

1 U.S. BANKRUPTCY COURT
2 WESTERN DISTRICT OF MISSOURI
3 (Kansas City)
4 BANKRUPTCY PETITION #: 15-42262-can7
5
6
7
8 Assigned to: Cynthia A. Norton
9 Chapter 7
10 Involuntary
11 No asset
12 Date filed: 08/05/2015
13 341 meeting: 12/14/2015
14 Deadline for objecting to discharge: 01/19/2016
15
16
17
18
19 AUDIO TRANSCRIPTION OF 341 MEETING OF CREDITORS
20
21 DECEMBER 14, 2015
22
23
24 Reported by: Kathleen A. Yager
25

1 Debtor1
Del Hodges Kimball
2 5501 High Drive
Mission Hills, KS 66208
3 JOHNSON-KS
SSN / ITIN: xxx-xx-3134
4
represented by Joel Pelofsky
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Trustee
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12 U.S. Trustee
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14 Kansas City, MO 64106
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17
18 Sherri L. Wattenbarger
19 Office of the U.S. Trustee
20
21
22
23
24
25

1 P-R-O-C-E-E-D-I-N-G-S

2

3 JANICE STANTON: Do you solemnly
4 swear the testimony you are about to give will be the
5 truth?

6 DEL HODGES KIMBALL: Yes.

7 JANICE STANTON: Okay. This is the
8 continued section 341 meeting for Del Kimball, case
9 number 15-42262. Mr. Kimball is here with his
10 counsel, Joel Pelofsky and it is 8:30 on December 14,
11 2015. For the record, we don't have amended
12 Schedules. Those amended Schedules were due December
13 the 8th. And I understand that Mr. Kimball is
14 working on the amended Schedules. So for purposes of
15 today, we can't get too far, but we will have to have
16 another 341 meeting, once we get the amended
17 Schedules on file so we can have a complete
18 Schedules.

19 JOEL PELOFSKY: We understand that.

20 JANICE STANTON: Mr. Kimball, can you
21 tell me what have you done since the last 341 meeting
22 to help your counsel get the amended Schedules on
23 file?

24 DEL HODGES KIMBALL: Like what
25 documents or --

1 JANICE STANTON: Yeah, just tell me
2 generally what have you done to facilitate that?

3 DEL HODGES KIMBALL: Mainly, just
4 going through the list of documents that you asked me
5 -- the letter you sent me, I don't remember the date.

6 JANICE STANTON: Okay, that was
7 November 20th. Does that sound right?

8 DEL HODGES KIMBALL: Something around
9 there.

10 JANICE STANTON: Other than looking
11 at my letter on November the 20th, have you done
12 anything else to try to get the amended Schedules
13 completed?

14 DEL HODGES KIMBALL: We have met
15 several times to go through the Schedules. We just
16 haven't been able to complete them. It's far more
17 work than anticipated.

18 JANICE STANTON: Okay. How many
19 times have you met with Mr. Pelofsky to try to get
20 this done?

21 DEL HODGES KIMBALL: I don't know
22 (laughing), at least two or three times a week, every
23 week.

24 JANICE STANTON: Since the last 341
25 meeting?

1 DEL HODGES KIMBALL: Do you think
2 that's correct?

3 JOEL PELOFSKY: Yes, that's correct.

4 JANICE STANTON: Okay. Have you been
5 able to at least generate a draft of the amended
6 Schedules?

7 DEL HODGES KIMBALL: You'd have to
8 ask Joel, I don't --

9 JOEL PELOFSKY: We have the draft.

10 JANICE STANTON: Okay.

11 JOEL PELOFSKY: I would point out
12 though that putting that together, there is about
13 forty LLCs related. There are -- we have produced
14 and gone through the tax returns, we have I think
15 furnished you a large number of the operating
16 agreements that relate to the LLCs. We are following
17 up on that documentation to try to figure out how it
18 all fits together. In addition, I would point out
19 that Mr. Kimball is the designated representative in
20 the LTS case, and we did file Schedules in that case,
21 which required an additional time because those
22 records were are in the same general condition as Mr.
23 Kimball's records as they relate to the business
24 activity that he was in that ended in September,
25 October of 2013. So resurrecting all of those

1 documents after a two year hiatus has required quite
2 a lot of searching and shuffling.

3 JANICE STANTON: Okay, what documents
4 specifically have you provided to Mr. Pelofsky to
5 prepare the amended Schedules?

6 DEL HODGES KIMBALL: We -- like I --
7 like Mr. Pelofsky said, we spent a lot of time on the
8 LTS Schedules. There was just numerous documents
9 that were required for that. And on my personal one,
10 I was in the process of getting old bank statements,
11 getting all the LLCs that you asked for, the
12 operating agreements, for -- also in addition, you
13 asked me to try to create 2013 list of payments to
14 investors or in partners. That in itself probably
15 took -- and probably twenty-five percent done with
16 that and that took a week in itself just to start to
17 create --

18 JANICE STANTON: Okay, so have you
19 created that list?

20 DEL HODGES KIMBALL: I have created
21 like the basis for it. And then I have to go back
22 and make sure that it's not inaccurate and that's
23 just taking a lot of time.

24 JANICE STANTON: Is anybody helping
25 you create that list?

1 DEL HODGES KIMBALL: I have asked
2 this one person to help me that has some general
3 knowledge of how the database works better than I do.

4 JANICE STANTON: And who is that?

5 DEL HODGES KIMBALL: Well, there's a
6 person who -- that is an assistant in the office I
7 work at, named Maggie Terry, she is just better at
8 pulling up documents than I am and then a former
9 accounting person, Sarah Oaken (ph), can get into the
10 old accounting software. I don't know how to do that.
11 And so that is easier to run a report as opposed to
12 piecemeal it together by manually and that would take
13 -- (laughing) I don't even know how long, but she can
14 only come over like on her lunch break because she --

15 JANICE STANTON: Where does she work
16 now, do you know?

17 DEL HODGES KIMBALL: I have no idea.

18 JANICE STANTON: Are you paying her
19 to help you?

20 DEL HODGES KIMBALL: No.

21 JANICE STANTON: Okay, so she is just
22 doing it for free?

23 DEL HODGES KIMBALL: Well, she worked
24 for ten years for me, so she is just being helpful.

25 JANICE STANTON: Have you provided

1 Mr. Pelofsky copies of the annuity statements that I
2 asked for?

3 DEL HODGES KIMBALL: I believe so.

4 JANICE STANTON: I haven't gotten
5 those annuity statements and --

6 DEL HODGES KIMBALL: At Northwestern
7 (inaudible) -- yes.

8 JANICE STANTON: Yes, okay. So --
9 and I think you said there was three annuities?

10 DEL HODGES KIMBALL: There is three
11 annuities and one term life.

12 JANICE STANTON: Okay.

13 DEL HODGES KIMBALL: Policy.

14 JOEL PELOFSKY: Oh, we're talking
15 about insurance policy.

16 JANICE STANTON: Well, I think
17 there's -- I think what he said at the last 341
18 meeting was that he had three annuities with
19 Northwestern Mutual.

20 DEL HODGES KIMBALL: There were three.

21 JANICE STANTON: And that there is
22 also a term life insurance policy --

23 DEL HODGES KIMBALL: With Prudential.

24 JANICE STANTON: And I think you also
25 or at least I believe you also have a cash value life

1 insurance policy.

2 DEL HODGES KIMBALL: Well, no --

3 JANICE STANTON: You don't?

4 JOEL PELOFSKY: What we have and I'm
5 not sure about the documents themselves, but I have
6 records that show that there were -- what appears to
7 be -- three cash value life insurance policies.

8 JANICE STANTON: Okay.

9 JOEL PELOFSKY: And Prudential which
10 is a term policy but we haven't gotten that yet.

11 JANICE STANTON: I thought you just
12 said you had those.

13 DEL HODGES KIMBALL: (Inaudible) --

14 JOEL PELOFSKY: I have the three
15 Northwestern's.

16 JANICE STANTON: Okay. So can I get
17 those because that was requested at my last 341
18 meeting and in my letter of November 20th?

19 JOEL PELOFSKY: Yeah, well we just
20 got it about a week ago now, so -- and I have been
21 integrating that into the Schedule. So -- yeah.

22 JANICE STANTON: Okay, so heres what
23 I want today (laughing), can I get those statements
24 from you today or at least the account number because
25 I am going to subpoena Northwestern Mutual but if you

1 have them Joel, I don't know why I can't get them.

2 JOEL PELOFSKY: Yeah.

3 JANICE STANTON: Okay.

4 JOEL PELOFSKY: I can get them down
5 to you. Yeah.

6 JANICE STANTON: And you know, you
7 can just fax them over is fine with me. So the
8 statements on the annuity and the insurance policies
9 if that is what it is -- so we can see what it is.

10 JOEL PELOFSKY: Yeah.

11 JANICE STANTON: Okay. The other
12 thing that I asked for that you provided -- you
13 provided the declaration pages for the insurance
14 policies. What I really wanted was the insurance
15 policy itself on the contents.

16 DEL HODGES KIMBALL: Okay, that is
17 what I was given, so.

18 JANICE STANTON: It was given to Mr.
19 Pelofsky?

20 JOEL PELOFSKY: I think --

21 DEL HODGES KIMBALL: (inaudible)
22 declarations.

23 JANICE STANTON: Okay, so what I
24 wanted to see is the entire policy so I could see if
25 there is any additional writers and so forth.

1 DEL HODGES KIMBALL: Okay, I'll have
2 to get that.

3 JANICE STANTON: Okay. Is that
4 something that you can get this week?

5 DEL HODGES KIMBALL: Yeah.

6 JANICE STANTON: Okay.

7 DEL HODGES KIMBALL: For sure.

8 JANICE STANTON: Besides sitting down
9 with Mr. Pelofsky and besides the two individual you
10 just told us about, is there anyone else that has
11 helped you with the bankruptcy Schedules or your
12 amended Schedules you are preparing now?

13 DEL HODGES KIMBALL: No.

14 JANICE STANTON: And you're
15 personally familiar with all the information
16 contained in the paperwork?

17 DEL HODGES KIMBALL: Well, I mean
18 some of it I haven't looked at in a long time, but
19 yes for the most part.

20 JANICE STANTON: Okay. Did you sit
21 down with Mr. Pelofsky and go through each question
22 that's asked of you in the paperwork that you need to
23 fill out?

24 DEL HODGES KIMBALL: Not yet.

25 JANICE STANTON: When -- why not?

1 DEL HODGES KIMBALL: We just haven't
2 gotten that far along in the process.

3 JANICE STANTON: Okay. When do you
4 anticipate doing that?

5 DEL HODGES KIMBALL: I don't know how
6 long it will take.

7 JOEL PELOFSKY: I would say that
8 because I'm certainly aware of your admonition about
9 that and we have reviewed various questions, but we
10 haven't finish and so I would say, you know, before
11 the 24th.

12 JANICE STANTON: Before December
13 24th?

14 JOEL PELOFSKY: Yes.

15 JANICE STANTON: So I told your
16 attorney that I am going to file a motion to compel
17 you to get the amended Schedules on file, so again it
18 is important that we get those completed. You know
19 that, right?

20 DEL HODGES KIMBALL: Yeah, I just
21 want to be more accurate than I was last time.
22 That's why it's taking longer.

23 JANICE STANTON: Okay. And why was
24 so much left off the Schedules?

25 DEL HODGES KIMBALL: I guess probably

1 my misunderstanding of what was required to be put in
2 there.

3 JANICE STANTON: Okay, and what do
4 you understand now that's required of you to put in
5 the Schedules?

6 DEL HODGES KIMBALL: Well, we sat
7 down and discussed more of the details of what -- of
8 what things needed to be in there now, and now I just
9 think that I just didn't know.

10 JANICE STANTON: You understand all
11 of your property, regardless of whether or not you
12 don't think its worth much, has to be identified
13 Schedules.

14 DEL HODGES KIMBALL: I do now.

15 JANICE STANTON: Okay, because I
16 think I said that about fifteen times at the last
17 meeting. You understand that, right?

18 DEL HODGES KIMBALL: Yes.

19 JANICE STANTON: Okay. And that's
20 your intention?

21 DEL HODGES KIMBALL: yes.

22 JANICE STANTON: Okay, very good.
23 And you're also required to identify all of your
24 creditors even if you want to pay them back in the
25 future, you understand that?

1 DEL HODGES KIMBALL: Yes.

2 JANICE STANTON: Okay. The November
3 20th letter that I sent to you and your attorney, I
4 want to go through that. Do you -- I can have you
5 look at that. I just want to make sure that we are
6 all on the same page as to what has not been provided
7 and what needs to be provided. Okay, so what I need
8 to get from you is the tax returns from those
9 entities in which you held an interest or hold an
10 interest that file separate tax returns.

11 JOEL PELOFSKY: Yes, we have
12 requested that of the accountant and my understanding
13 is -- I haven't gotten it yet -- is that she put that
14 on a disk --

15 JANICE STANTON: Okay.

16 JOEL PELOFSKY: And we would have it
17 this week.

18 JANICE STANTON: I also requested the
19 LTS bank statements and Glacier bank statements for
20 the last two years, at least starting out that's what
21 I would like. And I think what you said at the last
22 341 meeting was that all you had to do was print
23 those bank statements.

24 DEL HODGES KIMBALL: Well, from this
25 letter or --

1 JANICE STANTON: Well --

2 DEL HODGES KIMBALL: Well, we -- I
3 think -- I think if I have the --

4 JOEL PELOFSKY: Yes --

5 DEL HODGES KIMBALL: (Inaudible) --

6 JOEL PELOFSKY: I'm in the process of
7 --

8 JANICE STANTON: Okay.

9 JOEL PELOFSKY: Of just going through
10 that and then we will get that to you this week.

11 JANICE STANTON: Can I get it today?
12 I mean what is it Joel that you have to go through to
13 look at? I mean why can't you give those to me?

14 JOEL PELOFSKY: Well, I would like to
15 know what they say. (Laughing).

16 JANICE STANTON: Okay.

17 JOEL PELOFSKY: But other than that,
18 yeah it's --

19 JANICE STANTON: I mean, I'm going to
20 get it one way or another.

21 JOEL PELOFSKY: Well, I know. We are
22 not fighting about that. Let's say tomorrow because
23 today is somewhat hectic.

24 JANICE STANTON: Okay.

25 JOEL PELOFSKY: I've Mr. Furseth here

1 and that's not an --

2 JANICE STANTON: Okay, so at the 341
3 meeting on November 18th, I also asked you for LTS
4 bank statements and Glacier Management. That was not
5 in my letter of November 20th admittedly. But you
6 did say that you could just print those statements
7 off, is that still --

8 DEL HODGES KIMBALL: Well, I -- I --
9 I found out after we spoke that I could get up to
10 like the last three months. The rest I had to get
11 requested, so I would have to request --

12 JANICE STANTON: Okay.

13 DEL HODGES KIMBALL: Those Glacier
14 ones but I already have the LTS ones.

15 JANICE STANTON: Okay, so if you can
16 get me the LTS ones. The Glacier bank statements, if
17 you can print the last three months off and get those
18 to me immediately.

19 DEL HODGES KIMBALL: Yeah, that
20 should be easy.

21 JANICE STANTON: And then have you
22 request it for the last two years.

23 DEL HODGES KIMBALL: I didn't know I
24 had to so I didn't.

25 JANICE STANTON: All right. So let's

1 do that.

2 DEL HODGES KIMBALL: I'll do that
3 today. It usually takes them about two or three
4 days.

5 JANICE STANTON: Okay. I'd also like
6 Claw Consulting.

7 DEL HODGES KIMBALL: Okay.

8 JANICE STANTON: That is probably
9 something that you can just print off.

10 DEL HODGES KIMBALL: Yep.

11 JANICE STANTON: Can you do that for
12 the last two years?

13 DEL HODGES KIMBALL: (Inaudible).

14 JANICE STANTON: You think you can do
15 that?

16 DEL HODGES KIMBALL: Yeah.

17 JANICE STANTON: Okay. In my letter
18 of November the 20th, I had asked for the bank
19 statements from Missouri Bank for the last two years.

20 DEL HODGES KIMBALL: Um-hum.

21 JANICE STANTON: Do you have those?

22 DEL HODGES KIMBALL: I have them
23 done, I just haven't given them to Mr. Pelofsky yet.

24 JANICE STANTON: Okay. When do you
25 anticipate giving them to Mr. Pelofsky?

1 DEL HODGES KIMBALL: Well, he asked
2 that we go through them so that would be sometime
3 this week or next week.

4 JANICE STANTON: Okay, is that
5 something I can just get a copy with -- a copy now or
6 tomorrow? I mean, I'm going to get those again one
7 way or the other.

8 DEL HODGES KIMBALL: Sure.

9 JANICE STANTON: Okay. And that way
10 you guys can look at it if you need to amend your
11 Schedules but --

12 DEL HODGES KIMBALL: Yeah.

13 JANICE STANTON: And that would
14 include the closed bank accounts at Missouri Bank. I
15 think you said that there was a joint bank account
16 there.

17 DEL HODGES KIMBALL: No, I haven't
18 gotten that.

19 JANICE STANTON: Okay. And that is
20 something that I think was asked for at that last 341
21 meeting, so I would like to get those too. At the
22 last 341 meeting, I also asked for W2s, you have
23 provided the W2s for 2013 and 2014. But I also
24 requested 1099s and K1s that are associated with your
25 tax returns.

1 DEL HODGES KIMBALL: I thought those
2 were included in the tax returns.

3 JOEL PELOFSKY: They're not. I
4 discussed that with the accountant. The work papers
5 are available and I thought you told me that you
6 would just go out there and look at them.

7 JANICE STANTON: Okay. I mean I
8 think it's easy enough to get me the 1099s and the
9 K1s to start with.

10 JOEL PELOFSKY: All right, I'll get
11 those.

12 JANICE STANTON: When I speak of work
13 papers, I'm thinking that's going to be files of work
14 papers associated with the tax returns versus just
15 the --

16 JOEL PELOFSKY: I have no idea but --

17 JANICE STANTON: Okay.

18 JOEL PELOFSKY: All right. We will
19 get you the 1099s and the K1s.

20 JANICE STANTON: Okay. In the
21 November 20th letter, I asked for the location of the
22 LTS server. Do you know where that is?

23 DEL HODGES KIMBALL: Um-hum.

24 JANICE STANTON: You do, okay. Where
25 is it?

1 DEL HODGES KIMBALL: In California.

2 JANICE STANTON: Okay, you said that
3 before. Do you have an address? You were going to
4 find that out.

5 DEL HODGES KIMBALL: Oh, okay -- I'll
6 -- I can get that for you.

7 JANICE STANTON: When can you get
8 that for me?

9 DEL HODGES KIMBALL: This week,
10 that's not a problem.

11 JANICE STANTON: Okay. Have you
12 provided that information to Joel?

13 DEL HODGES KIMBALL: No.

14 JANICE STANTON: Okay.

15 DEL HODGES KIMBALL: I didn't realize
16 you wanted the address.

17 JANICE STANTON: Okay. Let's see --
18 Also, information regarding all payments made to any
19 attorney retained by you or any of your affiliates.

20 DEL HODGES KIMBALL: I'm in the
21 process of doing that right now.

22 JANICE STANTON: Have you provided
23 any information to Mr. Pelofsky in that regard?

24 DEL HODGES KIMBALL: No.

25 JANICE STANTON: And when will that

1 information be available?

2 DEL HODGES KIMBALL: I will be able to
3 do that this week.

4 JANICE STANTON: Okay. The
5 information regarding accounts receivables, due LTS
6 and Glacier, and the sale of the receivable.

7 JOEL PELOFSKY: We have the
8 information about receivables and I think I mentioned
9 that to you. I have some papers, I can get those
10 probably to you today on the receivables. As far as
11 Glacier is concerned, I don't think we have done that
12 yet.

13 DEL HODGES KIMBALL: No, I haven't.
14 I did it for the LTS Schedule.

15 JANICE STANTON: Okay, what would you
16 have to do to get that for Glacier?

17 DEL HODGES KIMBALL: I would just
18 have to go look in the database.

19 JANICE STANTON: Okay, so that would
20 be pretty simple?

21 DEL HODGES KIMBALL: Yeah, it's
22 something I can do this week.

23 JANICE STANTON: Documentation
24 showing money due you from friends or relatives.

25 DEL HODGES KIMBALL: Right.

1 JANICE STANTON: Are you working on
2 that?

3 DEL HODGES KIMBALL: Yeah, I mean
4 that is part of going through the two years of bank
5 statements.

6 JANICE STANTON: And have you
7 provided any information to Mr. Pelofsky about that?

8 DEL HODGES KIMBALL: Not yet.

9 JANICE STANTON: Okay.

10 DEL HODGES KIMBALL: I mean I've
11 pulled the bank statements, I just haven't had a
12 chance to go through them.

13 JANICE STANTON: Okay. What is
14 Rennington Limited (ph)?

15 DEL HODGES KIMBALL: It's called --
16 it's Garth Self's consulting company.

17 JANICE STANTON: Okay.

18 DEL HODGES KIMBALL: In Moscow.

19 JANICE STANTON: And you don't hold
20 an interest in that company?

21 DEL HODGES KIMBALL: No.

22 JANICE STANTON: Can you tell you me
23 why you paid Sky Crobaum (ph) in the last six months?

24 DEL HODGES KIMBALL: He was doing --
25 I was audited by the IRS and he was my tax attorney.

1 JANICE STANTON: And do you still owe
2 -- do you owe him some money?

3 DEL HODGES KIMBALL: Yes.

4 JANICE STANTON: Do you know
5 approximately how much you owe him?

6 JOEL PELOFSKY: He's Scheduled.

7 JANICE STANTON: Okay, do you know
8 approximately how much you owe him?

9 DEL HODGES KIMBALL: I think it is
10 about seventeen, eighteen thousand dollars.

11 JANICE STANTON: Okay. And I notice
12 that there is a payment coming out of your Missouri
13 Bank account to him.

14 DEL HODGES KIMBALL: There might have
15 been, I probably written him a check personally.

16 JANICE STANTON: Okay. Is that the
17 only way that he would have gotten paid is from you
18 writing a check from the Missouri Bank account?

19 DEL HODGES KIMBALL: Right.

20 JANICE STANTON: Okay. All right.
21 Let me ask you a question about the Verona property.
22 Who took the tax deduction for the interest payment
23 since you have been under the contract for --

24 DEL HODGES KIMBALL: I have no idea.

25 JANICE STANTON: You don't know if

1 you've taken that?

2 DEL HODGES KIMBALL: I don't believe
3 so.

4 JANICE STANTON: Okay.

5 DEL HODGES KIMBALL: Because I
6 haven't made the tax payment.

7 JANICE STANTON: Okay. At the last
8 341 meeting, you stated that you stopped making the
9 mortgage payments on the Verona property?

10 DEL HODGES KIMBALL: In August.

11 JANICE STANTON: In August. Why did
12 you do that? Why did you stop making a payment?

13 DEL HODGES KIMBALL: I was advised by
14 Mr. Pelofsky not to make any mortgage payments.

15 JANICE STANTON: Did he tell you why?

16 DEL HODGES KIMBALL: He said that is
17 just part of the bankruptcy procedure.

18 JANICE STANTON: Okay. Have you
19 returned the BMW yet?

20 DEL HODGES KIMBALL: No.

21 JANICE STANTON: Isn't that your
22 intention, to return it?

23 DEL HODGES KIMBALL: Yes. It's just
24 sitting in my garage. I wasn't quite sure what to do
25 with it.

1 JANICE STANTON: Have you been paying
2 the lease payment?

3 DEL HODGES KIMBALL: No.

4 JANICE STANTON: Who was driving that
5 car?

6 DEL HODGES KIMBALL: It was just a --
7 it was a third car that we had.

8 JANICE STANTON: Who has been driving
9 the Ranger Rover in the last year?

10 DEL HODGES KIMBALL: Well, it's not
11 drivable right now.

12 JANICE STANTON: Okay.

13 DEL HODGES KIMBALL: Before that, my
14 wife had.

15 JANICE STANTON: Wasn't that Range
16 Rover in Chicago for a while?

17 DEL HODGES KIMBALL: Yes.

18 JANICE STANTON: Okay.

19 DEL HODGES KIMBALL: Also Colorado.

20 JANICE STANTON: Oh, in both places?

21 DEL HODGES KIMBALL: It was in
22 Colorado last.

23 JANICE STANTON: When did it back to
24 Kansas City?

25 DEL HODGES KIMBALL: When we sold the

1 Colorado property.

2 JANICE STANTON: And that was about a
3 year ago or a little over a year ago.

4 DEL HODGES KIMBALL: A year and a
5 half ago.

6 JANICE STANTON: Okay.

7 DEL HODGES KIMBALL: But it's
8 undrivable right now. The suspension has collapsed.

9 JANICE STANTON: Okay. What is Red
10 River Exploration (ph)?

11 DEL HODGES KIMBALL: It's an oil and
12 gas company that Sam and I own.

13 JANICE STANTON: Do you have any idea
14 what that's worth?

15 DEL HODGES KIMBALL: I don't think
16 it's worth anything.

17 JANICE STANTON: Okay. Does it have a
18 bank account?

19 DEL HODGES KIMBALL: Yes.

20 JANICE STANTON: Where is the bank
21 account?

22 DEL HODGES KIMBALL: Five Star Bank
23 in Colorado.

24 JANICE STANTON: So can I get copies
25 of the bank statements for the last two years for

1 that company?

2 DEL HODGES KIMBALL: Sure.

3 JANICE STANTON: Okay. Is that
4 something that you can print off pretty easily?

5 DEL HODGES KIMBALL: Yeah, when I ask
6 for the other ones, I will ask for that at the same
7 time.

8 JANICE STANTON: Okay.

9 DEL HODGES KIMBALL: I don't even
10 know if there any activity quite honestly.

11 JANICE STANTON: The other thing I
12 asked for at the last 341 meeting that was not
13 included in my November 20th letter, is that you were
14 going to provide a list of the settlement contracts
15 with the investors, and I believe you stated that you
16 were giving them shares in the Evonik LLC.

17 DEL HODGES KIMBALL: Um-hum.

18 JANICE STANTON: So you were going to
19 provide those settlement contracts for me.

20 DEL HODGES KIMBALL: Sure.

21 JANICE STANTON: Okay, so is that
22 something that you can get Mr. Pelofsky in the next -
23 -

24 DEL HODGES KIMBALL: This week I
25 probably --

1 JANICE STANTON: This week?

2 JOEL PELOFSKY: I think I have a copy
3 of that. I thought that I told you about that.

4 JANICE STANTON: There's -- well, I
5 think there is just more than just that one
6 settlement agreement. I think there is settlement
7 agreements with investors and then there was
8 settlement agreement I think that was done with the
9 Spero group, right?

10 JOEL PELOFSKY: Well, I think that's
11 the same --

12 JANICE STANTON: I don't think it is.

13 JOEL PELOFSKY: They're different?

14 JANICE STANTON: Yeah.

15 JOEL PELOFSKY: Okay.

16 JANICE STANTON: Yeah, so --

17 DEL HODGES KIMBALL: Yeah.

18 JANICE STANTON: So if you could get
19 me --

20 DEL HODGES KIMBALL: It's basically
21 one -- it's a standard format for everybody and then
22 they just have a signature page, but I can give you
23 all the copies of that. It's no big -- It's not a
24 problem.

25 JANICE STANTON: Okay. All right.

1 Well, I guess that's all the questions I have for you
2 today. We are going to continue this meeting and
3 just so you know, and I have told your attorney, I am
4 going to file a motion to compel you to get all this
5 stuff together and get it done, so we can move
6 forward with your case, otherwise it's just going to
7 -- we'll come back and forth here every other week
8 and see what you're --

9 DEL HODGES KIMBALL: I'd prefer not
10 to do that and --

11 JANICE STANTON: I Understand.

12 DEL HODGES KIMBALL: Prefer to get
13 everything --

14 JOEL PELOFSKY: We all prefer not to
15 do that.

16 JANICE STANTON: So it's important
17 that you start working on this and meeting the
18 deadlines that we have imposed and we've been trying
19 to work with you on it but it seems like things are
20 not getting done the way they should. Anybody have
21 any questions? Neil.

22 NEIL SADER: I'm Neil Sader here on
23 behalf of Collective Recovery Trust. There are a few
24 questions regarding Evergreen and Evonik, I want to
25 try to nail down. Last time we were here, as I

1 recall you testified or it may have been in one of
2 SOFA, in your Schedule that Evergreen is an entity
3 that owns Evonik, is that correct?

4 DEL HODGES KIMBALL: Evergreen
5 International Limited.

6 NEIL SADER: And there are actually
7 two Evergreens, correct?

8 DEL HODGES KIMBALL: There is an
9 Evergreen Capital Partners that was a US based LLC
10 that had nothing to do with Evergreen International.

11 NEIL SADER: So Evergreen --

12 DEL HODGES KIMBALL: We just happened
13 to use the same name twice.

14 NEIL SADER: Evergreen International
15 what?

16 DEL HODGES KIMBALL: Limited.

17 NEIL SADER: And that is an entity
18 out of -- that is chartered where?

19 DEL HODGES KIMBALL: In Bermuda.

20 NEIL SADER: In Bermuda?

21 DEL HODGES KIMBALL: Yes.

22 NEIL SADER: And is it in good
23 standing?

24 DEL HODGES KIMBALL: Yes.

25 NEIL SADER: And are you an officer

1 in that entity? Or a director?

2 DEL HODGES KIMBALL: I don't believe
3 so.

4 NEIL SADER: Who are the officers and
5 directors in that entity?

6 DEL HODGES KIMBALL: I would have to
7 double check with the agent, but I believe it is Ian
8 Bottomley and Garth Self.

9 NEIL SADER: I'm sorry, who?

10 DEL HODGES KIMBALL: Ian Bottomley
11 and Garth Self.

12 NEIL SADER: Garth, how do you spell
13 the last name?

14 DEL HODGES KIMBALL: S-E-L-F.

15 NEIL SADER: Oh, Self, okay. The
16 other Evergreen is what again, what's it called?

17 DEL HODGES KIMBALL: Evergreen Capital
18 Partners.

19 NEIL SADER: And it has nothing to do
20 with Evonik?

21 DEL HODGES KIMBALL: Nothing.

22 NEIL SADER: Do you know, does
23 Orbitrust or MMC own anything other than Bistro
24 Denge?

25 DEL HODGES KIMBALL: Orbitrust is

1 owned by Evonik and two other investment groups and
2 then Orbitrust owns three or four Cypress entities
3 that own the Russian entity because of the dual
4 double taxation treaty between the United States and
5 Russia.

6 NEIL SADER: So --

7 DEL HODGES KIMBALL: It's more of a
8 technical thing and not a --

9 NEIL SADER: Orbitrust owns how many
10 other entities?

11 DEL HODGES KIMBALL: There is four
12 entities in between Orbitrust and with what we call
13 an MMK, which would be the official name in Bistro
14 Denge is just the brand name.

15 NEIL SADER: Correct. MMK is the
16 owner of Bistro Denge -- Denge.

17 DEL HODGES KIMBALL: Dingy.

18 NEIL SADER: Okay.

19 DEL HODGES KIMBALL: Yeah.

20 NEIL SADER: And there are four
21 entities between Orbitrust and MMK.

22 DEL HODGES KIMBALL: Yes.

23 NEIL SADER: Those four entities are
24 they -- for a lack of a better term -- vertically.

25 Is it vertical? One owns, one owns, you know, one

1 owns one, the other owns the other, and eventually it
2 gets to MMK or is it more horizontal?

3 DEL HODGES KIMBALL: It's in my -- my
4 understanding is as not being a tax expert, is that
5 one entity was created for one part of it for taxes
6 and one was created for another entity for taxes and
7 then they all are owned in MMK, but I would have to
8 get a more accurate answer for that because I'm not
9 sure exactly how it --

10 NEIL SADER: The four entities though
11 are all domesticated in Cypress?

12 DEL HODGES KIMBALL: Yes. That was
13 legal structure designed by Akin Gump, not anything
14 to do with me.

15 NEIL SADER: Why is Crobaum listed as
16 has something to do with Evergreen? Sky Crobaum here
17 in town.

18 DEL HODGES KIMBALL: Because
19 Evergreen was an entity that was audited by the IRS,
20 not Evergreen International, Evergreen Capital
21 Partners.

22 NEIL SADER: Got it, okay. Evonik
23 reduced it's ownership in Orbitrust approximately
24 when? It had been a fifty percent owner, it reduced
25 it to thirty-three percent approximately when?

1 DEL HODGES KIMBALL: Oh, when we
2 brought in the third partner which I think was around
3 August of 2011. I'd have to double check. It's been
4 a while.

5 NEIL SADER: And that third partner
6 was who?

7 DEL HODGES KIMBALL: It's called
8 Exstar (ph) is their name that belongs in Orbitrust.
9 The partnership that owns thirty-three percent of
10 Orbitrust is called Exstar.

11 NEIL SADER: Okay. But Orbitrust
12 does not operate any other businesses that you know
13 of other than that Russian entity?

14 DEL HODGES KIMBALL: No.

15 NEIL SADER: And is Cananis (ph) the
16 entity in Cypress that is responsible for chartering
17 --

18 DEL HODGES KIMBALL: that's the
19 registered agent.

20 NEIL SADER: Is that -- what type of -
21 - is that a lawyer or is that --

22 DEL HODGES KIMBALL: It's they do
23 registered agent, lawyer, all kinds of different
24 services.

25 NEIL SADER: In the Statement of

1 Financial Affairs that I think were filed by yourself
2 and well -- you did have an amendment or you had a
3 listing under values that you stated that you believe
4 that the value of MMK was approximately seventeen
5 million dollars, seventeen and a half million
6 dollars. How did you base and what's -- how did you
7 base that?

8 DEL HODGES KIMBALL: Really there was
9 no -- it's really hard to base the value of a Russian
10 company right now with the fluctuations of the Ruble
11 and all the different sanctions, so it was kind of
12 just a stab in the dark.

13 NEIL SADER: You stated also that
14 there was approximately thirty-two million dollars'
15 worth of debt associated with the entity. Are you
16 simply saying that there were maybe forty-seven
17 million dollars' worth of accounts payable? Was it
18 as simple as that or is it more of a nuance
19 calculation?

20 DEL HODGES KIMBALL: It was off the
21 top of my head. There was no -- the Ruble has gone
22 from thirty Rubles to the dollar, up to ninety Rubles
23 to the dollar and I think it's around seventy. So
24 everyday it is fluctuating. And unfortunately when
25 Exstar lent Orbitrust money, it was in dollars but

1 all the money that runs through the company is in
2 Rubles so there is constant fluctuation on what the -
3 -

4 NEIL SADER: The thirty-two million
5 dollars' worth of debt that you stated is --

6 DEL HODGES KIMBALL: Is in dollars.

7 NEIL SADER: In dollars. Is that
8 what it is -- who holds that debt?

9 DEL HODGES KIMBALL: Exstar holds
10 that debt.

11 NEIL SADER: Exstar holds that debt.

12 DEL HODGES KIMBALL: Yes.

13 NEIL SADER: Okay, and that was then
14 -- that was loaned directly to Orbitrust?

15 DEL HODGES KIMBALL: Yes.

16 NEIL SADER: Nothing further right
17 now.

18 JANICE STANTON: Let me -- before we
19 go any further, I want to ask you a question, Mr.
20 Kimball you had agreed to pay the foreign
21 registration fees, and has that been done?

22 DEL HODGES KIMBALL: It's in process.
23 Everybody understands.

24 JANICE STANTON: Who's everybody?

25 DEL HODGES KIMBALL: All the

1 different agents. We have -- they have a thirty day
2 window. For example, Evergreen is not even due until
3 middle of January so I am in the process of getting
4 all of those taken care of.

5 JANICE STANTON: Okay, so I have
6 asked your attorney to provide me updates on that and
7 the minute you pay it or --

8 DEL HODGES KIMBALL: Sure.

9 JANICE STANTON: Or Mr. Furseth pays
10 it, I want to be the first person to know that.
11 Okay.

12 DEL HODGES KIMBALL: Okay, no
13 problem.

14 NEIL SADER: Can I just ask one other
15 quick question?

16 JANICE STANTON: Yes.

17 NEIL SADER: Is there only one
18 Evonik?

19 DEL HODGES KIMBALL: There is an
20 Evonik Holdings, LLC.

21 NEIL SADER: That is the only Evonik
22 entity that there is?

23 DEL HODGES KIMBALL: No. There is an
24 Evonik in British Virgin Islands.

25 NEIL SADER: Okay, let me just

1 clarify. And the one that owns the interest in
2 Orbitrust is which?

3 DEL HODGES KIMBALL: The one --
4 Evonik Limited in BVI.

5 NEIL SADER: It's called Evonik
6 Limited and it's a British Virgin Islands company?

7 DEL HODGES KIMBALL: yes.

8 NEIL SADER: The other one is what?

9 DEL HODGES KIMBALL: Evonik LLC.

10 NEIL SADER: And where is it out of?

11 DEL HODGES KIMBALL: Delaware.

12 NEIL SADER: And what does it hold?

13 DEL HODGES KIMBALL: It was the
14 vehicle that we were going to use for settlements.

15 NEIL SADER: And so is it active or
16 is it --

17 DEL HODGES KIMBALL: It's active.

18 NEIL SADER: Does it have assets?

19 DEL HODGES KIMBALL: Well, that
20 depends on if whether or not the settlements are
21 going to go through.

22 NEIL SADER: Okay, thank you.

23 JANICE STANTON: And just so you
24 know, I believe Evonik Holdings was created this last
25 summer.

1 DEL HODGES KIMBALL: It was created
2 specifically for the --

3 NEIL SADER: The Evonik -- you mean
4 the LLC?

5 DEL HODGES KIMBALL: Yes.

6 JANICE STANTON: Any other questions
7 on this side? Okay. Any questions over here? No,
8 okay. All right. So what we'll do is I will get
9 with the US Trustees Office to get a new date for the
10 continued 341 meeting and hopefully you will get your
11 Schedules on file.

12 DEL HODGES KIMBALL: Okay, thank you.

13 JANICE STANTON: Okay.

14

15 (Recording ended)

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1 CERTIFICATE OF TRANSCRIPTIONIST

2

3 I, Kathleen A. Yager, within and for the
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11 any attorney or counsel employed by the parties
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13 the outcome of the action.

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19 Kathleen A. Yager

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21

22

23

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