

(1) Albert Dabbah - CONFIDENTIAL
 (2) attention to footnote 17, is this the note 17 to
 (3) which you're referring in paragraph 3?
 (4) A. These financial statements on
 (5) footnote -- on Exhibit -- on Government's
 (6) Exhibit 3, is for the year-ended 29th of February,
 (7) 2008.
 (8) Q. And is that -- is that one of the
 (9) years you're referring to?
 (10) A. And this is for the years-ended
 (11) February 29th, 2008 to 20th of February, 2009.
 (12) So the -- for the 12-month financial
 (13) period, the ending balance that you have on the
 (14) 2008 financial statements will be coming forward
 (15) to the financial statements for the year-ended
 (16) February 2009.
 (17) Q. But my question is: Does
 (18) footnote 17 refer to paragraph 3 in Exhibit 1?
 (19) Footnote 17 in Government Exhibit 3.
 (20) MS. PHILLIPS: Objection to form.
 (21) A. The answer is yes.
 (22) Q. What is the date that the provision
 (23) was taken?
 (24) MS. PHILLIPS: Objection to form.
 (25) A. When you say "provision," the very

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 (2) first provision that was made?
 (3) Q. Yes.
 (4) A. The very first provision that was
 (5) made was for \$7 million.
 (6) Q. When was it taken?
 (7) A. The exact date of that provision, I
 (8) will have to check.
 (9) Q. Had it -- directing your attention
 (10) to paragraph 9 of your statement, had that
 (11) provision been taken by July 27, 2007?
 (12) A. Yes. Correct.
 (13) Q. What did -- have you heard about an
 (14) incident involving a raid on the Hermitage office
 (15) and the office of Firestone Duncan in June 4th of
 (16) 2007, in Russia?
 (17) MS. PHILLIPS: Objection to form.
 (18) A. Yes.
 (19) Q. Did the bank hear of that at any
 (20) time from William Browder or from Hermitage?
 (21) MR. WILLSCHER: Objection.
 (22) MS. PHILLIPS: I join in the
 (23) objection.
 (24) MR. WILLSCHER: You can answer to
 (25) the extent you know.

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 (2) A. There was some -- based on the dates
 (3) that you mention, I do recall there being some
 (4) publicity in the press on this matter.
 (5) Q. Did William Browder ever tell HSBC
 (6) Private Bank (Suisse), as an investor, that his
 (7) office and that of his lawyers had been raided by
 (8) the tax police?
 (9) A. I do not know.
 (10) Q. Are you aware that William Browder
 (11) and Heritage have put out a story that they did
 (12) not know about any theft of any subsidiary
 (13) companies until October of 2007?
 (14) MS. PHILLIPS: Objection to form.
 (15) A. I'm not aware.
 (16) MR. MOSCOW: Okay. Could we -- bear
 (17) with me for a moment, let's go off the
 (18) record, if we could.
 (19) THE VIDEO OPERATOR: Off the record,
 (20) 10:24 a.m.
 (21) (Whereupon, a recess was taken from
 (22) 10:25 a.m. to 10:27 a.m.)
 (23) THE VIDEO OPERATOR: Back on the
 (24) record 10:27 a.m.
 (25)

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 (2) BY MR. MOSCOW
 (3) Q. I know you're under time pressure.
 (4) I will try to get this done soon.
 (5) A. No time pressure. I just --
 (6) whatever needs to be done, needs to be done. I
 (7) have no problem.
 (8) Q. Could you read the first paragraph
 (9) of note 17 in the February 28th statement.
 (10) MS. PHILLIPS: Read it to himself.
 (11) MR. MOSCOW: No, read it -- why
 (12) don't I read it, and you tell me if I've
 (13) read it correctly.
 (14) MR. WILLSCHER: Objection.
 (15) MR. LAMSON: And, John, sorry, which
 (16) exhibit is it again?
 (17) MR. MOSCOW: Page 3, this is
 (18) HSBC-PREV-001308.
 (19) MS. PHILLIPS: It's Exhibit 3.
 (20) Q. Page 23.
 (21) A. So page 23.
 (22) Q. Correct.
 (23) And I read it: "The manager of the
 (24) fund," and that would be HSBC (Guernsey), a
 (25) nonbank, correct?

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 (2) MS. PHILLIPS: Objection.
 (3) Q. HSBC Management (Guernsey).
 (4) A. Correct, a nonbank.
 (5) Q. "The manager of the fund approved
 (6) the establishment of a legal provision in the
 (7) financial statements of U.S. 10 million. This is
 (8) to address costs associated with legal actions
 (9) relating to the recovery of legal ownership and
 (10) directorship over Russian investment entities
 (11) owned by HSBC Private Bank (CI) Limited, as
 (12) trustee for the Hermitage Fund. These entities
 (13) were illegally appropriated by third parties
 (14) within Russia with the intention of creating
 (15) fraudulent liabilities within the entities, and
 (16) then settling those liabilities using the assets
 (17) of those entities or their Cypriot holding
 (18) companies in an effort to fraudulently expropriate
 (19) those assets."
 (20) Did I read that correctly?
 (21) A. You did, yes.
 (22) Q. This statement was written as of
 (23) when?
 (24) A. This statement, as part of this
 (25) report of the audited financial statements of the

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 (2) Hermitage Fund for the year-ended 2008. It was
 (3) certainly written before February 29th, 2008.
 (4) Q. Well, as of when --
 (5) A. Sorry, I apologize. I apologize.
 (6) It's --
 (7) MS. PHILLIPS: Let him finish.
 (8) A. It would have been written prior to
 (9) the official date of the issuance of this report.
 (10) Q. And directing your attention to
 (11) page 13, Bates-stamped 001298, is this document as
 (12) of the 29th of August 2008?
 (13) MS. PHILLIPS: Objection to form.
 (14) A. Correct. So it would have been
 (15) written before that date.
 (16) Q. As of July 27th, 2007, do you know
 (17) whether the Hermitage Fund was aware that there
 (18) was any theft of those subsidiary companies?
 (19) MS. PHILLIPS: Objection to form.
 (20) A. This report covers the period
 (21) February 29, 2007 to February 28, 2008. The date
 (22) you're referring to would be within that financial
 (23) year. As such, we could make a presumption that
 (24) it was such knowledge.
 (25) Q. Well, as of July 27, William Browder

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 (2) and others have said that they did not learn until
 (3) October 2007 that the companies were stolen.
 (4) MS. PHILLIPS: Objection to form.
 (5) A. When we redeemed the shares, I think
 (6) we will need to look at the redemption dates.
 (7) Q. The redemption date is July 27th.
 (8) A. Right. And on the redemption date
 (9) there was -- the bank statement showed that it was
 (10) already a legal provision.
 (11) Q. Correct. That's what I wanted to
 (12) ask you about.
 (13) If Browder and Heritage did not know
 (14) that the companies had been taken, but they took a
 (15) reserve for legal expenses, following a raid by
 (16) the police investigating tax, would you be able to
 (17) associate the legal reserves with the raid or with
 (18) the unknown events?
 (19) MR. WILLSCHER: Objection to form.
 (20) MS. PHILLIPS: Objection to form.
 (21) MR. WILLSCHER: You can answer, if
 (22) you understand.
 (23) A. What I'd like to do now is, we said
 (24) there was a legal provision set for \$7 million.
 (25) So if you could just take your question step by

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 (2) step again.
 (3) Q. The \$7 million -- okay.
 (4) There was a -- assume that there's a
 (5) raid on Hermitage and Firestone Duncan on June 4,
 (6) 2007.
 (7) Police come in, execute search
 (8) warrants, take computers, records, what have you.
 (9) Assume that there's a reserve taken
 (10) prior to July 27 of '07 for legal expenses.
 (11) Would that reserve be appropriate to
 (12) deal with the expenses of an investigation by the
 (13) police due to tax affairs?
 (14) MS. PHILLIPS: Objection to form.
 (15) MR. WILLSCHER: Objection.
 (16) A. You're asking -- you're asking -- if
 (17) I understand the question, you're asking me to
 (18) make certain assumptions?
 (19) Q. Yes.
 (20) A. And to give an answer based on that
 (21) assumptions?
 (22) Q. Yes.
 (23) A. I would need to understand more
 (24) clearly why you're asking me to make an answer
 (25) based on this assumptions.

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 (2) Q. The reason I'm asking you is because
 (3) you said that there was a loss due to a legal
 (4) reserve, which you say is due to costs associated
 (5) with the recovery of legal ownership.
 (6) And I want to know if the reserve
 (7) was taken before the company knew that there was a
 (8) need to recover legal ownership, whether that
 (9) would have an impact on your testimony. In other
 (10) words, the reserve was taken for a different
 (11) reason?
 (12) MS. PHILLIPS: Objection to form.
 (13) A. These -- these are audited financial
 (14) statements. That means that there's an
 (15) independent audit of the accounts, based on the
 (16) objective evidence that would have been provided
 (17) to the auditors.
 (18) The \$7 million provision, as
 (19) articulated in these financial statements, has to
 (20) be assessed in line of what's described in the
 (21) footnote.
 (22) Q. But that footnote is as of August of
 (23) '08, correct?
 (24) A. That footnote covers the period
 (25) dating -- beginning -- the financial year

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 (2) beginning 29th of February 2007 and ending 29th of
 (3) February 2008.
 (4) So between February 2008 and
 (5) August 2008, potentially it could have been
 (6) subsequent events that could have impacted the
 (7) amount of the provision that was taken for the
 (8) year-ended 29th of February 2008.
 (9) Given that there was no adjustments
 (10) to those financial statements as a result of
 (11) subsequent events, the provision, as articulated
 (12) in the footnote, has to be set in light of what's
 (13) described by the independent auditors.
 (14) Q. I think I follow.
 (15) If management informed the auditors
 (16) as to the reason for the reserve, and the reserve
 (17) was taken, and events as of October show that
 (18) there is a problem with the ownership of the
 (19) companies, then that would be within the period
 (20) covered, correct?
 (21) MS. PHILLIPS: Object to form.
 (22) MR. WILLSCHER: Same.
 (23) Q. If the knowledge came out during the
 (24) year, but after July 7th.
 (25) A. Can you specify which July 7th you

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 (2) mean?
 (3) Q. July -- I'm sorry, July 27, 2007. I
 (4) misspoke.
 (5) A. Yeah, okay.
 (6) Q. We've been told that Hermitage did
 (7) not know about the problems with the ownership of
 (8) these companies until October.
 (9) We also have testimony that they
 (10) were sent notices about court cases in July.
 (11) My question to you is: Would it
 (12) matter to your testimony if the reserve was taken
 (13) to deal with the tax investigation, rather than
 (14) the recovery of the three companies?
 (15) MS. PHILLIPS: Objection to form.
 (16) MR. WILLSCHER: Join.
 (17) A. Based on the information that I have
 (18) available to me as reflected in those footnotes, I
 (19) cannot make a presumptions that that provision was
 (20) not made for any reasons, other than the one as
 (21) articulated in that footnote.
 (22) Q. And if that footnote were in error,
 (23) would that change your testimony?
 (24) MS. PHILLIPS: Objection to form.
 (25) MR. WILLSCHER: Same.

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 (2) A. Can you repeat the question.
 (3) Q. If that footnote was shown to be
 (4) false as to dates, would that change the impact of
 (5) your testimony?
 (6) MS. PHILLIPS: Objection to form.
 (7) A. If I understand the question is --
 (8) is the factual information provided in the
 (9) footnote is incorrect, would that change my
 (10) testimony.
 (11) Can I ask you why are you asking
 (12) that question to me?
 (13) Q. You were called to testify that
 (14) there was a loss based on costs associated with
 (15) legal actions relating to the recovery of legal
 (16) ownership and the directorship, okay?
 (17) MS. PHILLIPS: Objection. Form.
 (18) Q. If, in fact, the costs were related
 (19) to the defense of tax fraud investigation, would
 (20) that have an impact on your testimony?
 (21) MS. PHILLIPS: Objection to form.
 (22) MR. WILLSCHER: Same.
 (23) Q. Not as to the amount -- not as to
 (24) the difference in value, I got that.
 (25) But you're saying that there was