proceeding [1] - 18:25 PROCEEDINGS [1] - 1:18 proceedings [4] - 19:12, 21:19, 22:4, 22:5 process [1] - 15:1 produced [1] - 19:14 product [1] - 22:24 prohibited [1] - 7:12 proof [2] - 46:7, 47:7 proper [1] - 28:14 prospective [3] - 8:14, 22:13, 22:14 protected [1] - 28:12 protections [1] - 5:15 prove [1] - 47:9 provided [3] - 30:18, 30:20, 45:1 provided [4] - 8:7, 13:19, 27:22, 34:18 provision [15] - 7:10, 7:16, 9:3, 10:21, 12:9, 12:22, 13:5, 16:19, 40:24, 41:5, 41:10, 41:16, 41:23, 45:22, 46:9 provision's [1] - 41:6 provisions [10] - 16:6, 20:10, 32:9, 32:16, 36:9, 36:12, 38:7, 38:10, 40:21, 41:13 proxies [1] - 46:6 proxy [1] - 44:11 public [2] - 35:14, 38:20</p>	<p>publicly [1] - 39:11 pull [1] - 44:9 purely [1] - 39:23 purport [5] - 4:22, 4:24, 5:1, 5:22, 35:9 purported [5] - 4:16, 27:7, 29:11, 30:11, 39:7 purports [1] - 30:20 purpose [5] - 21:25, 25:18, 33:18, 38:18, 39:1 purposes [3] - 9:8, 43:11, 45:10 pursuant [7] - 9:25, 31:6, 31:20, 35:9, 37:24, 38:10 put [5] - 16:25, 17:1, 19:8, 38:6, 45:12</p>
P				Q
<p>page [8] - 1:24, 4:19, 5:3, 5:4, 7:13, 8:5, 8:25, 42:11 paid [4] - 7:2, 32:13, 32:17 Pallas [1] - 3:6 PALLAS [1] - 2:3 papers [2] - 6:6, 14:15 par [1] - 24:19 paragraph [11] - 5:2, 18:21, 27:23, 30:5, 34:6, 35:13, 38:21, 38:24, 40:3, 40:5, 40:7 paragraphs [4] - 33:4, 37:7, 42:3, 42:5 paraphrasing [1] - 16:1 parcel [1] - 33:9 Park [1] - 2:8 part [8] - 11:15, 22:16, 22:17, 29:4, 33:1, 33:9, 34:16, 44:8 PART [1] - 1:1 partially [1] - 19:2 participating [2] - 24:18, 35:15 particular [1] - 27:12 particularly [5] - 12:10, 43:11, 44:1, 44:2, 48:12 parties [15] - 7:3, 19:13, 19:15, 21:20, 25:9, 25:25, 28:20, 32:21, 33:17, 36:19, 36:21, 38:7, 41:1, 41:3, 41:18</p>	<p>perform [1] - 28:3 perhaps [2] - 32:3, 48:6 period [2] - 48:11, 48:14 permission [1] - 43:6 permissive [1] - 16:7 permitted [1] - 9:11 person [1] - 28:14 PLACE [1] - 1:7 place [2] - 12:19, 18:7 plain [1] - 24:3 plaintiff [6] - 26:23, 27:21, 31:8, 36:15, 39:12, 46:5 plaintiff's [3] - 7:4, 7:10, 7:20 plaintiffs [41] - 1:11, 3:5, 4:5, 7:5, 7:22, 9:13, 10:14, 13:14, 14:18, 15:17, 18:10, 19:14, 19:22, 20:14, 25:14, 25:17, 25:21, 27:13, 30:7, 31:1, 32:6, 32:23, 33:14, 34:2, 35:20, 36:24, 37:5, 38:9, 38:11, 38:16, 38:22, 40:19, 42:4, 42:8, 43:13, 43:16, 43:23, 44:19, 44:24, 45:15, 47:5 PLAINTIFFS [1] - 2:3 plaintiffs' [13] - 9:18, 10:3, 25:10, 27:11, 27:25, 28:19, 29:24, 33:8, 36:10, 37:12, 40:10, 41:14, 41:20 Plaza [1] - 2:4 PLC [4] - 1:5, 1:7, 1:8, 1:8 plead [2] - 7:5, 42:4</p>	<p>pleading - 14:24, 20:17, 23:22 pleads [3] - 5:23, 38:25, 40:1 pleased [1] - 8:22 pleasure [1] - 25:7 pled [3] - 30:8, 32:7, 33:14 podium [1] - 43:3 point [9] - 3:21, 15:16, 16:15, 16:16, 19:20, 20:2, 20:6, 20:13, 35:25 pointed [2] - 4:21, 24:15 points [2] - 6:13, 15:13 pool [1] - 37:10 portion [4] - 12:24, 16:17, 17:1, 41:25 posed [1] - 46:5 position [1] - 9:24 possibility [1] - 34:13 possible [4] - 8:14, 32:7, 34:9, 34:21 possibly [1] - 24:21 post [4] - 3:23, 4:1, 4:7, 4:14 post-EOD [3] - 4:1, 4:7, 4:14 potential [1] - 9:12 practice [4] - 45:7, 45:9, 45:13, 48:4 practices [5] - 44:15, 44:21, 45:24, 45:25, 46:2 pre [3] - 4:13, 42:21, 43:5 pre-EOD [1] - 4:13 pre-motion [2] - 42:21, 43:5 preclude [1] - 4:12 precludes [1] - 27:2 precondition [1] - 22:20 preconditions [3] - 20:22, 21:6, 22:18 predating [1] - 39:10 preliminarily [1] - 36:12 premium [1] - 17:7 prepared [1] - 25:3 prerequisite [1] - 22:5 presentation [1] - 17:16 presented [3] - 6:15, 13:23, 28:14 presently [1] - 31:23 presents [2] - 31:8, 36:7</p>	<p>presumption [1] - 40:12 pretty [1] - 45:11 prevent [2] - 4:14, 48:19 previous [1] - 4:21 previously [1] - 37:2 primarily [1] - 42:4 prime [2] - 21:17, 21:18 principal [5] - 4:18, 13:3, 13:4, 17:7, 36:25 priorities [1] - 11:20 prioritization [3] - 25:10, 37:17, 40:20 priority [4] - 11:25, 34:5, 34:10, 36:16 pro [2] - 7:2, 7:6 probative [2] - 47:17, 47:19 procedures [1] - 18:22 proceeding [1] - 18:25 PROCEEDINGS [1] - 1:18 proceedings [4] - 19:12, 21:19, 22:4, 22:5 process [1] - 15:1 produced [1] - 19:14 product [1] - 22:24 prohibited [1] - 7:12 proof [2] - 46:7, 47:7 proper [1] - 28:14 prospective [3] - 8:14, 22:13, 22:14 protected [1] - 28:12 protections [1] - 5:15 prove [1] - 47:9 provided [3] - 30:18, 30:20, 45:1 provided [4] - 8:7, 13:19, 27:22, 34:18 provision [15] - 7:10, 7:16, 9:3, 10:21, 12:9, 12:22, 13:5, 16:19, 40:24, 41:5, 41:10, 41:16, 41:23, 45:22, 46:9 provision's [1] - 41:6 provisions [10] - 16:6, 20:10, 32:9, 32:16, 36:9, 36:12, 38:7, 38:10, 40:21, 41:13 proxies [1] - 46:6 proxy [1] - 44:11 public [2] - 35:14, 38:20</p>	<p>publicly [1] - 39:11 pull [1] - 44:9 purely [1] - 39:23 purport [5] - 4:22, 4:24, 5:1, 5:22, 35:9 purported [5] - 4:16, 27:7, 29:11, 30:11, 39:7 purports [1] - 30:20 purpose [5] - 21:25, 25:18, 33:18, 38:18, 39:1 purposes [3] - 9:8, 43:11, 45:10 pursuant [7] - 9:25, 31:6, 31:20, 35:9, 37:24, 38:10 put [5] - 16:25, 17:1, 19:8, 38:6, 45:12</p>
P				R
<p>page [8] - 1:24, 4:19, 5:3, 5:4, 7:13, 8:5, 8:25, 42:11 paid [4] - 7:2, 32:13, 32:17 Pallas [1] - 3:6 PALLAS [1] - 2:3 papers [2] - 6:6, 14:15 par [1] - 24:19 paragraph [11] - 5:2, 18:21, 27:23, 30:5, 34:6, 35:13, 38:21, 38:24, 40:3, 40:5, 40:7 paragraphs [4] - 33:4, 37:7, 42:3, 42:5 paraphrasing [1] - 16:1 parcel [1] - 33:9 Park [1] - 2:8 part [8] - 11:15, 22:16, 22:17, 29:4, 33:1, 33:9, 34:16, 44:8 PART [1] - 1:1 partially [1] - 19:2 participating [2] - 24:18, 35:15 particular [1] - 27:12 particularly [5] - 12:10, 43:11, 44:1, 44:2, 48:12 parties [15] - 7:3, 19:13, 19:15, 21:20, 25:9, 25:25, 28:20, 32:21, 33:17, 36:19, 36:21, 38:7, 41:1, 41:3, 41:18</p>	<p>perform [1] - 28:3 perhaps [2] - 32:3, 48:6 period [2] - 48:11, 48:14 permission [1] - 43:6 permissive [1] - 16:7 permitted [1] - 9:11 person [1] - 28:14 PLACE [1] - 1:7 place [2] - 12:19, 18:7 plain [1] - 24:3 plaintiff [6] - 26:23, 27:21, 31:8, 36:15, 39:12, 46:5 plaintiff's [3] - 7:4, 7:10, 7:20 plaintiffs [41] - 1:11, 3:5, 4:5, 7:5, 7:22, 9:13, 10:14, 13:14, 14:18, 15:17, 18:10, 19:14, 19:22, 20:14, 25:14, 25:17, 25:21, 27:13, 30:7, 31:1, 32:6, 32:23, 33:14, 34:2, 35:20, 36:24, 37:5, 38:9, 38:11, 38:16, 38:22, 40:19, 42:4, 42:8, 43:13, 43:16, 43:23, 44:19, 44:24, 45:15, 47:5 PLAINTIFFS [1] - 2:3 plaintiffs' [13] - 9:18, 10:3, 25:10, 27:11, 27:25, 28:19, 29:24, 33:8, 36:10, 37:12, 40:10, 41:14, 41:20 Plaza [1] - 2:4 PLC [4] - 1:5, 1:7, 1:8, 1:8 plead [2] - 7:5, 42:4</p>	<p>pleading - 14:24, 20:17, 23:22 pleads [3] - 5:23, 38:25, 40:1 pleased [1] - 8:22 pleasure [1] - 25:7 pled [3] - 30:8, 32:7, 33:14 podium [1] - 43:3 point [9] - 3:21, 15:16, 16:15, 16:16, 19:20, 20:2, 20:6, 20:13, 35:25 pointed [2] - 4:21, 24:15 points [2] - 6:13, 15:13 pool [1] - 37:10 portion [4] - 12:24, 16:17, 17:1, 41:25 posed [1] - 46:5 position [1] - 9:24 possibility [1] - 34:13 possible [4] - 8:14, 32:7, 34:9, 34:21 possibly [1] - 24:21 post [4] - 3:23, 4:1, 4:7, 4:14 post-EOD [3] - 4:1, 4:7, 4:14 potential [1] - 9:12 practice [4] - 45:7, 45:9, 45:13, 48:4 practices [5] - 44:15, 44:21, 45:24, 45:25, 46:2 pre [3] - 4:13, 42:21, 43:5 pre-EOD [1] - 4:13 pre-motion [2] - 42:21, 43:5 preclude [1] - 4:12 precludes [1] - 27:2 precondition [1] - 22:20 preconditions [3] - 20:22, 21:6, 22:18 predating [1] - 39:10 preliminarily [1] - 36:12 premium [1] - 17:7 prepared [1] - 25:3 prerequisite [1] - 22:5 presentation [1] - 17:16 presented [3] - 6:15, 13:23, 28:14 presently [1] - 31:23 presents [2] - 31:8, 36:7</p>	<p>presumption [1] - 40:12 pretty [1] - 45:11 prevent [2] - 4:14, 48:19 previous [1] - 4:21 previously [1] - 37:2 primarily [1] - 42:4 prime [2] - 21:17, 21:18 principal [5] - 4:18, 13:3, 13:4, 17:7, 36:25 priorities [1] - 11:20 prioritization [3] - 25:10, 37:17, 40:20 priority [4] - 11:25, 34:5, 34:10, 36:16 pro [2] - 7:2, 7:6 probative [2] - 47:17, 47:19 procedures [1] - 18:22 proceeding [1] - 18:25 PROCEEDINGS [1] - 1:18 proceedings [4] - 19:12, 21:19, 22:4, 22:5 process [1] - 15:1 produced [1] - 19:14 product [1] - 22:24 prohibited [1] - 7:12 proof [2] - 46:7, 47:7 proper [1] - 28:14 prospective [3] - 8:14, 22:13, 22:14 protected [1] - 28:12 protections [1] - 5:15 prove [1] - 47:9 provided [3] - 30:18, 30:20, 45:1 provided [4] - 8:7, 13:19, 27:22, 34:18 provision [15] - 7:10, 7:16, 9:3, 10:21, 12:9, 12:22, 13:5, 16:19, 40:24, 41:5, 41:10, 41:16, 41:23, 45:22, 46:9 provision's [1] - 41:6 provisions [10] - 16:6, 20:10, 32:9, 32:16, 36:9, 36:12, 38:7, 38:10, 40:21, 41:13 proxies [1] - 46:6 proxy [1] - 44:11 public [2] - 35:14, 38:</p>	

<p>reads [1] - 9:4 ready [1] - 24:24 realize [1] - 14:14 really [8] - 12:14, 13:6, 17:25, 19:3, 23:21, 45:21, 46:25, 47:18 reason [5] - 7:21, 11:19, 11:21, 18:7, 45:12 reasonable [2] - 48:10, 48:20 reasonably [1] - 39:14 reasoning [1] - 7:19 reasons [3] - 6:21, 26:15, 37:2 reassurance [1] - 10:4 rebuttal [1] - 6:13 receive [1] - 6:24 received [6] - 4:2, 4:4, 4:8, 5:7, 22:7, 39:16 recent [2] - 21:1, 48:14 recess [1] - 25:1 reconcile [1] - 18:11 reconfirming [1] - 18:19 record [4] - 3:1, 23:12, 25:2, 31:17 recs [1] - 27:15 Recs [1] - 27:16 redeem [1] - 13:17 redeemed [1] - 12:13 redemption [10] - 10:5, 13:6, 13:17, 14:19, 15:1, 15:5, 23:23, 24:21, 32:3, 35:21 reduce [1] - 13:2 reduced [2] - 35:4, 37:1 REDWOOD [2] - 1:14, 2:16 Redwood [28] - 3:13, 5:11, 6:18, 6:21, 7:2, 13:1, 15:10, 18:15, 19:22, 22:7, 22:9, 23:14, 24:7, 24:13, 24:19, 25:15, 25:20, 26:20, 30:14, 30:23, 31:1, 31:3, 31:10, 35:17, 36:3, 40:5, 42:2, 43:4 Redwood's [6] - 6:16, 7:23, 27:7, 31:5, 42:7, 42:11 refer [3] - 13:8, 15:14, 35:4 reference [2] - 12:11, 31:22</p>	<p>references [2] - 23:17, 45:24 referred [1] - 44:10 refers [4] - 13:9, 30:15, 36:20, 37:11 reflect [1] - 44:19 regardless [1] - 14:9 registered [4] - 5:22, 30:3, 30:9, 48:25 registrar [1] - 23:18 reissue [1] - 12:5 reissued [1] - 12:15 reiterate [1] - 16:18 reiterates [1] - 35:17 rejected [2] - 47:23, 47:25 related [2] - 26:1, 37:21 relates [1] - 37:14 relating [1] - 32:19 relationship [1] - 36:3 release [1] - 37:13 released [1] - 37:6 relevance [1] - 45:7 relevant [7] - 33:24, 43:11, 45:6, 47:10, 48:3, 48:6, 49:5 reliance [1] - 4:12 relied [3] - 21:2, 46:8, 47:11 rely [6] - 5:19, 13:24, 16:10, 28:7, 28:12, 28:22 relying [2] - 19:23, 28:13 remain [1] - 11:21 remains [1] - 35:1 remarks [1] - 3:22 remedies [1] - 30:25 remedy [1] - 27:14 remotely [1] - 29:4 removal [6] - 6:19, 32:21, 32:24, 33:9, 33:16, 33:21 rendered [1] - 47:5 repeat [1] - 22:11 repetition [1] - 4:17 replacing [1] - 43:21 report [1] - 35:17 REPORTER [1] - 2:23 Reporter [1] - 49:17 represented [1] - 9:5 repurchasing [1] - 32:3 request [6] - 18:18, 43:13, 46:4, 46:16, 46:24, 47:23 requests [1] - 43:14 require [5] - 16:10, 27:9, 41:14, 41:21,</p>	<p>46:17 required [1] - 38:17 requirements [1] - 28:10 requires [1] - 8:7 requisite [2] - 17:20, 31:12 resolve [2] - 20:17, 32:5 resolved [2] - 43:7, 47:14 respect [16] - 9:9, 17:7, 20:11, 25:3, 25:23, 27:20, 29:7, 29:22, 30:6, 35:19, 35:23, 36:24, 37:3, 37:5, 42:20, 44:2 respective [1] - 44:14 respond [3] - 3:21, 17:22, 20:6 responding [1] - 14:14 response [1] - 48:8 rest [2] - 6:7, 49:10 restricted [1] - 32:12 result [2] - 8:15, 39:23 returning [2] - 3:17, 25:7 reviewed [1] - 30:16 revisions [1] - 11:17 Richbell [1] - 38:13 riddled [1] - 30:22 rights [19] - 7:16, 7:17, 16:22, 21:8, 21:13, 25:11, 25:25, 27:9, 36:8, 36:10, 36:11, 36:14, 36:18, 36:20, 38:13, 40:25, 41:18, 41:22, 44:15 risk [1] - 4:17 Rockefeller [1] - 2:4 ROSENBAUM [8] - 2:17, 3:12, 15:9, 18:3, 42:24, 43:3, 47:22, 48:21 Rosenbaum [5] - 3:12, 15:10, 42:23, 43:4, 45:22 rule [2] - 19:3, 19:7 ruled [1] - 8:17 rules [8] - 19:6, 20:24, 20:25, 21:4, 22:10, 45:4, 45:5, 48:19 ruling [4] - 25:3, 41:7, 42:18, 43:9 run [1] - 43:18</p>	<p style="text-align: center;">S</p> <p>Sachs [2] - 5:8, 30:17 sacred [12] - 7:17, 14:22, 16:21, 17:2, 17:6, 36:7, 36:10, 36:11, 36:14, 36:16, 36:18, 37:18 satisfaction [1] - 8:8 satisfied [2] - 8:9, 22:18 save [1] - 19:6 saw [2] - 30:23, 43:21 Schecter [1] - 38:6 scope [5] - 47:19, 47:23, 48:10, 49:3, 49:5 Scott [1] - 14:25 second [5] - 6:14, 9:17, 26:3, 28:23, 30:21 section [7] - 3:25, 6:14, 9:2, 15:24, 18:21, 22:15 Section [42] - 5:14, 5:15, 6:17, 6:19, 6:22, 7:19, 9:3, 10:22, 11:14, 11:25, 16:9, 16:23, 17:2, 17:9, 21:4, 26:1, 27:1, 27:3, 28:2, 28:24, 29:23, 31:21, 32:1, 32:2, 32:4, 32:10, 32:22, 34:3, 34:14, 34:17, 34:22, 35:4, 35:7, 35:10, 35:19, 36:5, 36:9, 37:17, 40:24, 44:4 sections [2] - 26:5, 34:20 Sections [5] - 8:21, 34:1, 36:22, 37:21, 37:25 secured [2] - 37:9, 37:10 SECURED [1] - 1:8 securities [4] - 18:24, 19:1, 19:11, 21:19 security [1] - 22:1 see [18] - 4:19, 23:17, 24:22, 27:15, 27:23, 28:25, 29:5, 30:4, 33:4, 34:5, 39:17, 42:2, 42:5, 43:18, 43:24, 44:18, 47:6, 49:3 seek [4] - 22:10, 26:23, 30:25, 43:5 seeks [1] - 25:24</p>	<p>seem [3] - 33:7, 34:9, 48:18 self [1] - 6:20 self-interested [1] - 6:20 SENIOR [1] - 1:8 sense [2] - 12:16, 39:7 sent [1] - 30:14 separate [2] - 10:13, 11:7 September [11] - 4:3, 4:8, 4:17, 5:7, 5:12, 5:21, 9:16, 27:23, 29:1, 29:14, 30:15 sequence [5] - 3:2, 25:4, 26:16, 26:18, 42:12 series [5] - 9:7, 14:17, 14:20, 25:14, 34:16 served [1] - 48:17 Services [2] - 3:15, 41:8 SERVICES [1] - 1:15 services [1] - 38:14 set [6] - 9:17, 10:13, 26:15, 28:3, 32:19, 35:22 sets [1] - 42:18 setting [2] - 10:7, 41:23 several [2] - 4:8, 45:6 shall [2] - 16:10, 41:1 shares [1] - 14:4 Shearman [2] - 3:9, 6:12 SHEARMAN [1] - 2:11 short [1] - 42:17 showing [1] - 28:5 sides [2] - 17:25, 19:22 sign [1] - 28:14 significant [1] - 41:25 similar [3] - 43:15, 43:17, 45:2 SIMOPOULOS [1] - 2:5 Simopoulos [1] - 3:7 simple [2] - 17:3, 17:11 simply [2] - 5:7, 32:5 simultaneously [2] - 34:23, 35:2 single [1] - 9:8 sit [1] - 20:3 SITUATIONS [1] - 1:3 skipped [1] - 15:4</p>
---	---	---	---	---

<p>slide [6] - 16:3, 18:6, 18:14, 19:8, 44:8, 45:23</p> <p>slides [1] - 16:18</p> <p>small [1] - 46:11</p> <p>so-called [1] - 24:7</p> <p>solicitation [1] - 32:19</p> <p>some [3] - 24:7, 47:5, 48:25</p> <p>somehow [3] - 13:10, 15:18, 24:13</p> <p>sometimes [1] - 43:7</p> <p>SOPHIE [1] - 2:18</p> <p>Sophie [1] - 3:13</p> <p>sophisticated [2] - 25:12, 38:6</p> <p>sorry [1] - 30:19</p> <p>sorts [1] - 10:5</p> <p>sounds [1] - 40:22</p> <p>source [1] - 6:24</p> <p>Southern [2] - 40:8, 40:13</p> <p>SP [1] - 1:9</p> <p>SPC [1] - 1:9</p> <p>speak [1] - 4:23</p> <p>speaking [2] - 14:7, 21:17</p> <p>SPECIAL [1] - 1:3</p> <p>specific [7] - 14:17, 14:20, 34:8, 35:23, 38:7, 38:10, 38:12</p> <p>specifically [4] - 9:10, 16:5, 28:3, 28:11</p> <p>speculation [1] - 37:8</p> <p>spelled [1] - 14:6</p> <p>squarely [1] - 41:11</p> <p>SSN [1] - 24:19</p> <p>SSN's [1] - 35:16</p> <p>ST [1] - 1:6</p> <p>stage [9] - 20:17, 23:22, 29:25, 31:11, 31:18, 33:11, 33:14, 33:25, 44:18</p> <p>standard [2] - 4:13, 5:24</p> <p>standing [3] - 29:20, 45:18, 46:6</p> <p>start [5] - 3:24, 10:11, 25:5, 29:20, 46:15</p> <p>starting [2] - 26:22, 32:10</p> <p>state [1] - 12:7</p> <p>State [1] - 41:2</p> <p>STATE [1] - 1:1</p> <p>stated [1] - 28:17</p> <p>statement [5] - 18:14, 21:3, 21:24, 30:12, 30:17</p>	<p>statements [9] - 5:4, 5:5, 5:8, 18:16, 22:7, 22:8, 28:7, 35:14, 38:20</p> <p>states [3] - 28:16, 32:11, 40:24</p> <p>step [4] - 9:22, 22:11, 33:17, 33:22</p> <p>stepping [2] - 22:23, 23:8</p> <p>steps [2] - 14:20, 15:5</p> <p>still [4] - 15:13, 29:15, 37:9, 42:19</p> <p>stop [1] - 17:4</p> <p>STRATEGIC [3] - 1:3, 1:4, 1:4</p> <p>Street [1] - 1:18</p> <p>street [1] - 46:3</p> <p>structured [1] - 31:19</p> <p>subject [4] - 10:16, 22:2, 44:19, 45:14</p> <p>submissions [1] - 25:6</p> <p>submitted [1] - 43:5</p> <p>subordinated [1] - 37:11</p> <p>subpoenas [1] - 48:16</p> <p>subscribed [1] - 23:15</p> <p>Subsection [1] - 21:23</p> <p>subsidiaries [1] - 32:12</p> <p>substantial [1] - 34:4</p> <p>substantially [3] - 34:7, 34:10, 34:12</p> <p>sue [1] - 19:18</p> <p>sufficiently [10] - 30:2, 30:7, 32:7, 32:24, 33:14, 34:2, 36:25, 39:5, 39:21, 40:17</p> <p>suggestion [1] - 49:3</p> <p>suit [6] - 19:18, 20:22, 20:23, 21:5, 21:6, 27:2</p> <p>summary [1] - 21:11</p> <p>supplement [1] - 8:24</p> <p>supplemental [16] - 8:13, 8:16, 9:3, 9:14, 10:20, 10:24, 11:2, 11:3, 11:11, 22:23, 22:25, 23:2, 23:5, 23:6, 27:5, 34:19</p> <p>supplements [1] - 16:4</p> <p>support [1] - 9:1</p> <p>SUPREME [1] - 1:1</p> <p>surgically [1] - 17:24</p>	<p>survive [1] - 33:10</p> <p>suspension [1] - 17:18</p> <p>swiftly [1] - 48:13</p> <p>system [2] - 18:22, 18:24</p> <p style="text-align: center;">T</p> <p>taking [1] - 9:22</p> <p>talked [1] - 5:16</p> <p>tech [1] - 15:14</p> <p>telling [3] - 44:23, 45:18, 49:6</p> <p>temporary [1] - 33:24</p> <p>ten [3] - 24:24, 46:10, 48:12</p> <p>tendered [1] - 36:3</p> <p>tens [1] - 46:12</p> <p>term [2] - 34:9, 40:2</p> <p>TERM [1] - 1:1</p> <p>terminated [1] - 36:4</p> <p>terminology [2] - 32:11, 41:12</p> <p>terms [19] - 8:23, 10:13, 11:16, 11:23, 11:24, 12:9, 24:3, 24:18, 25:17, 32:15, 38:8, 39:24, 41:4, 41:15, 44:4, 44:5, 47:7, 48:6</p> <p>thankfully [1] - 19:7</p> <p>thanking [1] - 25:5</p> <p>THE [27] - 1:1, 2:3, 2:7, 2:12, 2:16, 3:1, 3:11, 3:16, 6:2, 9:20, 10:3, 12:2, 13:2, 13:7, 13:20, 14:1, 14:13, 15:7, 17:14, 20:4, 24:23, 25:2, 43:1, 45:16, 47:21, 48:2, 49:2</p> <p>themselves [1] - 17:13</p> <p>theory [2] - 7:22, 38:12</p> <p>therefore [7] - 4:13, 16:23, 19:24, 27:12, 30:9, 31:6, 31:13</p> <p>therein [1] - 28:8</p> <p>thereof [3] - 16:6, 44:15, 45:24</p> <p>thereto [1] - 37:7</p> <p>thereunder [2] - 41:1, 41:18</p> <p>thinks [1] - 10:12</p> <p>Third [1] - 2:16</p> <p>third [3] - 5:2, 6:16, 28:23</p> <p>three [5] - 6:13, 43:16, 43:22, 46:6,</p>	<p>46:17</p> <p>threshold [2] - 17:15, 29:20</p> <p>tier [2] - 6:24, 9:25</p> <p>tiering [19] - 23:3, 25:16, 27:4, 29:12, 31:15, 31:19, 32:22, 33:1, 33:19, 33:21, 36:10, 36:13, 37:1, 37:15, 38:18, 40:3, 40:4, 40:7, 42:1</p> <p>time [15] - 4:7, 7:24, 8:6, 8:11, 9:14, 12:5, 12:6, 32:18, 39:22, 40:2, 40:3, 40:6, 43:22, 45:2, 48:11</p> <p>title [1] - 18:15</p> <p>today [7] - 3:17, 25:7, 29:13, 30:16, 31:17, 42:18, 48:4</p> <p>today's [1] - 42:16</p> <p>together [2] - 3:9, 15:24</p> <p>took [1] - 45:23</p> <p>tort [2] - 41:6, 42:4</p> <p>TOSCH [1] - 2:13</p> <p>Tosch [2] - 3:9, 6:11</p> <p>touched [1] - 44:6</p> <p>toward [1] - 38:23</p> <p>tranche [2] - 24:20, 35:16</p> <p>transaction [35] - 7:4, 9:25, 10:8, 10:11, 20:9, 23:14, 24:17, 25:16, 25:18, 27:5, 29:12, 31:15, 31:19, 32:8, 32:23, 33:2, 33:10, 33:16, 33:18, 33:23, 34:22, 35:21, 36:10, 36:13, 37:2, 37:4, 37:6, 37:13, 37:15, 38:18, 38:23, 39:1, 39:3, 39:9, 39:23</p> <p>transactions [4] - 29:12, 43:17, 45:8, 46:13</p> <p>transcript [2] - 42:16, 49:13</p> <p>transfer [6] - 26:11, 26:13, 38:16, 39:8, 39:21, 40:15</p> <p>transferred [1] - 39:15</p> <p>transformation [1] - 34:25</p> <p>transition [2] - 12:4, 34:25</p> <p>treated [1] - 9:7</p> <p>trial [2] - 21:11, 47:10</p> <p>tried [1] - 24:6</p> <p>trigger [1] - 40:12</p>	<p>true [1] - 49:13</p> <p>truly [1] - 25:7</p> <p>TRUST [1] - 1:7</p> <p>Trustee [1] - 3:15</p> <p>TRUSTEE [1] - 1:15</p> <p>trustee [33] - 3:22, 4:2, 4:3, 4:6, 4:14, 5:6, 5:14, 5:19, 16:8, 16:10, 16:13, 21:22, 23:18, 26:10, 27:8, 27:22, 28:2, 28:6, 28:9, 28:12, 28:16, 28:17, 28:21, 29:4, 29:8, 29:10, 29:16, 30:14, 30:24, 31:4, 47:13</p> <p>trustee's [1] - 4:16</p> <p>trustees [1] - 43:22</p> <p>trustees' [1] - 5:25</p> <p>truth [1] - 28:7</p> <p>turn [5] - 8:20, 29:18, 34:1, 36:5, 38:1</p> <p>turned [1] - 43:2</p> <p>turning [2] - 31:15, 34:20</p> <p>two [5] - 18:11, 20:20, 22:24, 23:1, 30:14</p> <p>type [1] - 48:25</p> <p>typically [1] - 6:20</p> <p style="text-align: center;">U</p> <p>ultimate [1] - 20:2</p> <p>ultimately [6] - 33:1, 37:14, 41:17, 44:20, 47:17, 47:19</p> <p>UMB [1] - 43:21</p> <p>unauthorized [1] - 30:9</p> <p>uncertain [1] - 24:18</p> <p>undefined [1] - 34:9</p> <p>under [46] - 3:25, 4:13, 5:15, 5:24, 7:8, 7:16, 9:6, 9:18, 10:8, 10:19, 11:21, 12:9, 13:18, 15:18, 15:19, 16:3, 17:2, 17:5, 24:2, 24:8, 26:13, 27:1, 27:2, 27:10, 27:25, 29:8, 29:14, 31:25, 32:2, 32:4, 34:3, 34:14, 34:22, 35:7, 35:22, 37:16, 37:17, 37:20, 38:13, 39:6, 40:15, 40:22, 41:22, 42:4, 46:9</p> <p>undercut [1] - 7:23</p> <p>underlying [4] - 18:23, 19:10, 21:16, 21:18</p> <p>undermined [1] -</p>
---	--	---	--	--

<p>31:13 underscore [1] - 14:16 underscores [1] - 43:10 understand [1] - 12:17 understanding [1] - 23:13 undertaken [2] - 14:21, 38:10 undertaking [1] - 15:23 undisputed [1] - 40:23 unfairness [1] - 42:10 unfathomable [1] - 46:25 UNIT [1] - 1:7 unless [6] - 3:18, 6:1, 6:7, 10:22, 10:23, 32:16 unnecessary [1] - 27:13 up [25] - 6:24, 9:25, 23:3, 25:16, 27:4, 29:12, 31:15, 31:19, 32:22, 33:1, 33:19, 33:21, 36:10, 36:13, 37:1, 37:15, 38:18, 40:3, 40:4, 40:7, 42:1, 44:9, 45:11, 45:18, 48:10 up-tier [2] - 6:24, 9:25 up-tiering [19] - 23:3, 25:16, 27:4, 29:12, 31:15, 31:19, 32:22, 33:1, 33:19, 33:21, 36:10, 36:13, 37:1, 37:15, 38:18, 40:3, 40:4, 40:7, 42:1 uphold [1] - 21:5 ups [1] - 17:24 US [2] - 2:3, 48:25 utilized [1] - 43:17</p>	<p>Vance [1] - 29:5 verify [1] - 47:3 VI [4] - 1:5, 1:7, 1:8, 1:8 viable [1] - 7:15 violated [1] - 36:10 violating [1] - 17:8 violation [5] - 22:24, 25:16, 26:5, 32:25, 40:20 violations [1] - 23:3 virtue [1] - 19:16 vision [1] - 24:7</p>	<p>would [19] - 5:15, 8:6, 10:8, 10:15, 12:18, 13:21, 13:25, 21:22, 34:9, 39:6, 41:4, 44:20, 45:5, 45:13, 46:17, 46:23, 48:14, 48:17 wouldn't [1] - 6:18 written [4] - 4:2, 27:21, 43:13, 44:11</p>
V	W	X
<p>valid [11] - 8:17, 13:23, 18:9, 18:10, 23:5, 23:7, 27:1, 30:1, 31:6, 37:22, 47:15 validity [2] - 29:9, 34:18 validly [1] - 7:17 value [5] - 35:3, 39:14, 39:15, 47:17, 47:19 VALUE [3] - 1:3, 1:4, 1:4</p>	<p>waive [4] - 16:1, 17:6, 17:11, 32:18 waived [6] - 7:12, 7:17, 8:14, 13:18, 16:20 waiver [23] - 4:9, 4:11, 4:13, 4:18, 4:20, 4:22, 5:13, 5:18, 5:19, 5:20, 13:24, 15:18, 19:24, 20:1, 22:14, 29:1, 29:7, 29:14, 30:21, 32:15, 32:20, 33:3 waivers [30] - 4:16, 6:16, 7:23, 7:24, 8:13, 9:9, 9:14, 9:16, 9:17, 13:18, 13:23, 15:22, 17:12, 17:19, 18:9, 22:13, 23:5, 23:9, 27:1, 27:7, 29:21, 30:6, 30:8, 30:12, 30:14, 43:15, 43:19, 44:2, 45:2, 48:13 walk [3] - 10:7, 20:7, 43:8 wants [1] - 44:9 waterfall [1] - 41:16 weeks [1] - 4:8 whatever [3] - 14:2, 47:8, 48:6 whatsoever [1] - 31:22 whereas [2] - 12:10, 36:21 whereby [1] - 34:23 whittle [1] - 49:4 wholly [1] - 40:1 willful [1] - 28:5 within [2] - 41:12, 46:9 without [3] - 5:20, 18:12, 43:8 wording [1] - 14:3 words [3] - 8:1, 9:11, 34:8 works [2] - 16:19</p>	<p style="text-align: center;">XII [1] - 1:9</p>
V	W	Y
		<p>yeah [1] - 17:14 year [1] - 46:12 years [2] - 46:10, 48:12 yesterday [17] - 5:16, 6:8, 6:15, 6:18, 6:23, 7:22, 8:4, 11:23, 12:11, 17:17, 17:24, 18:7, 21:23, 33:7, 44:7, 44:10, 48:4 yesterday's [3] - 3:24, 6:5, 9:24 YIELD [4] - 1:5, 1:6, 1:7, 1:9 York [17] - 1:18, 2:4, 2:8, 2:13, 2:17, 26:13, 40:9, 41:2, 41:4, 41:24, 42:5, 42:8 YORK [2] - 1:1, 1:1</p> <p style="text-align: center;">Z</p> <p>ZACHARY [1] - 2:17 Zachary [3] - 3:12, 15:10, 43:4 zero [1] - 35:4</p> <p style="text-align: center;">—</p> <p>— [6] - 1:5, 1:6, 1:7, 1:8, 1:8, 1:9</p>