

EXHIBIT 26

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
Case No. C-12-6003 CRB(EDL)

DEPOSITION OF ROBERT BENNETT July 7, 2015

IN RE HEWLETT-PACKARD COMPANY
SHAREHOLDER DERIVATIVE LITIGATION

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Job No. NJ2099501

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1 Pursuant to Notice and the Federal
2 Rules of Civil Procedure, the deposition of
3 ROBERT BENNETT, called by Objector A.J. Copeland,
4 was taken on Tuesday, July 7, 2015, commencing at
5 9:09 a.m., at 200 Inverness Drive West, Englewood,
6 Colorado, before Sharon R. Dobson, Registered
7 Professional Reporter and Notary Public within and
8 for the State of Colorado.

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I N D E X

DEPOSITION OF ROBERT BENNETT

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

2 ROBERT BENNETT,

3 being first duly sworn in the above cause, was
4 examined and testified as follows:

5 EXAMINATION

6 BY MR GREENFIELD:

7 Q Mr. Bennett, do you know why you're here
8 today?

9 A I'm here for a deposition.

10 Q Do you know why?

11 A I'll let you explain it to me.

12 Q Are you aware that the Court has
13 ordered --

14 A Yes.

15 Q Okay. -- one of three members of the --
16 what is called the Demand Review Committee --

17 A Correct.

18 Q -- to appear? Okay.

19 What is the Demand Review Committee, as
20 far as you know?

21 A The Demand Review Committee was a
22 committee that was formed by the Hewlett-Packard
23 board to look into demands and derivative actions
24 filed following the Autonomy transaction.

25 Q Okay. Do you know which litigations were

1 encompassed by the mandate for the committee?

2 A Well, there was -- I know there was a
3 derivative action and various demand letters.

4 Q Okay. Do you know if one of those demand
5 letters was from my client, Andrew J. Copeland?

6 A I believe so.

7 Q Okay. Who was on the committee?

8 A I'm on the committee. Gary Reiner. And
9 Ralph Whitworth was on the committee, but he has
10 since resigned from the board.

11 Q Is the committee still functioning?

12 A I -- I believe we are still intact. I
13 don't remember what we last dealt with.

14 Q When was the last time you had any kind of
15 either face-to-face meeting or telephone conference
16 as committee?

17 A I don't recall.

18 Q Was it within the last year?

19 A Perhaps, but I -- I just don't recall.

20 Q Do you have any idea?

21 A I -- I can't recall, as I said.

22 Q If you could -- you mentioned the
23 committee was set up to consider demands in
24 litigation. Did it have any other function, as far
25 as you were concerned?

1 A Could you repeat that?

2 (Last question read.)

3 A My recollection is that the primary
4 function was to review the demands and the
5 derivative litigation.

6 Q (By Mr. Greenfield) And was there a
7 secondary function?

8 A I don't recall.

9 Q How long were you on the committee?

10 A I joined the committee in July of 2013.

11 Q Right at the time you joined the board?

12 A Correct.

13 Q How did you become a member of the board
14 of Hewlett-Packard, which -- I'll use HP in the
15 future for ease of -- save some words.

16 A I was invited to join the board. I don't
17 know what process they went through, but I was
18 invited, I think, initially by Ralph Whitworth.

19 Q Roughly when was that?

20 A Well, I joined in July of 2013. I don't
21 remember exactly when it was first discussed. It
22 may have been April or May of 2013. I don't recall.

23 Q Did you meet with Ralph Whitworth alone or
24 with anyone else?

25 A In that --

1 Q Let me -- let me back up. Was -- when
2 Ralph invited you to be on the board, was that a
3 telephone invitation or was it a meeting?

4 A I believe it was first mentioned to me by
5 telephone. I subsequently met with a number of
6 other directors, and I don't recall meeting in
7 person with Ralph Whitworth subsequent to that.
8 Other -- he -- I assume at some point he delivered
9 to me the invitation that the board would like me to
10 join them.

11 Q Okay. The meeting with the other
12 directors that you just referred to, was that in the
13 nature of an interview or just to fill you in on
14 facts or both?

15 A I would describe it as -- and there were
16 several of them. I met with Gary Reiner, with Ray
17 Lane, Marc Andreessen, and with Meg Whitman. I would
18 describe them as mutual interviews where they were
19 getting to know me, and I was doing my own
20 investigation, my own research on the company.

21 Q What type of research on the company did
22 you do?

23 A I read some analyst reports. I believe I
24 had looked at the -- some of the recent financials.
25 And I had those interviews with the directors.

1 Q Have you been a director of any other
2 publicly owned company?

3 A Yes.

4 Q Which ones?

5 A I am currently a director, in addition to
6 HP, of Liberty Media Corporation, of Discovery
7 Communications, and of Sprint Corporation.

8 Q I'm sorry?

9 A Sprint Corporation.

10 Q Yes. In each of those in -- companies
11 where you joined the board, were you similarly
12 interviewed to your experience with HP?

13 A With respect to Liberty, I joined -- when
14 I joined the board I was -- is when I was named CEO,
15 so it wasn't really necessary in that context. I
16 was well known to the directors.

17 With respect to Discovery, I joined the
18 board of the Discovery predecessor when I became CEO
19 of Liberty Media because it was owned by Liberty
20 Media. And it was a private -- Discovery was
21 private at the time, so there was not a -- a formal
22 process.

23 With respect to Sprint, I was invited to
24 join by their -- they had engaged a search firm to
25 find directors. And in that I met with one or two

1 of the directors. In advance.

2 Q When you considered joining the board, did
3 anyone tell you that you would be serving on a
4 Demand Review Committee?

5 A No.

6 Q Did you discuss with any of the directors
7 that you mentioned the acquisition of Autonomy PLC?

8 A I believe I -- I don't recall
9 specifically. I believe I brought it it up probably
10 in each instance.

11 Q Why did you bring it up?

12 A Well, it was a topic of discussion in --
13 in the press and in the analyst community, and
14 had -- had received a lot of press coverage, and so
15 I was aware of it as a -- a fact and that it had
16 created some issues, and so I wanted to understand
17 those better.

18 Q What were those issues?

19 A Well, primarily the stock had -- had
20 fallen significantly -- was what I was aware of.

21 Q Is that the only issue you were concerned
22 about?

23 A With respect to Autonomy, I think I wanted
24 to understand, you know, what the -- what -- what
25 had happened. But I was also curious. HP had had

1 a -- a number of years of turnover in CEOs, and so I
2 just wanted to have some historical perspective.
3 And I wanted to assure myself that the current board
4 was collegial and functional and, you know, really a
5 functioning board.

6 Q Had you any opinion that the board prior
7 to that time was less than collegial or functioning?

8 A At some point I had read more press
9 stories going back to the -- the Compaq acquisition.
10 I knew there was a lot of tension on the board about
11 that. And then there was the Carly Fiorina
12 termination. And there was things following that
13 that I -- received notoriety. So from what I had
14 read in the press, yes, there had been a history
15 of -- of certainly turnover in CEOs. And some of
16 that, it is my understanding, there was dissension
17 on the board.

18 Q Did you talk to any of those directors
19 with whom you spoke before joining the board about
20 Leo Apotheker?

21 A I -- I -- I can't remember the specifics.
22 I think it's likely that -- that his name came up,
23 but I can't remember what the specifics were.

24 Q Do you remember discussing Mr. Apotheker
25 with Ralph Whitworth at that time?

1 A I don't remember doing so, but I can't say
2 either way.

3 Q Do you recall him saying to you that we
4 made a real mistake in hiring Mr. Apotheker?

5 A I don't recall that. I don't recall
6 either way.

7 Q Did the DRC, Demand Review Committee, have
8 counsel?

9 A Yes.

10 Q Who?

11 A Proskauer Rose.

12 Q And who at that firm?

13 A Ralph Ferrara.

14 Q Who was David Cohen?

15 A He may have been one of the lawyers on the
16 team.

17 Q Okay. Did Mr. Ferrara's firm represent
18 the DRC up until the last involvement you had with
19 the committee?

20 A They were representing the committee when
21 I joined the committee, and represented the
22 committee at least through the -- the findings and
23 the resolutions that we -- that the committee made
24 and presented to the board.

25 Q Do you know who paid for the services of

1 Mr. Ferrara and his firm?

2 A I assume Hewlett-Packard paid.

3 Q Okay. Do you have any idea what
4 Hewlett-Packard paid for counsel's services to the
5 committee?

6 A I don't know the precise number, no.

7 Q Do you have an approximation?

8 A It's in the tens of millions, but I don't
9 recall.

10 Q Okay. Wasn't it in excess of \$30 million?

11 A It could have been. Again, I don't recall
12 the specific number.

13 Q Okay.

14 A I wouldn't be surprised if you said
15 30 million.

16 Q Okay. What did counsel do for the
17 \$30 million or whatever the number was?

18 A They conducted an extremely extensive
19 and thorough investigation of all the allegations
20 that had been made in the -- in the derivative
21 action in the demand letters. They interviewed
22 80 or 90 people. They reviewed hundreds of
23 thousands, if not more, pages of documents. They
24 consulted experts and other counsel. They did quite
25 a lot.

1 Q You say that the Proskauer firm was
2 already counsel to the committee before you joined
3 it.

4 A Yes.

5 Q Do you know who hired Proskauer to
6 represent the committee?

7 A I think -- my understanding is the
8 committee interviewed a couple -- two or three
9 different firms and chose Proskauer.

10 Q Okay. Do you know whether there was a
11 resolution of the board of directors of HP to hire
12 Proskauer?

13 A I don't know.

14 Q Have you ever seen any such resolution, as
15 far as you know?

16 A I may have. I may have, but I don't
17 recall seeing any.

18 Q Okay. Do you know whether the Demand
19 Review Committee was given the assignment by the
20 board to investigate the claims that were in the
21 derivative litigation and in the shareholder
22 demands?

23 A I believe that was the mandate of the
24 committee, yes.

25 Q Okay. Did you personally perform any

1 investigation of any of those claims?

2 A The -- the committee was permitted to
3 engage counsel and examiners and advisors to do the
4 investigation on behalf of the committee. I -- so
5 we reviewed the materials that had present -- had
6 been prepared as a result of the investigation by
7 the various people involved. I did personally
8 participate in one of the interviews with one of the
9 witnesses that --

10 Q Which one?

11 A With Leo. Could I just say Leo instead of
12 Leo Apotheker each time? It's easier to pronounce.

13 Q Yes.

14 A So Leo means Leo Apotheker, if that's all
15 right.

16 Q Okay. That's fine. Did you form any
17 impressions of him as a result of that interview?

18 A I had never met him before. And, yes, I
19 think I did form some impressions.

20 Q What were those impressions?

21 A I thought that he -- he presented himself
22 as -- as knowledgeable about the field, about the
23 business, about the company. Had a point of view as
24 to the appropriate strategy for the company. I'd
25 say that was -- that was my -- my impression.

1 Q By the way, have you ever served before on
2 either a Demand Review Committee, a special
3 committee of the board, or some committee similar to
4 that?

5 A I --

6 MR. WOLINSKY: You mean focused on
7 litigation or demand?

8 MR. GREENFIELD: Yeah.

9 Q (By Mr. Greenfield) Either litigation or
10 demands.

11 A I don't believe I've ever been on such a
12 committee.

13 Q Okay.

14 A I'm not positive, but I don't remember.

15 Q Okay. During the time that you served on
16 HP's DRC, can you approximate how much time you
17 actually devoted to service on the committee as
18 distinct from the time you spent as a board member?

19 A That's difficult to reconstruct. It would
20 be hard without spending a lot of time trying to go
21 through it. But we spent significant time on the
22 committee matters and also significant time on the
23 other director duties.

24 Q Who conducted the interview of Leo?

25 A Ralph Ferrara.

1 Q Did you ask questions as well?

2 A I believe I asked a couple questions. I
3 can't now remember what they were.

4 Q How long did the interview last?

5 A I would say, you know, I don't remember.
6 Two to three hours is my recollection, but I don't
7 remember specifically.

8 Q Did you discuss the acquisition of
9 Autonomy?

10 A As part of the interview, Ralph Ferrara
11 did ask questions about that.

12 Q Did you form any impression as to
13 Mr. Apotheker's credibility with respect to the
14 acquisition of Autonomy?

15 MR. WOLINSKY: Object to form.

16 A Can you say that again?

17 (Last question read.)

18 A Yes. I would say that I found him
19 credible, that -- that he felt that he had been
20 hired by the board to pursue a strategy, and that
21 Autonomy was consistent with that strategy, and that
22 the process of acquiring Autonomy had been thorough
23 and diligent and appropriate under the
24 circumstances, and that it was an important
25 acquisition for the company to make.

1 Q (By Mr. Greenfield) And you believed that
2 at the time he said it?

3 A I -- I believed that he was credible in
4 saying that. I believe that that was what he
5 believed.

6 Q Okay. Did he see -- did he say anything
7 at that interview with regard to being misled by
8 anybody in connection with the acquisition of
9 Autonomy?

10 A I don't remember him discussing that. I
11 just don't recall. I -- I assume it came up, but I
12 just don't remember.

13 Q Okay. Well, I understand it was a couple
14 years ago. Did you get a transcript of that
15 interview?

16 A No.

17 Q Did you ever ask to see one?

18 A I don't think I did, no.

19 Q Was there a written record of some sort of
20 that interview?

21 A I don't know.

22 Q Did you or the other members of the DRC
23 ever want to see any notes or transcript of what Leo
24 had said at the interview?

25 A It's not something I requested. And I

1 don't -- I don't recall -- I don't recall anyone
2 else requesting it either.

3 Q Do you believe that a transcript of the
4 interview of Leo was kept?

5 A I don't know.

6 Q Do you have any reason to believe one
7 wouldn't have been kept?

8 A I -- I don't know what Ralph Ferrara's
9 practice was.

10 Q Would it surprise you if there was no
11 written record of Leo's interview?

12 A Well, there was not a stenographer. I
13 don't -- I assume somebody may have been taking some
14 notes. I don't know what happened with those.

15 Q In interviewing Leo, did you expect at
16 some point you would have to make a decision with
17 respect to his conduct in the context of the
18 Autonomy acquisition?

19 A I understood that his conduct was part of
20 what we were investigating, so, yes.

21 Q Okay. And you never asked for any kind of
22 transcript or notes of the interview?

23 A No.

24 Q Why not?

25 A I participated in the interview.

1 Q Were any of the other members of the DRC
2 present at that interview?

3 A No.

4 Q Do you know why not?

5 A I don't know.

6 Q Now, you said Mr. Reiner is on the DRC?

7 A Yes.

8 Q Do you know where he is today?

9 A I do not.

10 Q Okay. Have you had any contact with him
11 recently?

12 A The only contact was in the context of
13 understanding the judge had ordered someone to be
14 deposed.

15 Q Did you prepare for this deposition in any
16 way?

17 A Yes.

18 Q How?

19 A I met with counsel yesterday and earlier
20 today.

21 Q Did you review any documents --

22 A Yes.

23 Q -- in preparation?

24 A Yes, I did.

25 Q What documents did you review?

1 MR. WOLINSKY: Hold on. Please don't
2 answer that. I think that's inquiring into my work
3 product.

4 MR. GREENFIELD: I'm not asking about your
5 work product. I'm asking what documents he read in
6 preparation for this deposition.

7 MR. WOLINSKY: My selection of documents
8 reflects my work product, so I'm going to ask him --
9 direct him not to answer that.

10 MR. GREENFIELD: Well, I'm not going to
11 argue with you. There it is.

12 Q (By Mr. Greenfield) Prior to your meeting
13 with Mr. Wolinsky, did you read any documents in
14 preparation for this deposition?

15 A No.

16 Q Okay. You know there is a -- do you know
17 that there is a stipulation of settlement in this
18 litigation?

19 A I don't know what that means.

20 Q An agreement settling the litigation
21 subject to the approval of the Court.

22 A Yes.

23 Q Have you ever seen that agreement?

24 A I don't recall if I've seen it or not.

25 Q Okay. Do you understand that the case has

1 been settled subject to the approval of Judge
2 Breyer?

3 A Yes.

4 Q Okay. From whom did you learn that fact?

5 A I don't remember if it was company
6 counsel. Well, some -- some member of the company
7 counsel or some counsel employed by the company. I
8 don't recall who.

9 Q Do you understand that the proposed
10 settlement results in giving up certain claims that
11 the company has in exchange for something else?

12 A Well, my recollection is the committee
13 concluded that there were not claims worth pursuing,
14 and so I guess in that context, those claims are
15 being given up in settlement.

16 Q On what information did you base your
17 conclusion that those claims did not have sufficient
18 merit to pursue?

19 A That was part of the -- the process that
20 the DRC went through in reviewing the claims and --
21 and deciding what, if any, actions should be taken
22 with respect to the claims.

23 Q Would it be fair to say that you now
24 believe, sitting here, that no one that was an
25 officer or director of HP committed any wrongdoing

1 at all in connection with the acquisition of
2 Autonomy?

3 MR. WOLINSKY: You mean other than
4 Mr. Lynch or including Mr. Lynch?

5 Q (By Mr. Greenfield) Other than Mr. Lynch.

6 A We concluded that none of the officers or
7 directors had done anything that rose to a level
8 that would likely -- you know, that did anything
9 wrong and that we could pursue, you know,
10 successfully.

11 Q Okay. Whether or not you could pursue
12 those claims successfully, what was the wrongdoing
13 that you believe existed?

14 A We did not find any wrongdoing.

15 Q Okay. Did you find any wrongdoing on the
16 part of any of the investment bankers that
17 represented Hewlett-Packard in connection with the
18 Autonomy acquisition?

19 A No.

20 Q Did you -- do you believe there was any
21 wrongdoing on the part of any of the accounting or
22 auditing firms that represented HP in connection
23 with the Autonomy acquisition?

24 A No.

25 Q What facts did you -- what facts do you

1 base your conclusion upon?

2 A We had an extensive review of the
3 processes that were followed in the acquisition,
4 the diligence process, the way it was presented to
5 the -- the committees of the board and to the board
6 itself, the -- the board's deliberation of it. The
7 diligence -- I think I may have just mentioned
8 that -- the integration of it, the work of the --
9 the bankers, and concluded that there was no -- no
10 wrongdoings.

11 Q In the past have you overseen the
12 acquisition of public companies -- or private ones,
13 for that matter?

14 A Yes.

15 Q In what context?

16 A In a number of different contexts. I was
17 CEO of Liberty Media. I was CFO of Liberty Media.
18 And I've been on the boards of a number of
19 companies. And so there have been acquisitions at
20 each -- in each of those cases.

21 Q Do you know what the term due diligence
22 means in the context of an acquisition?

23 A I would define it to mean the -- an
24 investigation of -- of the available information to
25 try to verify for yourself that the business is

1 performing and will perform to -- to your
2 expectations.

3 Q Do you think that's your role as a CEO to
4 make those determinations?

5 A I think it's the role of the CEO to make
6 sure that appropriate diligence is done. Not
7 necessarily to do it directly, but to make sure that
8 it is being conducted by the organization, and that
9 there's an appropriate diligence process.

10 Q Do you know what Leo did in connection
11 with making sure that such due diligence was done in
12 the context of acquiring Autonomy?

13 A My understanding is that he relied on the
14 processes that were in place and the people that
15 were working for him and the advisors to do the
16 diligence.

17 Q Upon who did he rely, as far as you know?

18 A I -- I don't know the individuals. There
19 would have been numerous people in the organization
20 who would have been involved in the diligence.

21 Q Did he rely on Mr. Robison?

22 A That would have been one of the people.

23 Q Did he rely on Cathy Lesjak?

24 A That would have been one of the people, I
25 assume.

1 Q Yeah. Now, Mr. Robison was a proponent of
2 the acquisition of Autonomy?

3 A That's my understanding.

4 Q Okay. And Miss Lesjak, was she a
5 proponent of it?

6 A My understanding from the materials
7 reviewed is that she had reservations about the
8 premium that was being paid and reservations about
9 the stock market reaction to the acquisition. Not
10 necessarily to the acquisition itself, but to the
11 market reaction.

12 Q How did you base that understanding?

13 A I believe that was from interviews that
14 were conducted with Miss Lesjak.

15 Q You met Miss Lesjak, have you not?

16 A I have.

17 Q Have you ever talked to her about the
18 Autonomy acquisition?

19 A I don't think I have discussed it with her
20 directly, no.

21 Q Is there any reason you did not do so as a
22 member of the DRC?

23 A I was relying on counsel to -- to do the
24 interviews of -- of the people involved.

25 Q Miss Lesjak before the closing of the

1 acquisition of Autonomy raised concerns about
2 Autonomy's accounting methodology, did she not?

3 MR. WOLINSKY: Objection. You can answer.

4 A I don't recall.

5 Q (By Mr. Greenfield) Would that have
6 concerned you if she did?

7 A Without knowing what objections there
8 were, I -- I -- I can't say. My -- my recollection
9 is the -- the majority of her concern was with the
10 stock market reaction to -- to the premium and to
11 the size of the acquisition, that it would surprise
12 the market.

13 Q Was she interviewed by counsel for the
14 DRC?

15 A I believe so, yes.

16 Q Okay. Did you read a copy of any
17 transcript of her interview?

18 A No.

19 Q Did you ever want to see it?

20 A In -- in general we were -- the -- the
21 findings of the committee -- or of the counsel were
22 described to the committee.

23 Q Did you ever receive any presentation in
24 writing with respect to what came out of these
25 interviews that were conducted by counsel for the

1 DRC?

2 A Without going through the dec that -- that
3 we went through that presented the findings, I don't
4 recall precisely how -- how the interviews -- the --
5 the result of the interviews was described to us.

6 Q Would it be fair to say that Mr. Ferrara
7 guided the committee to its conclusions with respect
8 to the Autonomy acquisition?

9 A No. I -- I think Mr. Ferrara presented
10 his findings, and then the committee made its
11 determinations.

12 Q And those were factual findings, were they
13 not?

14 A Yes.

15 Q Okay. Could you summarize those factual
16 findings for me?

17 A If I can refer to the resolution, we can
18 go through them in detail.

19 Q Sure. Is that resolution one of the
20 documents you read in preparation for this
21 deposition?

22 A Yes.

23 Q Did someone tab particular things for you
24 to read?

25 A There are tabs. I don't recall the

1 significance of the tabs.

2 Q Okay. You didn't put the tabs on there?

3 A I didn't put the tabs on, no.

4 Q Okay.

5 A So I believe there's a section in here on
6 findings. Is that what you're after?

7 Q Yes.

8 A I think the findings are in various
9 places, so I'd have to flip through every page,
10 pretty much.

11 Q Maybe it might be simpler -- can we mark
12 that as Exhibit Bennett No. 1. And that way it will
13 stand for whatever facts are in there.

14 (Exhibit 1 marked.)

15 Q (By Mr. Greenfield) Would it be fair to
16 say that the facts that are contained in that
17 resolution were not obtained by you, Mr. Whitworth
18 or Mr. Reiner, but rather were obtained by counsel
19 for the committee?

20 A Counsel for the committee conducted the
21 investigation and presented their findings to us --

22 Q Okay.

23 A -- with respect to facts and as well as to
24 some of the legal conclusions.

25 Q In terms of that responsibility for

1 counsel, is that something the committee determined
2 or had been -- or had that been predetermined by
3 Hewlett-Packard beforehand?

4 MR. WOLINSKY: Objection.

5 A You'd have to repeat the question.

6 MR. WOLINSKY: Can you clarify it? It's
7 unclear to me.

8 MR. GREENFIELD: Okay.

9 Q (By Mr. Greenfield) Let me re -- rephrase
10 it. Prior to the formation of the committee, had it
11 been determined by HP that Mr. Ferrara and his firm
12 would investigate the facts relative to the
13 acquisition of Autonomy?

14 A I was not on the board at the time the
15 committee was formed, so I -- I'm not familiar with
16 everything that went into it. I don't think that
17 was the -- the motive or the -- the direction.

18 Q What do you think was the direction in
19 terms of the gathering of facts relative to the
20 acquisition of Autonomy?

21 A The committee was permitted to and did
22 engage counsel to conduct the investigation, and
23 relied on their efforts and -- and their work
24 product.

25 Q The Proskauer firm was counsel not just to

1 the committee itself, but to the board of HP; am I
2 correct?

3 MR. WOLINSKY: Objection.

4 A I'm not sure. I know it was counsel to
5 the committee. I don't -- I don't recall if it was
6 counsel to the board as a whole. I don't know.

7 Q (By Mr. Greenfield) Did any in-house
8 counsel -- strike that.

9 Did Mr. Ferrara and his firm report to
10 anyone else at Hewlett-Packard other than the three
11 members of the DRC?

12 A They did not.

13 Q How do you know?

14 A Because they were reporting to the
15 committee.

16 Q Okay. Do you know whether they shared
17 their findings with Mr. Wolinsky?

18 A At some point in time.

19 Q Do you know when?

20 A I don't.

21 Q Do you know whether they shared their
22 findings with Mr. Wolinsky and members of his firm
23 as the investigation was ongoing?

24 A I -- I do not believe they did, but I
25 don't know for sure.

1 Q You wouldn't be bothered by Mr. Ferrara
2 sharing facts in the investigation with
3 Mr. Wolinsky, would you?

4 MR. WOLINSKY: Objection.

5 A I don't know.

6 Q (By Mr. Greenfield) Were any members of
7 the committee -- that's the DRC -- directors of HP
8 at the time the acquisition was made, that is, the
9 acquisition of Autonomy?

10 A Gary Reiner was a director at the time.

11 Q If the plaintiffs' claims in the -- in
12 this action turned out to be accurate, is it your
13 understanding that Mr. Reiner would have been liable
14 to Hewlett-Packard?

15 A The committee concluded that there was no
16 basis for taking any action, so Mr. Reiner was not
17 subject to liability.

18 MR. GREENFIELD: Could you read the
19 question back to the witness.

20 (Last question read.)

21 MR. WOLINSKY: Objection.

22 A I -- I don't know.

23 Q (By Mr. Greenfield) Did you ever want to
24 know?

25 A It occurred to me that Mr. Reiner was on

1 the board at the time of the acquisition and was
2 also on the DRC.

3 Q Was that a concern to you in any way?

4 A I raised the issue with counsel as to
5 whether or not that was an acceptable arrangement.

6 Q And what were you told by counsel?

7 MR. WOLINSKY: I'll let him answer if
8 you -- if you agree it's not deemed to be a waiver.

9 MR. GREENFIELD: This by itself is not
10 deemed to be a waiver.

11 MR. WOLINSKY: Okay.

12 A My recollection is I was advised that --
13 that that was not a problem since, A -- well, I
14 guess because there were -- because I was on the
15 committee and Ralph Whitworth was on the committee,
16 and that -- the fact that one of their directors was
17 present at the time of the acquisition was also on
18 the committee did not undermine the -- the work of
19 the committee. And -- and through the -- through
20 the process I -- I got comfortable with Mr. Reiner's
21 conduct, that he did not give any appearance of --
22 of having any different perspective or didn't appear
23 to be trying to protect his own potential interests.

24 Q (By Mr. Greenfield) To whom did you raise
25 your concern? Which counsel?

1 A Ralph Ferrara.

2 Q And it was Mr. Ferrara who gave you that
3 answer?

4 A That's my recollection, yes.

5 Q Okay. By the way, who is the independent
6 auditor of Liberty Media?

7 A KPMG.

8 Q And of Discovery as well?

9 A No. Discovery is PriceWaterhouse.

10 Q And of Sprint?

11 A Sprint is -- is -- was KPMG, is now
12 Deloitte.

13 Q Have any companies or charities with which
14 you've been involved or other organizations had
15 Ernst & Young as an auditor?

16 A Nothing comes to mind offhand. I don't --
17 I don't know. Possible.

18 Q Okay. Did you or any of the other members
19 of the committee come to a conclusion that Deloitte
20 had done something wrong in connection with the
21 Autonomy acquisition?

22 A We concluded that there was the
23 possibility that Deloitte had done something wrong,
24 and that that should be further investigated and
25 pursued, if appropriate.

1 Q Did the committee actually investigate
2 whether Hewlett-Packard should pursue any claims
3 against Deloitte?

4 A We did discuss that, yes.

5 Q Did you come to a conclusion as to whether
6 Deloitte should be sued in connection with the
7 Autonomy acquisition?

8 A We concluded that it was something that
9 the company should look into, and in consultation
10 with UK counsel and in connection with all the other
11 things going on make a determination as to whether
12 Deloitte should be sued.

13 Q What was your understanding as to who
14 would make the ultimate determination of whether
15 Deloitte should be sued?

16 A The committee and the board.

17 Q Okay. When was the last time you made any
18 consideration -- or gave any consideration to
19 whether Deloitte should be sued in connection with
20 the Autonomy acquisition?

21 A Well, certainly in our findings. At the
22 time it was in the -- in the resolution I believe we
23 directed the -- the management to do -- follow the
24 advice of UK counsel as to whether and how and when
25 to pursue that -- such a claim. I don't remember if

1 we discussed it subsequently.

2 Q Okay.

3 A It may well have come up.

4 Q Sitting here today, do you know if
5 anything further has been done with respect to
6 possible claims against Deloitte that HP may have?

7 A My understanding is that under UK law,
8 there's a prelitigation process, and that we are
9 engaged in that process -- the company is engaged in
10 that process now with Deloitte.

11 Q Has HP sued anybody in connection with the
12 acquisition of Autonomy?

13 A I believe we've sued Michael Lynch,
14 Hussain, and possibly some of their colleagues.

15 Q Did the committee make a determination to
16 sue Messrs. Lynch and Hussain?

17 A Yes.

18 Q Based upon what facts?

19 A Based upon findings that they had
20 misrepresented the -- the state of the company in
21 their -- both in their public documents and in their
22 conversations with us or with the people doing the
23 diligence.

24 Q In particular what public statements were
25 you referring to?

1 A Their publicly filed financial statements.

2 Q Okay. Isn't it a fact that before
3 Hewlett-Packard signed the agreement to acquire
4 Autonomy, it was aware of public comment about the
5 accounting practices of Autonomy?

6 A My understanding is that at the time that
7 it was signed, there may -- as part of the diligence
8 they may well have found some analyst information or
9 other information that raised questions, but they
10 also found other information that didn't, and
11 that -- felt that the company was a high growth and
12 attractive investment vehicle.

13 Q As part of your responsibilities as the
14 CEO and someone who has overseen acquisitions,
15 ideally when should diligence about a prospective
16 acquisition candidate take place?

17 A It's usually done in -- there's usually a
18 period in which you've done some preliminary
19 diligence on your own, possibly before engaging with
20 the other company, just to find out for yourself.
21 Then once you've engaged with a company and have a
22 term sheet or something like that is -- that would
23 then be followed by a diligence period before you
24 sign an agreement.

25 Q Why do you do that due diligence before

1 you sign an agreement?

2 A The purpose is -- as I said earlier, is to
3 verify, to the extent you can, your understanding
4 about the condition of the company.

5 Q What due diligence did HP do with
6 respect to Autonomy prior to the time it signed the
7 agreement to acquire it?

8 A I believe they did extensive due
9 diligence. They had interviews with the management.
10 They had interviews with their accounting firm.
11 They reviewed their financial statements. There's
12 an extensive diligence process before signing.

13 Q How do you know that?

14 A That has been reported to me by counsel.

15 Q In fact, was the only information made
16 available to Hewlett-Packard prior to signing the
17 agreement publicly available financial information?

18 A I don't --

19 MR. WOLINSKY: Objection.

20 A I don't think that was the only
21 information, but a lot of the information was from
22 their public financial statements.

23 Q (By Mr. Greenfield) But you don't know of
24 anything internal that was provided as part of that
25 due diligence pre signing?

1 MR. WOLINSKY: You mean internal from
2 Autonomy?

3 Q (By Mr. Greenfield) From Autonomy.

4 A Okay. Because the company just in the
5 course of its business would know of -- of Autonomy
6 and -- and would be familiar with their products
7 and -- and their position in the marketplace. There
8 were interviews with Autonomy management and
9 interviews with the -- with Autonomy's accounting
10 firm to go over the business as well as to go over
11 the financial statements.

12 Q Did you come to learn at some point that
13 after the agreement to acquire Autonomy had been
14 signed, that it would be very difficult under
15 British law to terminate the agreement?

16 A I came to understand that it was going to
17 be difficult to terminate the agreement -- I don't
18 know if that was specifically because of English law
19 or whatever -- that the contract did not have easy
20 exits, if any.

21 Q Why did you believe it would be extremely
22 difficult to terminate the agreement once it had
23 been signed?

24 A I think it was described to us that way,
25 that the provisions of the agreement -- there was

1 not a provision to terminate the agreement other
2 than in some situation that could not be
3 demonstrated.

4 Q Have you ever had -- have you ever
5 participated in any acquisition where there was not
6 a term in the acquisition agreement giving the
7 acquiring company a right to terminate the agreement
8 if there was some material fact learned during due
9 diligence that might affect the acquisition?

10 MR. WOLINSKY: Can I hear that back?

11 (Last question read.)

12 MR. WOLINSKY: Yeah. Object to form. The
13 question is very unclear.

14 A Yeah. Well, the diligence would be done
15 before you signed it. So if something came up in
16 the diligence, you would not -- you would deal with
17 it. You would either say fine or you would not sign
18 the agreement. It's not -- I think it's common for
19 agreements to have some provision for a subsequent
20 material adverse event. That would not be unusual.
21 But if there is -- if there's some material event
22 that -- that happened subsequent to the signing,
23 that that in many cases would create some
24 opportunity for the parties to terminate the
25 agreement.

1 Q (By Mr. Greenfield) There was no such
2 provision in the agreement to acquire Autonomy, was
3 there?

4 MR. WOLINSKY: Objection.

5 A I believe there was a material adverse
6 event provision.

7 Q (By Mr. Greenfield) Did Hewlett-Packard
8 consider whether it should exercise the rights under
9 that provision after the agreement was signed?

10 A My understanding is that they did
11 investigate whether they could terminate the
12 agreement, and concluded that they could not.

13 Q Do you know why?

14 A My recollection is that they concluded
15 there had not been a material adverse event that
16 materially affected the condition of Autonomy
17 between the signing and the closing.

18 Q Isn't it a fact that the board of HP
19 wanted to terminate the agreement to acquire
20 Autonomy, if it could?

21 A I am aware that at least one or --
22 director may have wanted to do that. I -- I
23 wouldn't say that that was the position of the full
24 board.

25 Q You sure?

1 A I'm -- I don't remember seeing anything
2 that said the full board wanted to terminate.

3 Q Based upon your participation in the
4 investigation of what occurred at and after the
5 acquisition, do you believe there was only one HP
6 director that wanted to terminate the acquisition?

7 A I don't know. I -- I don't recall seeing
8 any action that the -- any evidence that the full
9 board wanted to terminate the agreement. That was
10 your statement, I believe.

11 Q Okay. But it is fair to say that the
12 board was looking for ways to terminate the
13 agreement if it could.

14 A I'm aware of at least one member looking
15 for that.

16 Q Is it fair to say that the board consulted
17 with legal counsel to see whether there was a way to
18 terminate the agreement to acquire Autonomy?

19 A I believe counsel was consulted. Again, I
20 don't know if it was the full board or one director
21 or two directors. I don't know.

22 Q Okay. Do you know if Mr. Lane consulted
23 counsel to make that determination?

24 A My understanding is that Mr. Lane asked
25 that counsel be consulted to determine if -- if that

1 determination could be made.

2 Q And was the conclusion of the -- of
3 counsel that because this was a United kingdom
4 acquisition, once signed the agreement could not be
5 terminated?

6 MR. WOLINSKY: Just give me a second. You
7 know, I know the ultimate conclusion has been
8 disclosed, but I don't know the source of the
9 specific advice by counsel has been disclosed. So
10 if you -- if you ask him what the -- what the
11 conclusion was by management, that would be okay.

12 MR. GREENFIELD: Fair enough, although I
13 don't agree with your --

14 MR. WOLINSKY: If you show me -- I think
15 you're wrong, but I don't think the specific advice
16 was disclosed.

17 MR. GREENFIELD: No. No.

18 Q (By Mr. Greenfield) As modified by Marc,
19 would you answer the question?

20 MR. WOLINSKY: What was management's
21 conclusion as to whether the -- whether the deal
22 could be terminated?

23 A It was concluded that the deal could not
24 be terminated.

25 Q (By Mr. Greenfield) Because?

1 A Because of the provisions of the contract
2 that had been signed.

3 Q Was that because it was a United Kingdom
4 corporation that was being acquired?

5 A I don't have any recollection of the --
6 the -- it being because of English law or any other
7 law. I -- my understanding was the contract did not
8 permit termination other than for -- for a material
9 adverse event, which had not -- could not be
10 demonstrated.

11 Q Do you know which firms represented
12 Hewlett-Packard in negotiating, drafting and
13 ultimately in connection with the signing of the
14 acquisition agreement?

15 A I don't recall who that was. I did know
16 at one point, but I don't recall right now.

17 Q Do you know whether that firm or those
18 firms advised the board that once signed, the
19 agreement could not be terminated absent a material
20 adverse event?

21 MR. WOLINSKY: Yeah. I'm going to direct
22 you not to answer that question. That's asking kind
23 of directly for attorney's advice to the client.

24 Q (By Mr. Greenfield) I'll press the
25 question.

1 MR. WOLINSKY: Okay. I'll stand on the
2 objection.

3 MR. GREENFIELD: Read the question back,
4 please.

5 (Page 45, Line 17 through Line 20 read.)

6 MR. WOLINSKY: Yeah. Direct you not to
7 answer.

8 Q (By Mr. Greenfield) Do you know whether
9 the members of the board so concluded prior to the
10 acquisition of Autonomy?

11 MR. WOLINSKY: You can answer that. You
12 can answer that, if you know.

13 THE DEPONENT: Can I confer?

14 MR. WOLINSKY: Yeah. Sure.

15 MR. GREENFIELD: Not in the middle of the
16 question. You really shouldn't.

17 MR. WOLINSKY: But he asked. Do you want
18 to say no?

19 A I don't know whether the answer would be
20 providing advice.

21 Q (By Mr. Greenfield) Well, try it out.

22 MR. WOLINSKY: No. No. We're not going
23 to do that. If you're going to not permit him to
24 consult with me, then I'll ask him -- direct him not
25 to answer.

1 MR. GREENFIELD: And what is the basis for
2 your direction?

3 MR. WOLINSKY: Because the witness
4 expressed a concern that answering the question
5 might divulge attorney-client communication, in
6 which case if that were the case I would direct him
7 not to answer. But if I confer with him, maybe we
8 can get the answer to your question without
9 divulging attorney-client privileged information.

10 MR. GREENFIELD: As you know, under the
11 circumstances we believe that the -- any claim of
12 privilege or work product can be overcome by the
13 circumstances of the questioning and the purpose of
14 the discovery, and I press the point again, Marc,
15 and you can say no again.

16 MR. WOLINSKY: No. I'll say no again. I
17 think actually so far we've won that issue in front
18 of the Magistrate Judge so...

19 MR. GREENFIELD: If she ever considered
20 it.

21 MR. WOLINSKY: I think she did, but...

22 Q (By Mr. Greenfield) Can you answer that
23 question without divulging any attorney-client
24 communication?

25 A Could you now repeat the question?

1 MR. GREENFIELD: Please.

2 (Page 46, Line 8 through Line 10, read.)

3 A Well, that's why I wanted to consult with
4 counsel, because I don't know if my answer would be
5 divulging.

6 Q (By Mr. Greenfield) Well, I've asked you
7 what, as far as you know, the members of the board
8 concluded as distinct from what counsel may have
9 told anybody.

10 A I think I said earlier, I don't know
11 what -- I'm not -- I haven't seen something that
12 showed the full board trying to terminate the
13 transaction. I -- I'm aware of at least one
14 director. There may have been others. I don't
15 know. So I don't -- I don't know whether the board
16 as a whole reached a conclusion or whether the
17 individual director received some advice or whether
18 the board received some advice. I don't know.

19 Q After the approximately \$8.8 billion
20 write-off announced by the company, Meg Whitman made
21 a number of statements to the public. Do you recall
22 generally those statements?

23 A I'm aware of some statements that are the
24 subject of controversy. I'm not aware of
25 whatever -- all statements she may have made.

1 Q Okay. Do you recall her saying that we
2 could not walk away from the Autonomy deal because
3 of the requirements of English law?

4 A I don't recall that specific statement.

5 Q Do you recall one generally to that
6 effect?

7 A No.

8 Q Did she ever make such a statement in your
9 presence?

10 A Not that I recall.

11 Q Did she ever make -- strike that.
12 Speaking of the \$8.8 billion, that
13 announcement was made in November 2011. Am I
14 correct?

15 MR. WOLINSKY: I think '12.

16 Q (By Mr. Greenfield) 2012. I'm sorry.

17 A I think that's right.

18 Q Since that time, have there been any
19 additional write-offs or write-downs of any assets
20 acquired in connection with the acquisition of
21 Autonomy?

22 A I don't recall. I don't know. I don't
23 know the answer.

24 Q In December of 2012, HP filed a Form 10-K
25 with the SEC, did it not?

1 A I guess so. I'll take your word for it.

2 Q As a director you don't know?

3 A I wasn't a director at the time.

4 Q Ah.

5 A I assume they timely filed all the
6 necessary filings.

7 Q Okay. I will assure you they did. Are
8 you aware that at that time the company wrote
9 down not just the investment of approximately
10 \$8.8 billion of the purchase price of Autonomy, but
11 an additional, approximately, \$10 billion of other
12 assets?

13 A I don't recall that.

14 Q Was that write-off taken at or about the
15 time you were being considered for the HP board?

16 A Well, you're telling me that this was in
17 the filing that they made with respect to their
18 October 31st, 2012, calendar year, which would have
19 been December or January or something of --
20 December 2012 or January 2013. That predated any
21 conversations I had had.

22 Q Did you read that 10-K in preparation for
23 or as part of your investigation of HP before
24 agreeing to join the board?

25 A I may well have looked through it.

1 Q Would it surprise you if you didn't?

2 A I -- I did review financial statements. I
3 don't -- it's reasonable to assume that I looked at
4 the -- at the 10-K as well as the recent 10-Q.

5 Q Okay. Did you have any discussions with
6 anyone at HP with respect to the write-offs taken at
7 the end of fiscal 2012?

8 A I think in the general context of
9 conversations with the people, the Autonomy
10 write-off would have come up. I don't recall if I
11 mentioned any other ones because I don't remember
12 now what -- what they were.

13 MR. GREENFIELD: Can we take a break here?

14 MR. WOLINSKY: Sure. Thank you.

15 (Break taken, after which time Mr. Smith
16 joined the deposition.)

17 Q (By Mr. Greenfield) If I remember, you
18 said you did not know who was legal counsel to HP in
19 connection with the acquisition of --

20 MR. GREENFIELD: Hi. Didn't say hello.

21 MR. SMITH: Hi. Nate Smith, Wachtell
22 Lipton.

23 (Discussion of the record.)

24 Q (By Mr. Greenfield) I assume you did not
25 know which counsel represented HP.

1 A I did not remember --

2 Q Okay.

3 A -- who.

4 Q Did you know at some time?

5 A I -- I think I did know at some time, yes.

6 Q Did you --

7 MR. WOLINSKY: We don't have to be coy.

8 He asked me during the break to remind him, and I
9 did.

10 MR. GREENFIELD: Okay.

11 Q (By Mr. Greenfield) Was it Wachtell
12 Lipton?

13 A No.

14 Q Was it Wilson Sonsini?

15 A I don't believe so.

16 Q But you have no recollection at all what
17 American firm may have represented HP in connection
18 with the transaction?

19 A Well, I had my recollection refreshed
20 during the break.

21 Q Okay. And your answer is?

22 A Gibson Dunn.

23 Q Gibson Dunn. Is Gibson Dunn counsel in
24 this case?

25 A Not that I'm aware of.

1 Q Okay. And was there also British counsel
2 representing HP in connection with the acquisition?

3 A I believe there was.

4 Q Okay. Did the DRC consider whether there
5 were any claims that could or should be pursued
6 against Gibson Dunn or the British firm?

7 A I don't remember. I'd have to look
8 through the resolution to see if it's addressed
9 there.

10 Q Okay. We'll take a couple seconds.

11 A Okay.

12 MR. GREENFIELD: Off the record for a
13 second.

14 (Discussion off the record.)

15 Q (By Mr. Greenfield) Are you ready?

16 A Yes.

17 Q What did you --

18 A I -- I don't recall if in the course of
19 our review we considered it. I don't see it
20 mentioned as a -- a finding that we should pursue
21 claims against Gibson Dunn or Freshfields, who was
22 the UK counsel.

23 Q Did you give any consideration as to
24 whether HP should sue Gibson Dunn or Freshfields in
25 connection with the advice that those firms provided

1 in connection with the acquisition of Autonomy?

2 A I -- I don't recall whether in our
3 deliberations we gave consideration of that, but I
4 don't see it in the resolutions. But I -- that
5 doesn't mean we didn't talk about it, but I don't --
6 I don't recall.

7 Q If you feel -- strike that.

8 Sitting here today, do you feel that
9 either/or both of those firms should have informed
10 HP that once signed, an acquisition agreement with
11 the UK firm would be difficult to terminate?

12 MR. WOLINSKY: Give me a moment to think
13 about that question.

14 THE DEPONENT: Are you thinking about
15 it or am I?

16 MR. WOLINSKY: I'm thinking about it. On
17 the record, you're asking him whether sitting here
18 today with the benefit of hindsight he thinks that
19 advice should have been given at the time?

20 MR. GREENFIELD: Yes.

21 MR. WOLINSKY: You can answer that.

22 A I don't know whether it was or wasn't
23 given. I assume that the parties who entered into
24 the contract understood it. So whether that had to
25 be specifically pointed out, I don't know.

1 Q (By Mr. Greenfield) Why do you believe
2 that the parties, quote, unquote, understood it?

3 A I expect that the legal team -- HP's legal
4 team would have understood the implication of the
5 contract that was signed.

6 Q Given your assumption, do you think there
7 may have been -- may have been potential liability
8 on the part of Gibson Dunn and Freshfields or
9 in-house counsel at HP?

10 A I don't have a point of view. I don't
11 know.

12 Q And as far as you know, you didn't
13 consider it?

14 A I don't recall whether we considered it or
15 not. I don't have a specific memory of considering
16 it.

17 Q Okay. Do you know whether HP obtained any
18 agreement from Gibson Dunn or Freshfields tolling or
19 suspending the running of any applicable statutes of
20 limitations to possible malpractice claims?

21 A I don't know.

22 Q Did that issue ever come up before the
23 DRC?

24 A It -- it may have, but I don't recall.

25 (Mr. Smith left the room.)

1 Q (By Mr. Greenfield) Given what you know
2 now, do you think there is any potential liability
3 or was any potential liability on the part of Gibson
4 Dunn or Freshfields in connection with the Autonomy
5 acquisition?

6 A That may be a legal conclusion that I'm
7 not in a position to make.

8 Q I didn't ask for a legal conclusion.

9 A Could you restate what you asked?

10 (Page 56, Line 1 through Line 5, read.)

11 A I don't have a point of view. I don't
12 know what was done or not done, so I don't have a
13 point of view.

14 Q (By Mr. Greenfield) Do you know whether
15 the investigation conducted on the part of the DRC
16 looked into that issue?

17 A As I said before, I don't recall whether
18 we did or did not.

19 Q Would it be important to you, sitting here
20 today, to know whether that issue was looked into it
21 by the DRC's counsel or not?

22 A It seems like something that could have
23 been investigated. And I don't know if it was or
24 wasn't. I don't remember.

25 Q But as far as you know, the resolution of

1 the DRC never included any reference to any
2 potential claims against Gibson Dunn or Freshfields?

3 MR. WOLINSKY: Objection. You can answer.

4 A Okay. In the review I just made, I didn't
5 see a reference to Freshfields or Gibson Dunn.

6 Q (By Mr. Greenfield) When Ralph Whitworth
7 first spoke to you about becoming a director of HP,
8 what was your reaction?

9 A My reaction was that I was interested in
10 considering it.

11 Q Was your understanding that at the time of
12 the conversation with Ralph, that the HP board had a
13 reputation as being dysfunctional?

14 A I had seen press and other reports at
15 earlier times describing the board. I don't know
16 that I would have said that at -- right at that
17 moment. I think that was referring more to the
18 earlier eras -- is how I would remember it today.

19 Q After you became more familiar with HP,
20 did you come to conclude that the HP board
21 historically, at least, had been dysfunctional?

22 A I -- I don't know that I was looking
23 for -- to answer that question. I was interested
24 in -- in how the current board or the board I would
25 be joining operated. And I was satisfied that --

1 that it operated appropriately.

2 Q Didn't one of the -- the demand letters
3 that you were investigating refer to the dysfunction
4 of the HP board historically?

5 A It may have. I don't -- I don't remember.
6 If you want to point it out to me, I can look at it.

7 Q Do you recall whether the demands that
8 were considered by the DRC, by shareholders of -- by
9 or on behalf of shareholders of HP referred to
10 issues other than the acquisition of Autonomy?

11 A There were other matters. I think there
12 was a Web-OS matter. And without reviewing the
13 individual demand letters, I have a hard time
14 remembering here what was included.

15 Q Do you know whether the issue of
16 director -- CEO succession was one of the issues you
17 considered?

18 A We may have. I can look at the -- at the
19 resolution.

20 Q No. That's all right. Do you know
21 whether the issue of acquisitions made by HP other
22 than Autonomy and Web-OS were considered by the DRC?

23 A Well, in -- in the process of our
24 review -- our review of the acquisition procedure
25 that had been followed in Autonomy, we did review

1 the procedures that were pursued in some earlier
2 transactions.

3 Q Did you find any of those procedures
4 lacking in any way?

5 A We concluded that those procedures were --
6 were -- were reasonable and that -- were consistent
7 from transaction to transaction. In other words,
8 that the same transaction -- the same process that
9 was followed in earlier transactions had -- a
10 similar process had been followed in Autonomy.
11 There was a process in place.

12 Q Would it be fair to say that after the
13 writeoff of \$8.8 billion in Autonomy assets was
14 disclosed, the board embarked upon significant
15 changes in its merger and acquisition practices and
16 procedures?

17 A The management itself came up with a
18 series of changes to the process, so we were aware
19 of those.

20 Q And did you believe those changes in
21 process were necessary?

22 A I think I would have to look at them. I
23 don't know if every one of them is necessary. I
24 think they're beneficial.

25 Q The changes that were ultimately

1 implemented by HP and its board in terms of its
2 merger and acquisition practices and procedures,
3 would they have prevented what occurred in
4 connection with the Autonomy acquisition?

5 A To the extent that the principal issue in
6 Autonomy was fraud and -- and fraudulent accounting,
7 for the most part -- or I'd say in general systems
8 and procedures are not necessarily set up to detect
9 that. If -- if it's a public company and -- and
10 they're audited by a major firm, and there are
11 financial statements, you presume you can rely on
12 them. And I think that's appropriate. So if
13 there -- if they're misleading the public or
14 misleading their accountants, that's not something
15 that likely would be detected.

16 Q KPMG was hired by HP in connection with
17 the Autonomy acquisition, was it not?

18 A That's correct.

19 Q What responsibilities did it have in that
20 regard?

21 A My understanding is their responsibility
22 was to review the accounting -- the financial
23 statements and -- and the accounting, and to the
24 extent they could -- as much beyond that as they
25 could in the context of the accounting, financial

1 statements.

2 Q Do you recall as part of the investigation
3 your being informed that KPMG felt it was being
4 stonewalled? And I use that word exactly.

5 MR. WOLINSKY: Objection.

6 A I don't recall seeing that term. I'm
7 aware that KPMG reported that they did not have full
8 access to all the books and records of the company
9 and were relying on their -- substantially on their
10 publicly filed documents as part of their review.

11 Q (By Mr. Greenfield) Is that something
12 that's normal in the context of a due diligence
13 investigation of a prospective acquisition --
14 multibillion dollar acquisition?

15 A I think it depends. In this case the --
16 that was balanced against the UK takeover rules that
17 require information shared with one bidder to be
18 shared with all the bidders -- is my understanding.
19 And that there was a concern about making
20 substantially more information available to HP
21 because it would also be available to other
22 potential acquirers, and also acquirers who may also
23 have been competitors.

24 Q Given the size of the prospective
25 transaction, wouldn't it have been necessary to

1 obtain that access notwithstanding the fact that
2 Autonomy would have had to make it available to
3 other prospective bidders?

4 A That's a judgment that was made at the
5 time in the context of the transaction, and it was
6 decided that that was an adequate -- an appropriate
7 trade-off.

8 Q Who made that determination?

9 A I don't -- the management. I don't know.
10 And I don't know exactly where in the chain it was
11 made.

12 Q Didn't you conclude as part of the
13 investigation that was done who made that decision?

14 A I'm not sure we concluded who made that
15 decision.

16 Q Couldn't you tell from the documents that
17 had been provided to the committee who made that
18 decision?

19 A I don't recall.

20 Q Did Leo make that decision, as far as you
21 know?

22 A I don't know if Leo made that decision. I
23 think he may have been aware of the decision. I
24 don't know if he actually made the decision.

25 Q In the course of your service on the DRC,

1 did you come to understand the history of the
2 acquisition of Autonomy and then what happened in
3 the wake of the acquisition?

4 MR. WOLINSKY: I'm sorry. Can I hear that
5 back?

6 (Last question read.)

7 MR. WOLINSKY: Okay. Thanks.

8 A In the course of -- of our -- of the
9 investigation, we were briefed on -- on those
10 matters.

11 Q (By Mr. Greenfield) And from your
12 perspective, did you believe that you came to an
13 understanding of how the Autonomy transaction
14 originated and what happened in its wake?

15 A We -- the origination of it was described.
16 Some of the things that happened in its wake were
17 described. There may have been others that were
18 not.

19 Q Sitting here today, do you feel
20 comfortable that you received as complete an
21 understanding as one could get as a member of the HP
22 board as to the origination of the transaction and
23 what happened in its wake?

24 A I think we were -- we reached -- yes, we
25 were provided a reasonable review of what happened

1 before and after.

2 Q Okay. Is it true that shortly after he
3 joined the company, Leo announced that he wanted to
4 make a, quote, transformative acquisition, end
5 quote?

6 A I -- I recall that he considered this --
7 the Autonomy transaction to be a transformational
8 acquisition. I don't recall -- not saying that he
9 didn't, I don't recall seeing that he stated that
10 one needed to be made.

11 Q Would it be fair to say that the board
12 agreed with his strategy at the time?

13 A My understanding is that he was hired
14 and -- to execute a strategy. And the strategy
15 that he felt was most appropriate for the company
16 was to increase its participation in high -- high
17 margin, high growth businesses, such as software,
18 and to decrease its emphasis on low margin, low
19 growth businesses, such as the printing and the PC
20 business -- or the PC business in particular, and
21 that the board agreed with that basic strategy.

22 Q And that included -- that strategy
23 included buying a large data analysis company?

24 A The buying of Autonomy was consistent with
25 that strategy.

1 Q Okay. Do you know whether a committee of
2 the board was formed to evaluate Leo's strategy?

3 A I -- I am not aware of there being a
4 specific committee to review strategy. There was a
5 technology committee and a -- and a finance and
6 investment committee as well as the full board to
7 review strategy.

8 Q Reuters published a report in
9 November 2012 saying that, quote, Apotheker went on
10 the acquisition trail almost immediately, even
11 though previous HP takeovers, like Compaq and Palm,
12 had not worked out well, end quote. Do you regard
13 that as an accurate statement from what you've
14 learned as a DRC member?

15 A Could you reread it, please?

16 (Last question read.)

17 A I don't know about the term "on the
18 acquisition trail." He did line up the Autonomy
19 acquisition. And a couple previous acquisitions
20 there had been write-offs or write-downs associated
21 with them, but there also had been a number of
22 successful acquisitions.

23 Q (By Mr. Greenfield) Such as?

24 A 3-COM, 3-PAR. I think there clearly had
25 been some successful acquisitions.

1 Q How do you know they were successful?

2 A Because they were -- my understanding is
3 that they are continuing -- they're meeting the
4 expectations at the time of the acquisition.

5 Q And none of their purchase prices have yet
6 been written off, as far as you know?

7 A As far as I'm aware today.

8 Q Do you know who Frank Quattrone,
9 Q-u-a-t-t-r-o-n-e, is?

10 A Yes.

11 Q Who is he?

12 A Frank -- I believe he's the principal of
13 Qatalyst Advisers, which is a boutique investment
14 firm.

15 Q It's Q-a-t-a-l-y-s-t.

16 Did he have any role in connection with
17 the Autonomy acquisition?

18 A I believe Qatalyst was advising Autonomy,
19 if I remember correctly.

20 Q Would it be fair to say that he was trying
21 to market Autonomy to a prospective acquirer?

22 A I don't know if he had been engaged for
23 that purpose or whether he was, as investment
24 bankers often do, trying to create a transaction
25 with himself in the middle. I don't know the origin

1 of his efforts.

2 Q Do you know whether the DRC considered any
3 possible claims against Mr. Quattrone or Qatalyst?

4 A Let me refer to the resolution.

5 Q You don't have to. To the best of your
6 recollection sitting here.

7 A I don't recall without looking through it.

8 Q Then you don't recall.

9 A Okay.

10 Q That's all right. Did he offer to Leo the
11 possibility that HP might acquire Autonomy?

12 A I believe at some point in time, yes.

13 Q Was a -- again, this is -- you were not on
14 the board at the time, but do you understand that at
15 some point in time in July of 2011 Leo made a
16 presentation to the board of HP with respect to
17 Autonomy?

18 A I believe that's correct. Yes.

19 Q Okay. Did you come to learn whether --
20 strike that.

21 Did you come to learn as part of the
22 investigation of DRC what Leo had told the members
23 of the board with respect to Autonomy at that
24 meeting?

25 A Without looking at something to refresh my

1 memory, I don't know exactly what was presented at
2 that meeting.

3 Q Do you think that would have been an
4 important event to you --

5 MR. WOLINSKY: Objection.

6 Q (By Mr. Greenfield) -- as part of your
7 work on the DRC?

8 A I believe we did review that. I don't
9 remember sitting here today.

10 Q Having spoken with -- strike that.

11 Presumably you spoke with your fellow HP
12 directors about what happened at that meeting, did
13 you not?

14 A In -- in the context of our review of the
15 investigation material, I expect that we discussed
16 it, but I -- sitting here today I can't remember
17 specifics.

18 Q Okay. And separate from what that report
19 might have contained, did you have any separate
20 discussions with any HP board members about what Leo
21 had told the board in advance of the acquisition of
22 Autonomy with respect to Autonomy?

23 A I don't recall having any discussions with
24 the other directors about that other than -- and the
25 resolutions that we passed and -- and recommended to

1 the board.

2 Q Do you know whether Leo concealed material
3 information from the board in July 2011 with respect
4 to Autonomy?

5 A I'm not aware of any evidence that he did
6 so.

7 Q Do you know whether he disclosed to the
8 members of the board that Autonomy had questionable
9 accounting practices?

10 A I'm not aware of him disclosing that or
11 knowing that.

12 (Mr. Smith re-entered the room.)

13 Q (By Mr. Greenfield) Do you know whether he
14 informed the board that Cathy Lesjak had serious
15 reservations about a possible acquisition of
16 Autonomy?

17 A Cathy's objections were made known to the
18 board.

19 Q By Leo?

20 A I don't remember the form, whether Leo
21 presented them. I wasn't there at the meeting, so I
22 don't know how it was presented other -- I know she
23 made -- or I know her comments, her concerns were
24 made aware to the board. That's not a sentence.
25 The board was made aware of her concerns.

1 Q Based upon your investigation as a member
2 of the DRC, did you conclude that Leo was completely
3 honest with the members of the board with regard to
4 the acquisition of Autonomy?

5 A We concluded that we -- well, we found no
6 evidence to the contrary.

7 Q That's not what I asked you.

8 MR. GREENFIELD: Could you repeat the
9 question?

10 MR. WOLINSKY: That was his answer. Do
11 you have a follow-up question?

12 MR. GREENFIELD: No. Please read the
13 question back to him.

14 (Page 70, Line 1 through Line 4, read.)

15 A I think it's the same answer. We didn't
16 see -- we had no reason to believe that he was not
17 honest with the board.

18 Q (By Mr. Greenfield) Do you believe he was
19 honest with the board?

20 A Yes.

21 Q Based on what?

22 A Based on what I've seen, based on the
23 interview with him, I -- I don't see any reason to
24 believe that he was being dishonest.

25 Q Do you know whether Leo was aware of

1 KPMG's complaints about stonewalling of the due
2 diligence process?

3 MR. WOLINSKY: Objection.

4 A I know that the -- a determination was
5 made that it was acceptable for KPMG not to have
6 access -- not to have the complete books and records
7 access that they might desire. And the decision was
8 made that on balance that was an acceptable outcome.
9 As I said earlier, I don't know who made that
10 decision.

11 MR. GREENFIELD: Would you read the
12 question back, because I think that answer was not
13 responsive.

14 (Page 70, Line 25, through Page 71,
15 Line 2, read.)

16 A I don't recall the term "stonewalling"
17 being used. So as I said before, I think he was
18 aware that KPMG didn't have full and complete access
19 to all of their books and records.

20 Q (By Mr. Greenfield) Do you regard the
21 investigation of Autonomy prior to the time an
22 agreement was signed to have been adequate, from
23 your experience and personal perspective?

24 (Cell phone ringing.)

25 A Could you repeat that -- without the

1 quack.

2 (Last question read.)

3 A From what I saw, the company had policies
4 in place and procedures in place for pursuing
5 acquisitions, and that those policies and procedures
6 were pursued and that it looks appropriate, yes.

7 Q (By Mr. Greenfield) And all of that based
8 upon Proskauer's investigation?

9 A Based on the investigation as presented to
10 us.

11 Q By Proskauer?

12 A Yes.

13 Q Did you learn from the interview of Leo
14 conducted by Mr. Ferrara that he was unaware that
15 KPMG had made complaints about access to information
16 about Autonomy?

17 A I don't recall that.

18 Q Really?

19 A Yeah.

20 Q Did that subject ever come up again in any
21 of the deliberations of the DRC committee in making
22 its -- coming to its ultimate conclusions?

23 A The DRC reviewed the materials, and we saw
24 parts of a report from KPMG where they described the
25 limitations on their review. And also we discussed

1 that a -- the business judgment was made that given
2 the UK takeover rules, that was a -- you know, that
3 was a decision that was made. As I said before, I
4 don't know -- I don't recall -- I don't know if I
5 ever knew -- who made that decision.

6 Q The company's legal counsel -- strike
7 that.

8 Do you believe the company's legal counsel
9 knew of the UK takeover rules before the agreement
10 with Autonomy was signed?

11 A I believe someone in the organization
12 understood that the UK takeover rules would require
13 disclosure of information provided to HP -- would
14 require that information be disclosed to other
15 potential suitors. So it was -- it was known in the
16 organization. I can't say how or by whom.

17 Q Was it also known that such takeover rules
18 would be or could be used as a shield to providing
19 to HP and its advisors the information that it
20 needed as part of its due diligence?

21 MR. WOLINSKY: Objection.

22 A It was understood -- at least appears to
23 me that it was understood that they would not be
24 receiving full access and -- and, therefore, a
25 decision had to be made and was made as to whether

1 it was worth the -- it was worth going forward
2 without that complete review as a trade-off for not
3 having to share that information with potential
4 competitors both in the bidding and business
5 competitors.

6 Q (By Mr. Greenfield) And this was
7 notwithstanding all that HP's board and senior
8 management knew with respect to possible financial
9 improprieties at Autonomy?

10 MR. WOLINSKY: Objection.

11 A I'm -- I'm not sure that I would phrase it
12 that way. I think there had been a couple of
13 reports, I think, that had challenged -- or raised
14 the possibility of questions. But there were an
15 equal number or more reports out there saying that
16 the -- it was a healthy, prosperous company.

17 Q (By Mr. Greenfield) But HP's own -- isn't
18 it true that HP's own Cathy Lesjak, its chief
19 financial officer, raised concerns about Autonomy's
20 accounting --

21 MR. WOLINSKY: Objection.

22 Q (By Mr. Greenfield) -- before the deal was
23 signed?

24 MR. WOLINSKY: Objection.

25 A I do not have recollection of hearing or

1 seeing that Cathy Lesjak objected or had concerns
2 about the accounting. She had concerns about the
3 transaction from the perspective of what the Wall
4 Street reaction would be to such a large acquisition
5 and such a large premium. I do not recall seeing or
6 hearing anything in which she objected to the
7 transaction itself or expressed concerns about the
8 accounting.

9 Q (By Mr. Greenfield) You don't remember
10 that she specifically criticized Autonomy's revenue
11 recognition practices --

12 MR. WOLINSKY: Objection.

13 Q (By Mr. Greenfield) -- before the
14 transaction was consummated?

15 A I don't recall that. I don't recall
16 seeing that.

17 Q If she had --

18 A If you'd like to show me that --

19 Q No. No.

20 A -- it might refresh my memory.

21 Q If she had as a director of
22 Hewlett-Packard -- and I recognize you were not at
23 the time. If your CFO had given you -- expressed
24 concerns about Autonomy's revenue recognition
25 practices, would you have proceeded with the

1 transaction without knowing much more information?

2 MR. WOLINSKY: Objection.

3 A Yeah. It's a hypothetical question, so I
4 don't know what concerns she raised or if she raised
5 them or how -- what form they were or how it was
6 worded or how it was emphasized or how it was
7 weighted or what the context was. So it's really
8 difficult to -- to answer.

9 Q (By Mr. Greenfield) Well, I'm asking you
10 to answer it to the best of your ability as a CEO,
11 as an experienced director, and someone who has
12 overseen the acquisition process.

13 MR. WOLINSKY: He's just told you how
14 he -- the problems with your question.

15 MR. GREENFIELD: Marc, I don't need
16 speaking objections. If you want to tell him not to
17 answer, tell him.

18 MR. WOLINSKY: He's just answered your
19 question. The problem's in your question.

20 MR. GREENFIELD: Then let him answer it to
21 the best of his ability.

22 A I'll repeat --

23 MR. WOLINSKY: Do you have anything to add
24 to your prior answer?

25 THE DEPONENT: No.

1 MR. GREENFIELD: Could you read the
2 question back?

3 (Page 76, Line 9 through Line 12, read.)

4 Q (By Mr. Greenfield) Given what KPMG
5 reported as to its lack of access to what it
6 regarded as critical information, should the board
7 have gone ahead and signed -- or authorized the
8 signing of the acquisition of Autonomy?

9 MR. WOLINSKY: Objection.

10 MR. GREENFIELD: Yeah.

11 A I wasn't there at the time, as you know.
12 My understanding is a business judgment was made.
13 And from where I sit today I can understand how that
14 business judgment was made. I don't think it was a
15 reckless judgment.

16 Q (By Mr. Greenfield) Do you regard it as a
17 careless judgment?

18 A No. It's a judgment.

19 Q Do you regard it, from what you learned as
20 a member of the DRC, to be a well thought out
21 judgment?

22 A I did not see any evidence that it was not
23 well thought out. They were aware of -- of the --
24 the trade-off and -- and made a conscious, informed
25 decision.

1 Q The acquisition of Autonomy by HP took
2 place within a short period of time, did it not?

3 MR. WOLINSKY: Objection.

4 A What do you mean?

5 Q (By Mr. Greenfield) Several weeks.

6 A What do you mean the "acquisition"?

7 Q The -- from the time of the first
8 presentation of Autonomy as a prospective
9 acquisition to the signing of an agreement to
10 acquire it.

11 A I don't think that's the case. I -- I
12 think it had been on -- on the radar for quite a
13 while. I think it had been brought up certainly in
14 February or March, and I think again in May and
15 July, and then it was signed in August. So I think
16 it was something that had been on the radar screen
17 for quite some time, and had been discussed and
18 deliberated at a couple committees and at the full
19 board level over a period of time.

20 Q Was Autonomy ever presented to HP prior
21 its presentation to Leo in 2011?

22 MR. WOLINSKY: Can I hear that back,
23 again?

24 (Last question read.)

25 MR. WOLINSKY: "Presented," that's the

1 word I wanted to hear. Thank you.

2 MR. GREENFIELD: Yeah.

3 A I'm not sure what you mean when you say
4 "presented." HP was aware of the existence of
5 Autonomy, and my understanding is had it on a list
6 of companies that they would be interested,
7 potentially, in acquiring. And that had been the
8 case for a number of years.

9 Q (By Mr. Greenfield) And that list preceded
10 Leo, did it not?

11 A I believe it did, yes.

12 Q Okay. Was that list put together by
13 Mr. Quattrone?

14 A My understanding is that was a list that
15 was put together by Hewlett-Packard, by -- whether
16 their business development function or their -- I
17 don't know exactly which group, but it was something
18 that had been done in advance.

19 Q Prior to Leo's becoming CEO of HP, had
20 HP considered the acquisition of Autonomy previously
21 and rejected it?

22 A Not that I'm aware of.

23 Q So Autonomy was merely on a list, but it
24 was never actually presented to the company or
25 considered by it as a prospective acquisition?

1 A I'm not aware of the company taking any
2 steps towards making an acquisition of Autonomy in
3 advance of whenever -- February or March or
4 wherever -- whenever they first took it up.

5 Q Do you recall after an agreement in
6 principle was reached between Messrs. Lynch and
7 Apotheker, there was a period provided for due
8 diligence -- further due diligence?

9 A I would have to refresh myself on the
10 exact sequence. I don't recall.

11 Q Do you recall how long a period was
12 provided for that due diligence?

13 A I do not.

14 Q Okay. If I told you today it was between
15 July 28th and August 18th, 2011, a three-week
16 period, would that refresh your recollection?

17 A That may be correct with respect to a
18 formal diligence period, but it doesn't mean that
19 the company wasn't doing any work prior to that.

20 Q Okay. Wasn't it a fact that at that time
21 KPMG was hired for the first time to assist in the
22 due diligence with respect to Autonomy?

23 MR. WOLINSKY: You mean as of July 28?

24 MR. GREENFIELD: Yes.

25 A I don't recall specifically when KPMG

1 was -- was hired. I don't know if it's -- if I can
2 find it in the resolution someplace. I could look
3 for it, if you'd like.

4 Q (By Mr. Greenfield) Would it be fair to
5 say that KPMG was hired after the deal had been made
6 to acquire Autonomy and not before?

7 MR. WOLINSKY: Do you mean agreement in
8 principal or the signed document?

9 MR. GREENFIELD: Well, let's do both.

10 A I -- as I said, I don't remember when KPMG
11 was hired. It would not surprise me to have them --
12 that they would not be engaged until after there was
13 at least an agreement in principal.

14 Q (By Mr. Greenfield) Do you recall that
15 from the investigation that was done by the DRC,
16 that Mr. Lynch only provided publicly available
17 financial statements and information with respect to
18 25 contracts that Autonomy had?

19 A I don't recall specifically what Mr. Lynch
20 provided. My understanding is there were the public
21 financial statements, and there were multiple, if
22 not daily, conversations between the HP team and the
23 Autonomy team responding to questions from HP to
24 Autonomy.

25 Q But the essence and most important --

1 was -- would it be fair to say that KPMG was
2 dissatisfied with the information it was getting as
3 part of its role in the due diligence process?

4 MR. WOLINSKY: Objection.

5 A I'm not sure I would characterize for what
6 I've seen KPMG as being dissatisfied as opposed to
7 them simply stating the fact -- the fact that the
8 judgment had been made -- that as a result a
9 judgment had been made, that they were not getting
10 information much beyond the public financial
11 statements. I think they did ultimately have a call
12 with Deloitte as well -- at least one call with
13 Deloitte.

14 Q (By Mr. Greenfield) Was anyone from KPMG
15 interviewed as part of the due diligence -- of the
16 investigation conducted by the DRC?

17 A I expect they were, but I would have to go
18 back and look at the materials of the list of people
19 interviewed.

20 Q Okay. Was Mr. Lynch interviewed as part
21 of the investigation?

22 A Mr. Lynch was invited to be interviewed
23 and declined.

24 Q Was Mr. Hussain interviewed in connection
25 with the DRC investigation?

1 A Mr. Hussain was invited to be interviewed
2 and declined.

3 Q Okay. Was any presentation made to the
4 committee by or on behalf of Messrs. Lynch and
5 Hussain other than their declining to appear?

6 A Mr. Lynch's counsel sent a letter to the
7 committee.

8 Q What was the nature of that letter?

9 A My recollection is the nature of it was to
10 blame the HP integration process for -- for anything
11 that had gone wrong with the Autonomy acquisition --

12 Q Did you give --

13 A -- without responding -- it didn't respond
14 to any of the claims that we had made.

15 Q Did you give any credibility to the issues
16 raised by Mr. Lynch's counsel in that letter?

17 A We -- the committee and counsel for the
18 committee reviewed the claims and concluded that
19 they were -- reviewed and investigated the claims
20 and concluded that they were not -- not correct.

21 Q Is it your conclusion, sitting here today,
22 that the sole responsibility for the \$8.8 billion
23 write-off and any other damages that flowed from the
24 acquisition of Autonomy are the sole responsibility
25 of Messrs. Lynch and Hussain?

1 A The -- the determination that we reached
2 was that Lynch and Hussain and possibly some of
3 their colleagues and Deloitte were responsible for
4 the -- the -- the misaccounting and fraud, if you
5 will, that resulted in the -- most of the write-off,
6 most of the \$8.8 billion write-down.

7 Q And you concluded -- is it fair to say
8 that you concluded that other than Messrs. Lynch and
9 Hussain and Deloitte, were the sole cause of HP's
10 damages as a result of the acquisition of Autonomy?

11 A Yes.

12 Q Do you anticipate that in the litigation
13 that the company has commenced in the United Kingdom
14 against Messrs. Lynch and Hussain, they will defend
15 themselves in part by making the same or similar
16 allegations to those that were set forth in the
17 letter of Mr. Lynch's counsel to the DRC?

18 A I'm not in a position to have any insights
19 into their litigation strategy.

20 Q Has there been any effort on the part of
21 the company to settle the claims that it has
22 asserted against Messrs. Lynch and Hussain?

23 MR. WOLINSKY: Hold on one second. Let's
24 just put this question and answer as confidential
25 for the moment. Go ahead.

1 MR. GREENFIELD: Okay.

2 A I believe we -- or HP has required -- was
3 required under UK law to have this prelitigation
4 period, and so that may or may not have included
5 some discussion of settlement.

6 Q (By Mr. Greenfield) HP made an offer of
7 settlement to Messrs. Lynch and Hussain, did it not?

8 MR. WOLINSKY: Objection.

9 A I don't recall if there was a specific
10 offer or just that that was part of the required
11 prelitigation activity. I don't know.

12 Q (By Mr. Greenfield) In connection with the
13 settlement of this litigation, wouldn't you have
14 wanted to know that fact?

15 MR. WOLINSKY: Objection.

16 A I -- I think the -- the fact that we are
17 pursuing -- planning to pursue and pursuing Lynch
18 and Hussain is -- I don't know if it's somewhat
19 independent. It's a separate action that we -- the
20 DRC directed the company to do.

21 Q (By Mr. Greenfield) If the DRC directed
22 the company to do, you have -- you must have some
23 idea of what the DRC would be willing to accept in
24 exchange for a release of the claims against
25 Messrs. Lynch and Hussain. Is that not so?

1 MR. WOLINSKY: Objection.

2 A I don't recall our specific discussions on
3 that.

4 Q (By Mr. Greenfield) Are there any ongoing
5 discussions or negotiations at this time with
6 respect to the claims the company has against them?

7 A I believe we have now initiated the
8 litigation against Lynch and Hussain. I'm today not
9 aware of settlement conversation.

10 Q Okay. Have either Messrs. Lynch or
11 Hussein made any settlement proposals to the
12 company, as far as you know?

13 A I don't recall. It's possible they made
14 something that was not acceptable. I don't recall.

15 Q Who would make the ultimate decision
16 whether any settlement with Messrs. Lynch and/or
17 Hussain would be acceptable to the company?

18 A It would be presented to the board.

19 Q Okay. Not to the committee?

20 A I think the committee may technically have
21 jurisdiction, but ultimately the full board would
22 probably decide.

23 Q Why is that?

24 A Because there's no -- there's no potential
25 difference in perspective that I can see between the

1 DRC and the full board.

2 Q Did the committee play any role in the
3 settlement of this litigation?

4 A The committee was advised of settlement
5 talks and discussions along the way, and -- and --
6 and, yes, we were -- we were kept informed.

7 Q Do you know who was negotiating the
8 settlement?

9 A It's been a -- I think early -- at the
10 beginning it may have been Proskauer, and it is now
11 being handled by Mr. Wolinsky.

12 Q And Mr. Wachtell?

13 A Mr. Wachtell and Mr. Lipton.

14 Q Mr. Wolinsky and his firm represent whom
15 in these negotiations?

16 A The company.

17 Q Okay. Do you know whether counsel for any
18 of the individual defendants participated in those
19 negotiations?

20 A I don't recall.

21 Q Would that have been important to you to
22 know?

23 A Can you restate the question?

24 (Page 87, Line 17 through Line 19, read.)

25 A I don't know.

1 Q (By Mr. Greenfield) Do you know who
2 represents you in this litigation?

3 MR. WOLINSKY: He's not a party to the
4 litigation.

5 A I'm not a party to the litigation.

6 Q (By Mr. Greenfield) You're not a defendant
7 in the litigation?

8 A Not as far as I know.

9 Q Okay. Are you a defendant in
10 Mr. Copeland's lawsuit?

11 A I don't know.

12 Q Have you ever --

13 MR. WOLINSKY: Is he? I'd like to know.
14 Is he?

15 Q (By Mr. Greenfield) Have you ever read the
16 complaint in the Copeland case?

17 MR. WOLINSKY: No. Really, Richard, is
18 he?

19 MR. GREENFIELD: Yeah.

20 MR. WOLINSKY: He is a defendant?

21 MR. GREENFIELD: You bet.

22 MR. WOLINSKY: You're irrepressible.

23 MR. GREENFIELD: You got it.

24 A I -- I don't -- I may have read it. I
25 don't recall.

1 MR. WOLINSKY: I don't think so.

2 (Mr. Bookin left the room.)

3 Q (By Mr. Greenfield) Okay. Okay. Do you
4 know if this litigation -- if the settlement of this
5 litigation is approved by the Court any claims that
6 are alleged in the two complaints that Mr. Copeland
7 has filed against the members of the board and
8 others will be released?

9 A That is my belief.

10 Q How did you come to that conclusion?

11 A I must have been told that.

12 Q By counsel?

13 A Yes.

14 Q Which counsel?

15 A I can't -- I can't tell you.

16 Q Okay. Has Mr. Wolinsky represented you in
17 this litigation?

18 MR. WOLINSKY: Richard, really -- I really
19 don't think he's a defendant. Could you show me
20 that he is?

21 MR. GREENFIELD: He's had a role in
22 connection with this litigation. Not as a defendant
23 in the litigation.

24 MR. WOLINSKY: Okay. All right.

25 Q (By Mr. Greenfield) Has Mr. Wolinsky

1 represented you in the conduct of this litigation or
2 in connection with it?

3 A Mr. Wolinsky has advised me in connection
4 with this deposition.

5 Q Has he advised you as a member of the
6 board or the committee at any time prior to this
7 deposition?

8 A He has been at board meetings. I can't
9 remember the extent of his involvement.

10 Q Has Mr. Ferrara been at board meetings?

11 A Mr. Ferrara was at the meetings
12 immediately following the DRC adoption of the
13 resolutions and our -- he was at the meeting where
14 we reviewed it with the full board.

15 Q Okay. Getting back to this settlement,
16 from whom did you learn about the settlement
17 negotiations that took place in connection with this
18 litigation?

19 A I don't recall if I heard it from John
20 Schultz or somebody else.

21 Q Did somebody keep you informed as to
22 developments in the litigation?

23 A The board has been periodically informed,
24 and the DRC members are at the board meetings.

25 Q Okay. Do you know that the -- there were

1 four different versions of the stipulation of
2 settlement of this agreement -- of this -- the
3 settlement of this litigation?

4 A I'm not sure what that means.

5 Q Do you know when this litigation was first
6 settled?

7 A I don't recall precisely, no.

8 Q Okay. Did you play any role in agreeing
9 to the settlement that was negotiated by counsel?

10 A The DRC was involved in discussions
11 regarding potential settlement. And subsequent to
12 that we have -- I have been informed as a director,
13 slash, DRC member of -- of updates periodically.

14 Q And who provided those updates?

15 A My recollection is for most part they've
16 come from John Schultz.

17 Q Okay. And John Schultz is a member of
18 management?

19 A He's the general counsel of HP.

20 Q And he reports to Meg Whitman?

21 A Correct.

22 Q And Meg Whitman is a defendant in the
23 litigation?

24 A Yes.

25 Q Okay. Was the approval -- strike that.

1 Did the DRC come forth with any sort of
2 mandate with respect to this litigation? And by
3 "this litigation," the one we're here on today.

4 A We recommended that the litigation either
5 be settled or sought to be dismissed.

6 Q Okay. What did you hope to obtain by a
7 settlement for Hewlett-Packard?

8 A Elimination of the claims.

9 Q There aren't any claims in the litigation
10 against Hewlett-Packard, are there?

11 A Are you talking about the derivative
12 litigation?

13 Q Yeah.

14 A Well, maybe we're using different terms.
15 I think there were claims.

16 Q Do you know of any claims against
17 Hewlett-Packard in the derivative litigation?

18 A Oh, against the individual defendants.

19 Q Yeah. Why was it to the advantage of
20 Hewlett-Packard to eliminate or resolve the claims
21 against the individual defendants?

22 A Well, for the most part -- well, entirely,
23 with the exception of -- of Hussain and Deloitte, we
24 concluded that there were not meritorious claims to
25 be pursued, and that it was not in the company's

1 best interest for a number of reasons to pursue
2 claims that we did not think we would be able to
3 prevail on.

4 Q Did you ever give any consideration to
5 letting lead counsel, Mr. Cotchett and his firm,
6 Mr. Molumphy, pursue the claims on behalf of HP?

7 A We did not think it was a good use of
8 HP's funds, and it would be a distraction from the
9 business to pursue those claims.

10 Q HP wouldn't have been paying Mr. Cotchett
11 and Mr. Molumphy, would they?

12 MR. WOLINSKY: Objection.

13 Q (By Mr. Greenfield) They would have taken
14 those claims, as they did, on a purely contingent
15 fee basis?

16 MR. WOLINSKY: Objection.

17 A I don't know.

18 Q (By Mr. Greenfield) The settlement of this
19 litigation does not dispose of the company's
20 involvement in the issues that have been raised,
21 does it?

22 A I don't know what you mean by that.

23 Q Well, the company's pursuing claims
24 against Messrs. Lynch and Hussain, and may pursue
25 claims against Deloitte.

1 A Correct.

2 Q And all the facts and circumstances that
3 will be the subject of testimony and evidence in
4 this case will similarly be in the UK case. Is that
5 not so?

6 MR. WOLINSKY: Objection.

7 A I assume some of them will be part of that
8 case, but I'm not a lawyer, I'm not a litigator, so
9 I can't say.

10 Q (By Mr. Greenfield) By settling this case,
11 does the company get rid of the burden of dealing
12 with all these issues and the distraction of
13 management?

14 MR. WOLINSKY: Objection.

15 A The -- as I said before, the conclusion
16 was that we did not -- there were not meritorious
17 claims to be pursued against the officers and
18 directors, and so there was -- the company has no
19 interest in -- in the expense or the distraction of
20 pursuing those claims because we -- we concluded
21 that they would not succeed. In the case of Hussain
22 and Lynch, we think there is -- there is a prospect
23 of succeeding.

24 Q (By Mr. Greenfield) And you're seeking
25 \$5 billion from them, approximately?

1 A I don't recall the specific amount.

2 Q To the nearest billion, can you remember?

3 A I -- I'll go with your 5 billion.

4 Q Okay. Do you think they are capable of
5 withstanding a judgment for \$5 billion?

6 A I don't know. I would say probably not.
7 But that doesn't mean they can't sustain a
8 substantial -- substantial judgment.

9 Q Would the same be true for each of the
10 members of the board that had been sued in this
11 litigation?

12 A I don't --

13 MR. WOLINSKY: The same what?

14 Q (By Mr. Greenfield) The same ability to
15 pay a substantial amount of a judgment.

16 A The decision was based on what we
17 considered the improbability of success. Where
18 we -- we feel -- we concluded there was no
19 reasonable probability of success against the
20 officers and directors other than Hussain and Lynch.
21 So in pursuing Hussain and Lynch we think there is
22 the opportunity for substantial recovery of some
23 amount simply because we think they are guilty of
24 something and that we have a legal basis for
25 pursuing them. We did not conclude that we had a

1 legitimate legal basis for pursuing the officers and
2 directors other than them.

3 Q So would it be fair to say, then, that the
4 DRC gave no consideration to the ability of any of
5 HP's officers and directors or legal advisors or
6 financial advisors to pay a significant judgment?

7 A I think we may have considered that. I'd
8 have to go back and look at the notes. But at the
9 end of the day we concluded that there was no
10 probability of success and there's no point
11 consuming management time and attention and
12 consuming corporate funds that we would have to
13 advance to defend the claims. There's no point in
14 doing that with no likelihood of success.

15 Q And you still feel certainly that there
16 was no likelihood of success on any of the claims
17 asserted either in the derivative litigation that is
18 pending or the demands that have been made on the
19 board?

20 MR. WOLINSKY: Other than as to Lynch,
21 Hussain and Deloitte.

22 MR. GREENFIELD: Yes.

23 A As it has been described and explained to
24 me, and with the exculpatory provisions that we have
25 in the charter, and with, in any case, our finding

1 of no wrongdoing, there's very little probability of
2 success.

3 Q (By Mr. Greenfield) When you say "little
4 probability of success," do you mean no probability
5 of success?

6 A I have no basis for making that fine a
7 legal judgment. But as a business judgment, the
8 cost of pursuing it, both in terms of the company's
9 money and in terms of distraction of the management
10 team, would make it a very bad decision.

11 Q Even though you might recover \$8.8 billion
12 or more?

13 A I think there's virtually no chance of
14 recovering \$8.8 billion.

15 Q What makes you think that?

16 MR. WOLINSKY: Objection.

17 A How are we going to recover that? We
18 found that there was no wrongdoing.

19 Q (By Mr. Greenfield) No. But if a court
20 determined otherwise, couldn't -- couldn't
21 Wasterstein Perella and your financial advisors and
22 Gibson Dunn and Freshfields and your D&O carrier
23 have paid a very substantial verdict?

24 MR. WOLINSKY: Objection.

25 A We concluded that given the contractual

1 relationships we had with those advisors, that there
2 was not a claim to be made against them.

3 Q (By Mr. Greenfield) Even if they were
4 reckless in carrying out their responsibilities to
5 the company?

6 MR. WOLINSKY: Objection.

7 A We did not find that they were reckless in
8 carrying out their duties and responsibilities.

9 Q (By Mr. Greenfield) That wasn't what I
10 said. Even if there were a finding that they had
11 been reckless in pursuing their responsibilities to
12 the company in connection with the Autonomy
13 acquisition.

14 A If we didn't conclude based on our review
15 that they were reckless, it would be hard for us to
16 pursue them on the basis of being reckless.

17 Q Did you conclude that before you could
18 have a claim against Gibson Dunn or Freshfields,
19 they had to have been reckless?

20 A Going back to our earlier conversation, I
21 don't recall the discussion regarding Gibson Dunn
22 and Freshfields.

23 Q In fact, there were none. Am I correct?

24 A I don't recall.

25 Q Do you recall there being such a

1 discussion with respect to the financial advisors to
2 HP in connection with the transaction?

3 A There was a discussion with respect to the
4 financial advisors. I do recall that.

5 Q But you don't remember any such a --
6 discussion with respect to Gibson Dunn and
7 Freshfields?

8 A That's correct. I don't recall if there
9 was or wasn't.

10 Q Okay. Do you remember Ralph Whitworth
11 ever saying to you and others, how could the board
12 have hired somebody so inept as Leo?

13 A I don't remember him making that
14 statement. I don't recall hearing that.

15 Q In substance have you heard that?

16 A No. I -- not that I remember.

17 Q To the best of your understanding as a
18 layperson, what would have happened if, in fact, HP
19 had terminated the transaction with Autonomy and not
20 gone to closing?

21 A Well, I -- I'm not an expert on -- on law
22 or the governing law. I think the -- the concern
23 would be, and my personal opinion sitting here
24 today, is that then Autonomy and its shareholders
25 would have potential claims for breach of contract

1 against HP.

2 Q Did you come to a conclusion as to
3 whether Autonomy and/or its shareholders would
4 have prevailed in such a claim as part of your
5 investigation of the transaction?

6 (Mr. Particelli left the room.)

7 A I would have to look at the resolution
8 or -- or be refreshed. I don't remember.

9 Q (By Mr. Greenfield) Do you know whether
10 the board and/or counsel to the board considered
11 that possibility prior to closing on it?

12 MR. WOLINSKY: Could you be clearer on
13 what you're referring to there?

14 Q (By Mr. Greenfield) Do you believe the
15 board and/or its counsel after the agreement with
16 Autonomy was signed and prior to closing gave
17 consideration to what would happen if HP terminated
18 the transaction?

19 (Mr. Bookin re-entered the room.)

20 (Mr. Downs left the room.)

21 A As we discussed earlier, I was aware
22 that -- where one director who -- asked that that
23 possibility be investigated, and that the response
24 was it could not be terminated. That's my
25 understanding.

1 Q (By Mr. Greenfield) Was there any
2 consideration given to the fact that -- or what
3 might happen if it were terminated?

4 A Without being refreshed, I don't remember.

5 Q How would would you be refreshed?

6 A Perhaps it's in the resolution or
7 otherwise going through the -- the presentation.

8 Q When did you last read the resolution?

9 A Yesterday.

10 Q And you don't remember if there's any
11 reference whatsoever to that issue?

12 A Well, it's 80 or 90 pages, so I -- I --
13 I can't remember that.

14 Q Okay. Would it be fair to say that other
15 than imparting a message to counsel to settle this
16 litigation, the DRC had no further role in
17 connection with the litigation?

18 MR. WOLINSKY: Objection.

19 A I believe we would have a role in
20 approving the terms of the settlement.

21 Q (By Mr. Greenfield) Okay. Why do you
22 believe that to be the case?

23 A That's my recollection.

24 Q Okay. And did you, in fact, approve the
25 terms of the settlement?

1 A I believe they -- the board has reviewed
2 the terms and has approved them, and the DRC are
3 members of the board.

4 Q Okay.

5 A I don't remember if we took a specific DRC
6 action.

7 Q Now, you testified earlier that you were
8 kept informed about the litigation --

9 (Mr. Particelli re-entered the room.)

10 Q (By Mr. Greenfield) -- by John Schultz,
11 executive vice president/general counsel of HP; is
12 that correct?

13 A That's my recollection.

14 Q Okay. Did he discuss with you any of the
15 issues that have come before the Court in the last
16 year with respect to the litigation?

17 MR. WOLINSKY: You can answer that yes or
18 no or I don't recall.

19 THE DEPONENT: Can you play back the
20 question?

21 (Last question read.)

22 A I believe he did.

23 Q (By Mr. Greenfield) Okay. In doing so,
24 did he tell you that -- strike that.

25 In doing so did he inform you facts about

1 what had transpired in the litigation?

2 A I believe so.

3 Q Did he inform you that a stipulation of
4 settlement had been signed on or about June 30,
5 2014?

6 A I don't remember that specific detail.

7 Q Do you recall him informing you or the
8 board as a whole or the DRC as a whole that the
9 first settlement agreement that was signed was
10 withdrawn or rejected by the Court?

11 A I recall hearing that, yes.

12 Q Do you know why?

13 A My recollection -- well, I don't -- I
14 can't say specifically. I don't know.

15 Q Do you know whether there was an issue
16 of -- with regard to the scope of the releases that
17 were in the settlement agreement?

18 A Possibly.

19 Q Do you know whether the DRC or the board
20 played any role in determining the scope of the
21 releases that would be in the litigation -- in the
22 settlement?

23 A I believe we left it to counsel to
24 negotiate the terms of the settlement.

25 Q Under whose, if anyone's, guidance?

1 (Mr. Downs re-entered the room.)

2 A Ultimately under the guidance of the
3 board.

4 Q (By Mr. Greenfield) Okay. Not John
5 Schultz?

6 A No.

7 Q Okay. So counsel informed the board --
8 the members of the board that the Court had rejected
9 the first settlement that was negotiated?

10 A That's my recollection.

11 Q Okay. Do you know why?

12 A I -- we just talked about that. I don't
13 recall specifically.

14 Q Do you know generally?

15 A No. I mean, I can't -- I can't remember
16 the details.

17 Q Do you know whether it had anything to
18 do with the scope of the releases that were
19 incorporated in that settlement?

20 A I recall hearing that at some point, but I
21 can't --

22 Q Okay.

23 A -- tie that directly to what you're
24 talking about.

25 Q Do you know if it had anything to do with

1 the fees that were to be paid to plaintiffs' counsel
2 if the settlement were approved by the Court?

3 A I recall hearing that as well.

4 Q What did you hear?

5 A That --

6 MR. WOLINSKY: Just recount what you
7 factually were told.

8 MR. GREENFIELD: Yeah.

9 MR. WOLINSKY: Don't include any legal
10 advice you were given.

11 Q (By Mr. Greenfield) Yeah. I'm not asking
12 for legal advice.

13 A My recollection is we were told the fees
14 were too high, but that's -- I don't remember beyond
15 that.

16 Q Did you agree?

17 A I would say as a fiduciary we're always
18 happy to pay lower fees.

19 Q That wasn't the question.

20 A I don't have a basis for agreeing with the
21 judged legal conclusion.

22 Q Did you as a member of the board approve
23 the first settlement, including the payment of legal
24 fees to plaintiffs' counsel?

25 A I believe we did.

1 Q How did you determine whether the legal
2 fees that the company was to pay legal counsel,
3 subject to the approval of the Court, were fair and
4 reasonable?

5 A We would have been advised by counsel.

6 Q Okay. Do you know when the subject of --
7 strike that.

8 In the course of being informed generally
9 about the progress of the litigation, do you know
10 when the subject of the fees to be paid by the
11 company to plaintiffs' counsel first came up?

12 MR. WOLINSKY: Can I hear that question
13 back?

14 (Last question read.)

15 MR. WOLINSKY: Thank you.

16 A My recollection is that that was discussed
17 I think in the first quarter or the second quarter
18 of 2014.

19 Q (By Mr. Greenfield) Okay.

20 A I don't have a precise memory.

21 Q Okay. Would it be fair to say that the
22 settlement was not yet worked out by that point, as
23 far as you know?

24 MR. WOLINSKY: Objection.

25 A Yes.

1 Q (By Mr. Greenfield) Okay. Would it be
2 fair to say that there were still -- many details of
3 the corporate governance changes that became part of
4 the settlement were yet to be worked out?

5 MR. WOLINSKY: Objection.

6 A I believe that's correct.

7 Q (By Mr. Greenfield) Would it be fair to
8 say that you received advice from Mr. Ferrara as
9 counsel to the committee with respect to how much
10 should be paid to plaintiffs' counsel in connection
11 with the resolution of the litigation?

12 MR. WOLINSKY: Can I hear that read back?
13 (Last question read.)

14 MR. WOLINSKY: You can answer that yes or
15 no.

16 A Yes.

17 Q (By Mr. Greenfield) Okay. In point in
18 time, was that approximately the first quarter of
19 2014 or earlier?

20 A I -- to the best of my recollection, as I
21 said before, it was the first or second quarter of
22 2014. I don't recall specifically.

23 Q Okay. Do you know what remained to be
24 negotiated -- strike that.

25 The -- the first stipulation of settlement

1 was signed the end of June 2014. Between the
2 first -- between when you first found out about the
3 attorney's fee issue and the ultimate signing of
4 that agreement, what remained to be worked out as
5 part of the settlement?

6 A Well, in the -- we had discussed a series
7 of reforms. I don't recall -- you know, to the
8 company's M&A procedures. I don't recall
9 specifically when that came into play. We talked
10 about them -- you know, the company had instituted
11 its own -- some of its own reforms. And then we had
12 a proposal from, I think, Robbins Geller of some
13 additional reforms. And we discussed those at our
14 January meeting. And then in our resolution, I
15 believe we proposed a series of reforms that were
16 then subsequently modified in connection with the
17 litigation settlement.

18 Q And that was after the subject of
19 attorney's fees for plaintiffs' counsel had come up.
20 Am I correct?

21 MR. WOLINSKY: Objection.

22 A I can't say -- it may all have been at the
23 same time. I can't say that -- the sequence.

24 Q (By Mr. Greenfield) Okay. Now, do you
25 recall how plaintiffs' counsel was proposed to be

1 compensated in connection with the first version of
2 the settlement?

3 A In -- my recollection is in the original
4 version, they were going to play a role in our
5 pursuit of Lynch and Hussain and would receive a fee
6 for that.

7 Q Okay. They would be counsel to the
8 company in that litigation?

9 A They would be part of the litigation team.
10 I don't recall the specific role.

11 Q Okay. Would it be fair -- would it
12 refresh your recollection if I say they were going
13 to be paid, again, subject to the approval of the
14 Court, \$18 million up front and a potential
15 additional \$30 million depending upon whatever
16 result might have been obtained by HP in the
17 litigation against Messrs. Lynch and Hussain?

18 MR. WOLINSKY: Objection.

19 A I don't remember the specifics.

20 Q (By Mr. Greenfield) Would they have been
21 of concern to you?

22 A Yes. I knew them at one time. I'm just
23 saying I don't remember them now.

24 Q Yeah. Based upon your experience as an
25 executive, was that an unusual arrangement?

1 A I don't know that my experience can speak
2 for everything that's ever happened in the world, so
3 I don't -- I don't know that it's something I have
4 seen before, but I don't know that I can
5 characterize it as unusual. I don't know.

6 Q Did the committee members discuss among
7 themselves whether that fee arrangement that was
8 incorporated into the first settlement was
9 excessive?

10 A It was a settlement that we were willing
11 to make.

12 Q That wasn't the question. Did you discuss
13 among yourselves whether that was an excessive
14 amount?

15 A I don't recall the term "excessive" being
16 used. I think we would always pay less -- prefer to
17 pay less than more.

18 Q Did one of you say, "Too much"?

19 A I don't remember the specific dialogue.

20 Q When was that proposal as to the fees
21 first made to the company, as far as you know?

22 MR. WOLINSKY: Hold on. Okay. Go ahead.

23 A I don't recall. I don't know.

24 Q (By Mr. Greenfield) Okay. Was an
25 agreement on what fees the company would pay to

1 plaintiffs' counsel a condition of resolving the
2 claims in the litigation?

3 MR. WOLINSKY: Objection.

4 THE DEPONENT: Can you read that back,
5 please?

6 (Last question read.)

7 A That there was, I guess, an overall
8 settlement, and the fees would have been part of it.

9 Q (By Mr. Greenfield) What if the company
10 had not agreed to pay fees to plaintiffs' counsel
11 and just left it to the Court to determine, did you
12 ever consider that possibility?

13 A I don't remember if we considered that or
14 not.

15 Q Isn't it a fact that Mr. Ferrara advised
16 you that this would be the sure way to get rid of
17 the entire litigation?

18 MR. WOLINSKY: Objection. Don't answer
19 that. Direct you not to answer on the basis of
20 attorney-client privilege.

21 Q (By Mr. Greenfield) Why did you go along
22 with a fee that you thought you would have wanted to
23 pay less?

24 A We were advised that that would be, you
25 know, an acceptable settlement or a reasonable

1 settlement.

2 Q Was it described as a condition of the
3 settlement?

4 MR. WOLINSKY: Direct you not to answer
5 that.

6 Q (By Mr. Greenfield) Did you regard it as a
7 condition of the settlement?

8 MR. MOLUMPHY: Regard what?

9 MR. GREENFIELD: The payment of fees.

10 MR. WOLINSKY: The original retention
11 agreement?

12 MR. GREENFIELD: Yes.

13 A My understanding was that was part of the
14 overall settlement.

15 Q (By Mr. Greenfield) Did you regard it as a
16 condition of the settlement?

17 A I think it was subject to -- to Judge
18 Breyer's review, so it was part of -- it was part of
19 the overall settlement.

20 Q Did the board or the special -- or the DRC
21 make any attempt at all to try and separate the
22 issue of legal fees for plaintiffs' counsel from the
23 settlement of the litigation?

24 MR. WOLINSKY: Objection.

25 A I'm not sure I understand the question.

1 Q (By Mr. Greenfield) You've said that the
2 legal fees payable to plaintiffs' counsel were part
3 and parcel of the settlement. And I'm asking you
4 whether you ever considered the issue of whether
5 those fees should not be agreed to as a condition of
6 disposing of the claims against the defendants in
7 exchange for the corporate governance changes?

8 MR. WOLINSKY: Frankly, I think the
9 question got less clear.

10 MR. GREENFIELD: Could be.

11 MR. WOLINSKY: Yeah.

12 MR. GREENFIELD: Please read it back.

13 (Last question read.)

14 MR. WOLINSKY: Do you think that question
15 is clear?

16 MR. GREENFIELD: Yeah.

17 A I'm -- I'm not sure I understand the
18 question. We -- we --

19 MR. WOLINSKY: If you don't understand it,
20 then -- then just stop there.

21 THE DEPONENT: Okay.

22 Q (By Mr. Greenfield) Did you ever give any
23 consideration to not agreeing to those -- to the
24 initial fee proposal of plaintiffs' counsel?

25 MR. MOLUMPBY: Well, I object. That

1 assumes facts not in evidence.

2 MR. GREENFIELD: Okay.

3 A I don't recall. I'm not sure I understand
4 the question, so I don't really have an answer.

5 Q (By Mr. Greenfield) So as far as you're
6 concerned, it was always one package, including the
7 attorney's fee agreement?

8 A There was a settlement agreement that had
9 different provisions, one of -- my understanding is
10 part of that was the fees.

11 Q Okay. And who negotiated that agreement
12 on the part of the individual defendants?

13 A I'm not sure.

14 Q Did it ever occur to you as a member of
15 the DRC or as a director of HP who was negotiating
16 that settlement on behalf of the individual
17 defendants?

18 A Well, we concluded that there were no
19 claims to be made against the individual defendants
20 other than Hussain and Lynch.

21 Q And --

22 MR. WOLINSKY: I'm sorry. You interrupted
23 his answer.

24 MR. GREENFIELD: Sorry.

25 THE DEPONENT: That was the end of my

1 answer.

2 MR. WOLINSKY: Okay.

3 MR. BOOKIN: I object to the form of the
4 question. It's a lack of foundation.

5 Q (By Mr. Greenfield) Do you know whether
6 Mr. Lewinsky (sic) -- Mr. Wolinsky -- Mr. Wolinsky
7 was the principal negotiator for HP and the
8 individual defendants in the litigation?

9 A I'm not sure.

10 Q Did you ever inquire whether he was or was
11 not?

12 A No.

13 Q Do you know who negotiated on the
14 company's behalf in connection with the settlement
15 of the litigation?

16 A I believe it was a combination of Ralph
17 Ferrara and -- and Mr. Wolinsky.

18 Q Okay. As far as you know, did anybody
19 else participate on the defendants' side in any of
20 those negotiations?

21 A Not that I know of.

22 Q Okay.

23 A Can we get to a break?

24 Q Sure.

25 A Little bio break.

1 Q You're the boss.

2 (Lunch break taken from 12:07 p.m. until
3 12:42 p.m.)

4 MR. GREENFIELD: All objections other than
5 objections as to form are waived till time of trial.

6 MR. WOLINSKY: Correct.

7 MR. GREENFIELD: And the witness does not
8 have to sign the deposition.

9 MR. WOLINSKY: No, he does not.

10 During the course of the questioning on
11 settlements, I put -- I designated a portion of the
12 transcript as confidential, but in light of the
13 answers, they don't need to be treated as
14 confidential or bound separately or be subject to
15 any special restriction.

16 (Discussion off the record.)

17 MR. GREENFIELD: Could you read the last
18 question?

19 (Page 115, Line 18 through Line 20, read.)

20 Q (By Mr. Greenfield) Could you describe
21 generally the settlement of the litigation, as you
22 understand it?

23 MR. WOLINSKY: As it currently exists?

24 Q (By Mr. Greenfield) As it currently
25 exists, what claims are being released?

1 A My understanding is that all of the claims
2 against the individual defendants are being
3 released, with the exception of Lynch and Hussain.

4 Q Do they arise solely from the Autonomy
5 transaction and its aftermath, or are any other
6 claims released, as far as you know?

7 A My recollection is that it's all Autonomy
8 and Autonomy related, but I'm...

9 Q Can you tell me whether settlement will
10 release claims against Hewlett-Packard's management
11 for any false, misleading disclosures or false,
12 misleading financial statements following the
13 acquisition of Autonomy?

14 MR. WOLINSKY: Generally or just -- or as
15 related to Autonomy?

16 MR. GREENFIELD: Generally.

17 THE DEPONENT: Can you redo that?

18 (Last question read.)

19 A I think to the extent that there were
20 claims made related to the Autonomy-related matters,
21 those are extinguished. I can't remember if there
22 were others.

23 Q (By Mr. Greenfield) Are you aware that
24 there was a class action litigation brought against
25 Meg Whitman and HP for violations of the federal

1 disclosure laws relating to Autonomy?

2 A I believe so, yes.

3 Q And that case has been settled, has it
4 not?

5 A I think so.

6 Q Does the amount a hundred million dollars
7 ring any bells with you?

8 A Yes.

9 Q Okay. Was that the settlement of the
10 securities fraud class action?

11 A I believe so.

12 Q Okay. Do you know who was charged with
13 liability in that litigation?

14 MR. WOLINSKY: Objection to form.

15 A I'm not sure.

16 Q (By Mr. Greenfield) I understand. Okay.
17 Let me rephrase it. Do you know whether Meg Whitman
18 was named as a defendant in that litigation?

19 A I believe she was.

20 Q And do you know if it was based upon, in
21 part, statements that she made publicly after the
22 acquisition of Autonomy?

23 A I believe that's true.

24 Q Okay. Do you know whether those claims
25 had any merit whatsoever?

1 A I believe that the DRC looked at claims
2 with -- with respect to one comment that Meg made,
3 and -- and we concluded that there was no merit to
4 that claim with respect to the matters we were
5 looking at.

6 Q Would it be fair to say that the board
7 concluded that there were no merit -- there was no
8 merit to the allegations in that complaint?

9 A I -- I think that's the case, but I --
10 that's a very broad statement, so I'm not sure.

11 Q Why did Hewlett-Packard settle that case?

12 A In order to settle the case and remove
13 the -- the cost and the risk of litigation.

14 Q Okay. Would that be true even if there
15 was no validity to the claims alleged in that case?

16 A Perhaps.

17 Q Isn't a hundred million dollars a lot of
18 money to pay for claims that have no validity?

19 A It's a hundred million to settle the case.

20 Q Did you ever consider trying to get money
21 from the insurance carriers in this case to settle
22 the claims against the individual defendants?

23 A We did review that.

24 Q Did you enter into any negotiations with
25 the insurance carriers with respect to possible

1 settlement of this litigation?

2 MR. WOLINSKY: You can you answer that yes
3 or no.

4 A Not that I recall.

5 Q (By Mr. Greenfield) Not you personally. I
6 mean did counsel for the company engage in such
7 negotiations or discussions?

8 A I -- I'm not -- I'm not sure. I don't
9 recall.

10 Q Was it ever discussed among the members of
11 the committee?

12 A There was a discussion in our review of
13 the investigation. There was a discussion of that.

14 Q Would it be fair to say that there was
15 approximately \$400 million in officers and directors
16 liability insurance that the officers and directors
17 of HP had in place?

18 MR. WOLINSKY: Objection.

19 A I don't recall the amounts of the -- of
20 the D&O insurance.

21 Q (By Mr. Greenfield) Did you ever consider
22 that amount -- what the amount was?

23 A Probably, but I don't remember what the
24 numbers were.

25 Q When you agreed to join the board, did you

1 ask how much D&O coverage there was?

2 A Probably.

3 Q Why?

4 A To make sure that there was adequate
5 insurance.

6 Q Did you see whether there was adequate
7 insurance at the time you were evaluating whether
8 the claims alleged in this complaint should be
9 settled?

10 A I'm trying to remember -- I don't remember
11 all the details of the discussion about the
12 insurance.

13 Q But you don't know whether any demand was
14 made on the insurance carriers to pay anything in
15 settlement of the claims in this litigation?

16 A My recollection is that we did not, but I
17 think we did discuss it. But I'm not -- I'm not
18 really remembering.

19 Q If you did not make any demand on the
20 insurance carriers, the D&O insurance carriers, why
21 wouldn't you have done so? When I say "you," I mean
22 the company.

23 MR. WOLINSKY: Kind of a convoluted
24 question. Could you rephrase it?

25 Q (By Mr. Greenfield) Assuming that the

1 company did not make any demand on the D&O carriers,
2 why would it have not done so?

3 A I -- I think I'd like to review the
4 resolutions to see if it was discussed in there
5 because my memory is hazy.

6 Q Yes, sir. I'll take it the way you
7 remember it. If you don't remember, you don't
8 remember.

9 A I -- I don't remember the nature of the
10 discussions.

11 Q Okay. Do you know whether the D&O
12 coverage covered the expenses of Mr. Ferrara and his
13 firm?

14 A I don't recall.

15 Q Do you have any idea one way or the other?

16 A No.

17 Q Did you ever inquire?

18 A Perhaps, but I don't remember the answer.

19 Q Okay. Getting back to the settlement,
20 does the settlement as it presently is -- and I will
21 represent to you this is the fourth iteration of the
22 settlement, because earlier versions had either been
23 withdrawn or rejected by the Court. Does it release
24 any claims based upon any acquisition other than the
25 Autonomy acquisition?

1 MR. WOLINSKY: Objection.

2 A I think --

3 MR. WOLINSKY: Go ahead.

4 A I would have to review the -- the
5 agreement. I don't remember off the top of my head.

6 Q (By Mr. Greenfield) You don't know?

7 A I don't remember.

8 Q Did you ever know?

9 A Probably.

10 Q If the Court asked you to come to the
11 final settlement approval hearing on June 24, would
12 you make yourself available?

13 A I think I have a conflict. I don't know.

14 MR. WOLINSKY: You meant July 24th?

15 Q (By Mr. Greenfield) July 24th.

16 A I don't know if I'm available on July 24th
17 or not.

18 Q But if the Court asked you to appear,
19 notwithstanding your conflict, would you come?

20 A I don't -- I don't know. I don't know
21 what my conflict is. I don't know if I have a
22 conflict.

23 Q You don't have a calendar here or calcu --

24 MR. WOLINSKY: Really not a productive
25 line of questioning, is it?

1 MR. GREENFIELD: Okay.

2 Q (By Mr. Greenfield) In any event, so you
3 don't know whether the settlement releases any
4 acquisitions -- release -- releases any of the
5 officers and directors from liability in connection
6 with any other acquisition than the Autonomy
7 acquisition?

8 MR. WOLINSKY: Objection. Asked and
9 answered.

10 A Without referring back to the -- to the
11 agreement itself, I -- I don't recall.

12 Q (By Mr. Greenfield) Would you expect that
13 it would be?

14 A I don't recall.

15 Q That wasn't what I asked.

16 A I don't have an expectation without
17 reviewing it.

18 Q When did you last review the stipulation
19 of settlement in this case?

20 A I believe it has been described to the
21 board. I don't recall if I reviewed the full
22 agreement.

23 Q Would it be fair to say that to the best
24 of your recollection you have never read any of the
25 stipulations of settlement in this litigation?

1 A I think for the most part I've relied on
2 counsel to summarize them for us. I don't recall if
3 I read them or not. I don't recall reading them.

4 Q And counsel, again, being Mr. Schultz?

5 A Some combination of -- yeah, probably
6 Mr. Schultz.

7 Q Okay. Do you know whether the settlement
8 agreement provides for release of the board's
9 approval of the buyback of approximately 24 million
10 HP shares for approximately \$489 million?

11 MR. WOLINSKY: Objection.

12 A Yeah. I -- can you restate the question?
13 (Last question read.)

14 A I don't understand the first part of the
15 question.

16 (Last question read.)

17 A I don't know what release of the board's
18 approval is referring to.

19 Q (By Mr. Greenfield) Okay. Would it be
20 fair to say that as described to you, you understand
21 that there are releases in the litigation in the
22 stipulation of settlement?

23 A Yes.

24 Q Releases of claims?

25 A Yes.

1 Q Okay. And releases of individuals?

2 A Yes.

3 Q And releases of entities?

4 A Yes.

5 Q Okay. And the question is whether any of
6 those releases release members of the board of
7 directors in connection with its approval of a
8 buyback of 24 million HP shares for approximately
9 \$489 million.

10 MR. WOLINSKY: Objection. Go ahead.

11 A That's -- that's possible, but I just --
12 I don't recall specifically.

13 Q (By Mr. Greenfield) Okay. Do you know
14 what Hewlett-Packard's staggered foreign loan
15 program is?

16 A I -- I think they're -- yes. I think I
17 do.

18 Q Okay. Can you tell me how it works?

19 A Not in tremendous detail, but, in essence,
20 it has to do with the loaning of funds that are
21 domiciled offshore back to the United States for use
22 in the U.S.

23 Q Okay. Were any funds in that staggered
24 foreign loan program used in connection with the
25 acquisition of Autonomy?

1 A Well, Autonomy was an offshore company, so
2 it seems -- I -- I don't know the answer.

3 Q I think I may have asked you before, but
4 in connection with the acquisition of Autonomy, did
5 you and the other members of the committee conclude
6 that there was absolutely no liability on the part
7 of Ernst & Young to HP for its role in connection
8 with Autonomy?

9 MR. WOLINSKY: Objection.

10 A I would like to review the -- the
11 resolutions to refresh me.

12 Q (By Mr. Greenfield) Okay. But you don't
13 know off -- sitting here without looking at the
14 resolution?

15 A I don't want to hazard a guess or -- or a
16 recollection when I have the document right in front
17 of me to refresh me.

18 Q You don't have to do that. If you don't
19 know, you don't know.

20 Do you know whether there is any ongoing
21 investigation of HP's staggered foreign loan
22 program?

23 MR. WOLINSKY: Hold on. Don't answer
24 that. You're really going far afield here.

25 MR. GREENFIELD: No. It's in the context

1 of Autonomy.

2 MR. WOLINSKY: If you say "in the context
3 of Autonomy," then you can go ahead.

4 Q (By Mr. Greenfield) In the context of
5 Autonomy or otherwise.

6 MR. WOLINSKY: No. "In the context of
7 Autonomy," fine. "Or otherwise," please direct you
8 not to answer. So it's your choice.

9 Q (By Mr. Greenfield) Well, we'll do it
10 first for Autonomy.

11 A Well, I'm not --

12 MR. WOLINSKY: Okay.

13 A I'm not -- I don't know whether the
14 staggered loan program was used for Autonomy. I
15 don't recall. So I don't -- I don't have an answer
16 for that.

17 Q (By Mr. Greenfield) So you don't know of
18 there being any ongoing investigations by the IRS or
19 anybody else with respect to the use of this program
20 in connection with the Autonomy acquisition?

21 A No. I don't know for a fact, no.

22 Q In exploring the possible claims that the
23 company had in connection with the Autonomy
24 acquisition, do you recall ever looking into the
25 staggered foreign loan program to see if there was

1 any liability on anybody's part at -- in management
2 or on the board?

3 MR. WOLINSKY: Associated with the
4 Autonomy acquisition.

5 Q (By Mr. Greenfield) Associated with the
6 Autonomy acquisition.

7 A I would have to review. I don't recall
8 specifically.

9 Q Okay. And sitting here today, you don't
10 know whether the release language in the stipulation
11 of settlement would release any such claims?

12 A I don't -- I don't recall.

13 Q Okay. Do you know whether the release
14 language in the stipulation of settlement releases
15 you and your fellow members of the DRC as a result
16 of the services that you provided to the DRC?

17 A Say that again.

18 (Last question read.)

19 A I -- I don't know.

20 Q (By Mr. Greenfield) Do you know whether
21 the release language in the stipulation of
22 settlement releases Gibson Dunn or Freshfields in
23 connection with their role in the acquisition of
24 Autonomy?

25 A I believe it does.

1 Q Why do you come to that belief?

2 A During the break I was refreshed on the
3 committee's review of the Gibson Dunn and
4 Freshfields' participation. And we did review their
5 participation and whether we had valid claims
6 against them, and concluded that we did not. So for
7 that reason I would assume that they are released in
8 the release.

9 Q Okay. In that conversation, which I
10 assume was with Mr. Wolinsky, did he impart any
11 other facts to you in connection with what Gibson
12 Dunn did or did not do or Freshfields did or did not
13 do?

14 A He showed me something that we had
15 reviewed at the DRC, I believe, suggesting that
16 Gibson Dunn had concluded that we could not get out
17 of the contract, out of the autonomy contract, not
18 terminate it.

19 Q Do you know whether Gibson Dunn had
20 considered the reasons it could not have gotten HP
21 out of the contract after it was signed, whether it
22 had given any consideration to that issue before the
23 contract was signed?

24 A I think, as I -- I don't remember having
25 specific knowledge of that, but I think it's

1 reasonable to assume that the parties knew what they
2 were signing and understood the implications of
3 their contract.

4 Q Based upon the advice and counsel of
5 Gibson Dunn and Freshfields?

6 A Yes.

7 Q Do you believe the release language in the
8 stipulation of settlement releases Wachtell, Lipton,
9 Rosen & Katz in connection with its role in the
10 negotiation of the settlement?

11 A I don't know.

12 Q Would that be of any particular
13 significance to you one way or the other?

14 A It wouldn't surprise me.

15 Q Why?

16 A Because I don't know what liability they
17 would have.

18 Q Then why would they need to be released?

19 A Just because sometimes people sue without
20 necessarily there being a good reason.

21 MR. BOOKIN: The record should note that
22 Mr. Greenfield is nodding yes.

23 MR. DOWNS: That wasn't very fair.

24 Q (By Mr. Greenfield) Do you know whether
25 the release language in the stipulation of

1 settlement releases any claims against counsel for
2 the DRC?

3 A Again, I don't know specifically, but I
4 wouldn't be surprised if it did for the same
5 reasons.

6 Q And we haven't talked about any of
7 Hewlett-Packard's proxy statements, but do you know
8 whether there's any language in the re -- any of the
9 release language in the stipulation of settlement
10 that would cover any of Hewlett-Packard's proxy
11 statements?

12 A I don't know.

13 Q Would that have been of any concern to you
14 one way or the other?

15 A I -- I don't have an answer. I don't
16 know.

17 Q Do you know whether content of any of
18 Hewlett-Packard's proxy statements was something
19 that was considered by the DRC?

20 A I don't recall specifically reviewing the
21 proxy statements. It doesn't mean we didn't. But
22 sitting here today, I don't have a memory of it.

23 Q Do you know whether the release language
24 in the stipulation of settlement would provide for
25 release of any claims in connection with the hiring

1 of Leo Apotheker?

2 MR. WOLINSKY: Objection.

3 A I believe we did discuss that at the DRC,
4 so it's -- it wouldn't surprise me if that were
5 there.

6 Q (By Mr. Greenfield) What relationship does
7 the hiring of Leo Apotheker have to Autonomy?

8 A I don't recall what the connection was.

9 Q Can you tell me any?

10 A I -- I don't remember what the context
11 was.

12 MR. WOLINSKY: Yeah. Richard, this
13 questioning is really pretty outrageous.

14 MR. GREENFIELD: No. We're talking about
15 the scope of the releases, and I want to nail down
16 exactly what --

17 MR. WOLINSKY: Yeah, but it's really
18 outrageous because you know what the scope of the
19 release is. It's in black and white. You know what
20 the Court's reservations were. It's on the record.

21 MR. GREENFIELD: And I want to
22 understand --

23 MR. WOLINSKY: There's a decision. You're
24 asking -- you're asking -- and you know that -- what
25 the DRC looked at. So to try and play gotcha that

1 the DRC looked at more than what went into the
2 release is unfair and inappropriate questioning.

3 MR. GREENFIELD: I disagree with you.

4 MR. WOLINSKY: I know you disagree with.

5 MR. GREENFIELD: The issue of the release
6 is still before the Court.

7 MR. WOLINSKY: Yeah. But asking a
8 witness, Do you understand the terms of the release,
9 doesn't advance the Court's inquiry into that
10 subject matter.

11 MR. GREENFIELD: Oh, it does. I beg to
12 differ with you.

13 MR. WOLINSKY: You think there's some
14 secret understanding as to the release --

15 MR. GREENFIELD: I think --

16 MR. WOLINSKY: -- as between us and --
17 and -- and Robbins Geller and Cotchett --

18 MR. GREENFIELD: As we --

19 MR. WOLINSKY: -- and we're going to
20 spring it on the shareholders a year from now?

21 MR. GREENFIELD: Yes.

22 MR. WOLINSKY: Okay.

23 MR. GREENFIELD: As we stated --

24 MR. WOLINSKY: Ask that question.

25 MR. GREENFIELD: As we stated in our

1 objections, there's enough ambiguity in the releases
2 to know or not know what is regarded by the
3 defendants as Autonomy-related claims.

4 MR. WOLINSKY: And are you seeking
5 legitimate parol evidence as to the understanding of
6 the meaning or are you just asking --

7 MR. GREENFIELD: I want to know this
8 witness's understanding of whether the company is
9 releasing any claims with respect to the hiring of
10 Leo Apotheker.

11 A And I -- I don't know.

12 Q (By Mr. Greenfield) Did the board ever
13 consider whether there were any claims that existed
14 relating to the hiring of Leo Apotheker?

15 A The DRC may have looked at that. I don't
16 recall.

17 Q Well, I didn't ask whether they may have
18 looked at it. Did the board or the DRC ever
19 consider whether there were any valid claims in
20 connection with the hiring of Leo Apotheker?

21 MR. WOLINSKY: He just answered that.

22 A I -- I don't recall whether we did or
23 didn't.

24 Q (By Mr. Greenfield) Okay. The DRC made a
25 report to the full board of HP at the conclusion of

1 its investigation. Am I correct?

2 A There was -- a presentation of the
3 findings and -- and of the scope of the
4 investigation was made to the board.

5 Q Okay. Was that report to the board made
6 in writing?

7 A I don't remember what was in writing and
8 what was verbal. I know we -- we had the
9 resolutions which the DRC recommended. I can't
10 recall whether in the deliberation leading up to
11 that whether that was a verbal or a -- a written
12 presentation.

13 Q This was a substantial effort that the DRC
14 did in its investigation, am I correct?

15 A Say that again.

16 Q The DRC and counsel did a lot of work in
17 connection with this investigation, did it not?

18 A Yes.

19 Q Okay. And it involved very substantial
20 assets, did it not?

21 A Well, very substantial amount of time and
22 effort and -- and legal expense and cost, yes.

23 Q And the underlying issues were potentially
24 very valuable issues -- very valuable claims for
25 Hewlett-Packard, were they not?

1 A I guess potentially, yes.

2 Q Now, in fact, there was not a written
3 report made to the board. Do you recall -- think
4 about it. Was there any written report of the DRC's
5 findings and conclusions presented to the full
6 board?

7 A Well, the resolutions were very exhaustive
8 in their discussion of -- of the effort that had
9 gone into it and the logic and the findings. In
10 terms of other presentation to the board, I don't
11 recall if there was any other documents other than
12 the resolutions.

13 Q If I represent to you that there were --
14 was no such written report, would you subscribe to
15 that?

16 MR. WOLINSKY: No. You have no basis for
17 making that representation.

18 Q (By Mr. Greenfield) I'm asking you that.

19 A I don't recall whether there was or
20 wasn't.

21 Q Okay. Would it surprise you if there
22 weren't?

23 A I -- I don't have a memory of whether
24 there was or wasn't, so I don't know.

25 Q That wasn't the question.

1 A Not necessarily, no.

2 Q Despite the amounts of money involved and
3 the time and effort that went into this, you still
4 don't have any idea whether there was a written
5 report to the board of the DRC's factual findings?

6 MR. WOLINSKY: Objection. Asked and
7 answered. Do you have a new question? Hold on. Do
8 you have a new question?

9 MR. GREENFIELD: You're directing him not
10 to respond?

11 MR. WOLINSKY: Yeah. Yeah.

12 Q (By Mr. Greenfield) Okay. You were
13 describing for me the settlement of the claims in
14 the derivative litigation, and you described
15 generally the release of certain claims. Does
16 Hewlett-Packard get anything out of the settlement?

17 MR. WOLINSKY: Asked and answered.

18 A Hewlett-Packard gets the elimination of
19 the -- of the litigation.

20 Q (By Mr. Greenfield) Anything else that you
21 can think of?

22 A Also a set of reforms to the M&A process.

23 Q Would it be fair to say that most of the
24 those what you've called reforms were put into place
25 by Hewlett-Packard management and board before

1 settlement negotiations even began in this
2 litigation?

3 A Well, there -- going back to, you know,
4 sort of in the near post Autonomy time, the
5 management came up with some of their own reforms.
6 I don't recall the extent to which that was directed
7 by or blessed by the board. In the process of the
8 DRC review, we -- we looked at the existing
9 procedures. We received proposals from Robbins
10 Geller, and also from Ferrara, which we discussed.
11 And some we thought were useful and some we thought
12 were impractical.

13 In the context of the resolution, we
14 recommended a set of reforms that we thought added
15 some value to the process. Subsequent to that, as
16 part of the settlement negotiation, there were --
17 additional discussions and additional reforms were
18 added in so that at the end of the day there was
19 a -- a -- the settlement includes a more robust set
20 of reforms or more -- call it a more robust set of
21 procedures for the M&A process than what the company
22 had developed on its own.

23 Q Okay. Putting aside what Ralph Ferrara
24 may have proposed, most of Robbins Geller's
25 proposals were rejected by the committee. Am I

1 correct?

2 A I -- without going through them
3 individually, I don't recall.

4 Q I didn't ask you individually. I'm asking
5 you in total.

6 A Well, I'm trying to answer your question.

7 Q Yeah.

8 A I believe some were accepted and some were
9 rejected. I don't have a count of what the
10 percentage was of accepted versus rejected.

11 Q Is it fair to say, though, that most of
12 Robbins Geller's suggestions were rejected?

13 A I don't know that.

14 Q Short of going through each suggestion,
15 you really have no way of knowing?

16 A I -- I don't recall. I think some of them
17 seemed like good suggestions. Some of them seemed
18 unworkable.

19 Q Would it be fair to say that most of what
20 ended up being the changes that were agreed to were
21 initiated by Mr. Ferrara or HP management or its
22 board before the settlement negotiations began?

23 A Some of them were. Mr. Ferrara's
24 recommendations were informed by the Robbins Geller
25 recommendations. And then in the settlement

1 negotiations a few more were added. So I don't know
2 if that's responsive.

3 Q Were any changes made to the corporate
4 governance changes after the first agreement of
5 settlement was signed?

6 A I don't recall the specific sequence.

7 Q Did a time come when the board determined
8 to split HP in two parts?

9 A Yes.

10 Q Do you know when that occurred?

11 A I think it was about a year ago.

12 Q Okay. And, in fact, that had been in
13 discussion for some time prior to that ultimate
14 decision by the board, am I correct?

15 A In -- in different forms, yes.

16 Q Okay. Was it the intention of the board
17 to just divide assets of the two constituent
18 companies, or did you also plan to put in place
19 practices and procedures that you had at HP to each
20 of the two companies?

21 A The -- the plan was to break the company
22 into two pieces and, you know, the practices and
23 policies would be what they were.

24 Q And they'd go to each component?

25 A No. It would be what -- what each side

1 determined was appropriate.

2 Q Okay. Did you ever make any determination
3 as part of the DRC or the board that the corporate
4 governance changes that were agreed upon as part of
5 the settlement would only go to one of the component
6 companies, but not the other?

7 A I think as part of the settlement
8 discussions, it was agreed that they would be
9 applied to both companies.

10 Q Right from the beginning?

11 A No. I don't -- I don't know when. I
12 think that was later.

13 Q Is there any reason for you to believe it
14 would not apply to both companies? If they're good
15 for HP, why would they not be good for the two
16 component companies?

17 A In the context of talking about the
18 discussion -- or about the separation, I think the
19 idea was each company would adopt the practices that
20 made the most sense for each company and that the
21 new board of each company would be in charge of
22 making those determinations.

23 Q So preexisting, for example, code of
24 conduct for the board of HP would only apply to one
25 of the two surviving companies?

1 A I think the other company would come up
2 with its own code of conduct.

3 Q So it would start off with nothing?

4 A Well, I think it would have something in
5 place on day one.

6 Q And what would that be?

7 A A code of conduct that it considered
8 appropriate.

9 Q The same one that HP had before?

10 A I -- I don't know that for a fact. It may
11 very well be similar.

12 Q Did you ever consider that issue at the
13 DRC level?

14 A No.

15 Q Do you know if the company ever considered
16 modifying the corporate governance changes after the
17 initial settlement was reached in June 2014?

18 A Well, that's where -- I don't remember the
19 sequence of -- of all the events or the changes.

20 Q In the context of doing your corporate
21 governance changes that the DRC blessed, were any of
22 the proposals that were considered compensation
23 related?

24 A I don't remember specifically. It's
25 possible there was an inclusion of some kind of

1 clawback concept, but without looking at it -- at
2 them in detail, I don't remember specifically.

3 Q That was something that was proposed by
4 Robbins Geller?

5 A I don't recall how it came about. It's
6 possible.

7 Q But it wasn't included in the final
8 corporate governance changes, was it?

9 A I don't know. I don't remember.

10 Q Do you believe that there should be any
11 kind of a compensation component in corporate
12 governance changes applicable to mergers and
13 acquisitions?

14 A That's a very -- a very difficult subject.
15 If you try to set up scenarios where somebody's
16 compensation is damaged if anything goes wrong, you
17 encourage a culture where nothing happens and --
18 because no one is willing to take any risks. So I
19 think there are valid arguments against having such
20 a clawback thing because you could -- you don't
21 always know what's going to happen with an
22 acquisition and businesses are in the business of
23 taking business risks.

24 Q Understand. Now, Mr. Robison was paid
25 something like \$9 million as a bonus in 2011 in

1 connection with the Autonomy acquisition?

2 MR. WOLINSKY: Objection.

3 Q (By Mr. Greenfield) Is that correct?

4 A I -- I don't know those numbers
5 specifically.

6 Q Do you -- do you recall as part of your
7 service on the DRC that the subject of his bonus was
8 discussed?

9 A It may have been. I -- I don't remember.

10 Q Was it tied to the acquisition of
11 Autonomy?

12 A I don't remember the nature of the
13 discussion. I said we may have discussed it, I
14 don't recall, so I logically don't recall the nature
15 of the discussion.

16 Q Do you know of any other reason he would
17 have gotten paid \$9 million as a bonus in 2012?

18 MR. WOLINSKY: Objection.

19 A I don't know the specifics of his
20 compensation arrangements.

21 Q (By Mr. Greenfield) You mentioned the
22 interview of Mr. Apotheker that you -- at which you
23 were present. Were you present at any other
24 interviews?

25 A No.

1 Q Do you know whether Mr. Reiner or
2 Mr. Whitworth were present at any interviews?

3 A I don't recall if they were. I can't say
4 for sure.

5 Q Okay. Were the interviews -- or the
6 interview that you attended, was it conducted in an
7 adversary manner, in a friendly way? Could you
8 describe it, to the best of your understanding of
9 what was going on.

10 A The one that I participated in consisted
11 of Ralph Ferrara asking questions of Leo, and Leo
12 responding. And sometimes Ralph would have a
13 follow-up question, sometimes he would go onto
14 another question, sometimes it was a conversation,
15 sometimes it was a specific question and answer, is
16 the best of my recollection.

17 Q And you're sure that there were no written
18 records, at least as far as you know, of that
19 interview?

20 A I don't recall seeing written records of
21 the interview.

22 Q Do you know of the existence of any?

23 A No.

24 Q Okay. What is Hilltop Investments?

25 A That is a personal family investment

1 company that my wife and I own.

2 Q Okay. And you invest in individual
3 companies?

4 A We --

5 MR. WOLINSKY: Don't answer that.

6 Q (By Mr. Greenfield) Do any of the
7 companies that you may invest in -- are they audited
8 by Deloitte or Ernst & Young?

9 MR. WOLINSKY: You can answer that.

10 MR. GREENFIELD: I'm trying to explore
11 what conflicts he may or may not have had.

12 MR. WOLINSKY: Yeah. That's why I let him
13 answer the follow-up question. He's not here to
14 talk about his personal business, but that was a
15 legitimate question, so I said he could answer it.

16 MR. GREENFIELD: Oh.

17 A Well, I have a portfolio of securities,
18 some of which are managed by others. The securities
19 that I principally -- the actual company securities
20 are principally Liberty and Liberty related. And to
21 my knowledge, but without going through and
22 checking, I'm not aware that any of them are audited
23 by E&Y. I do own some Sprint stock as a director,
24 and they are audited by Deloitte. I own some
25 Discovery stock, which is audited by

1 PriceWaterhouse. So, I mean, it could well be that
2 things that I own are audited by one of those
3 companies.

4 Q (By Mr. Greenfield) Do you know whether
5 Mr. Reiner is an investor in or on the board of any
6 company that is audited by E&Y or Deloitte?

7 A I don't know.

8 Q Did that issue ever come up during your
9 service as a member of the DRC?

10 A In the context of looking at our
11 independence, I know that we were looking for -- or
12 counsel was looking for the possibility of
13 conflicts. And in that context, you know, I advised
14 them -- or Ralph as to what boards I was on and who
15 they audited. I -- I don't know whether the same
16 questions were asked of Gary.

17 Q In connection with your agreeing to serve
18 on the DRC, were you given a questionnaire to
19 complete by either Ralph Ferrara or anybody else?

20 A I may have been. I don't remember if it
21 was an actual questionnaire or whether they asked me
22 a series of questions. I think it was the latter,
23 but I don't recall specifically.

24 Q Hewlett-Packard provides notice to its --
25 provides annual reports and proxy statements to its

1 shareholders, does it not?

2 A Yes.

3 Q Okay. How does it do that?

4 A It produces the required SEC statements
5 and files them with the SEC.

6 Q And how does it get those in the hands of
7 shareholders?

8 A They probably are available through the
9 Web site. They're certainly available through the
10 SEC. In some cases they may be mailed to some
11 shareholders.

12 Q Only some?

13 A Most shareholders request that they
14 receive them electronically these days.

15 Q So they get them by either mail or
16 electronically?

17 A Or they're available through the Web site.

18 Q Okay.

19 A Or through the SEC's Web site.

20 Q Are you aware of the nature of the notice
21 being provided of the settlement of this litigation?

22 A No.

23 Q Did you ever have any particular interest
24 in the manner in which HP's shareholders would be
25 notified of this litigation and its settlement?

1 A I -- that's not something that I -- we
2 spent time on, that I recall.

3 Q Okay. Do you know who made the decisions
4 as to what notice would be provided to HP's
5 shareholders about this litigation and its
6 settlement?

7 A I would expect at the appropriate times
8 the company would make whatever disclosures are
9 required via press release or 8-K or in the periodic
10 financial reports.

11 Q But do you know who made the decisions as
12 to what notice would be provided?

13 A The company's SEC reporting team, I
14 expect. The legal team.

15 Q I think you answered that you had never
16 personally read any of the various versions of the
17 stipulation of settlement in this litigation. Is
18 that correct?

19 MR. WOLINSKY: Objection.

20 A I think I said I don't recall reading them
21 in detail. I think they were probably summarized
22 for me.

23 Q (By Mr. Greenfield) Okay. Have you ever
24 read the consolidated complaint in this litigation?

25 A Again, I think that was summarized. I may

1 have looked -- I may have read it. I -- it would
2 have been a long time ago, so I don't remember.

3 Q Okay. And being a long time ago, it
4 refers to events that took place in 2011, 2012, am I
5 correct?

6 A I think that's correct.

7 Q And those are historical events?

8 A Yes.

9 Q And much has been written in the news
10 media and on radio and television about those
11 events; is that correct?

12 A Some has been written.

13 Q Is there any reason, in your mind, why
14 the consolidated complaint would be considered
15 confidential by the company?

16 A I -- I don't know. I'm not in charge of
17 these matters.

18 Q Who would make those determinations?

19 A The company makes those determinations in
20 consultation with counsel.

21 Q Okay. When -- when you first found out
22 about this litigation being commenced, what was your
23 reaction personally?

24 A Well, it was commenced before I joined the
25 board, I think. So I would have found out about it

1 when I was asked to serve on the DRC. I had no --
2 no point of view on it.

3 Q Did you ask to see the complaint that was
4 filed?

5 A I may have or it may have been shown to
6 me. Early on in the process I met with Ralph
7 Ferrara, and he described to me what the committee
8 had been doing.

9 Q Putting aside the issue of whether the
10 claims alleged in this litigation have an actual
11 value, did you ever consider what the potential
12 value of the claims in this litigation are if they
13 were proven?

14 MR. WOLINSKY: Objection. Go ahead.

15 A My recollection is we concluded that
16 there -- other than Lynch and Hussain, there were no
17 claims to be pursued. I don't recall if we
18 discussed what they would be if we had found
19 otherwise.

20 Q (By Mr. Greenfield) If the claims were
21 proven, would there -- against the officers and
22 directors of HP, would there be claims of at least
23 \$5 billion against them?

24 A I don't know.

25 Q Why wouldn't they be the same amount of

1 claims that HP is asserting against Messrs. Lynch
2 and Hussain?

3 MR. WOLINSKY: Objection.

4 A It's a hypothetical question. I don't
5 know. We didn't -- we concluded there -- the claims
6 were not valid and not worth pursuing.

7 Q (By Mr. Greenfield) So you never attempted
8 to put a value on the claims that were being
9 released?

10 MR. WOLINSKY: You just asked that.

11 MR. GREENFIELD: I just want to make sure
12 we're on the same wavelength.

13 A I don't recall if we did specifically or
14 not.

15 Q (By Mr. Greenfield) Do you recall
16 generally?

17 A No.

18 Q Did you ever give any consideration to the
19 fact that your counsel may be wrong in the advice
20 that they have given you that the claims are not
21 worth anything?

22 MR. WOLINSKY: Objection.

23 A We --

24 MR. WOLINSKY: Don't disclose substance of
25 the advice of counsel. Just disclose your --

1 whether you considered that you as a committee might
2 have gotten something wrong and that you were
3 leaving money on the table.

4 Is that fair?

5 A We reviewed the information provided by
6 counsel and relied on counsel as to the legal
7 judgments.

8 Q (By Mr. Greenfield) Have you ever given
9 any consideration that your counsel may be or may
10 have been wrong in its assessment?

11 A We didn't have any basis for reaching that
12 conclusion or that -- that outcome.

13 Q Do lawyers make mistakes sometimes?

14 A Not good ones. No. I assume it's
15 possible that they could make a mistake. But it
16 didn't -- what was being told to us seemed rational
17 and logical.

18 Q Was there any possibility whatsoever in
19 your mind that the lawyers that were advising you as
20 to the value of HP's claims might be wrong?

21 A We did not think that -- we did not
22 conclude that they were wrong. We -- we accepted
23 the advice of counsel.

24 Q Absolutely?

25 A Yes.

1 Q Wholeheartedly?

2 A We agreed with it. We didn't see any
3 reason to question it.

4 Q Okay. So as far as you were concerned,
5 there was no risk whatsoever that the advice you
6 were given by your counsel was wrong; is that
7 correct?

8 MR. WOLINSKY: Asked and answered. Go
9 ahead. Nothing to add?

10 A I don't have a different answer.

11 Q (By Mr. Greenfield) Did you or the
12 design -- design, the Demand Review Committee
13 members ever make a determination that if
14 Mr. Morriscal, one of the plaintiffs, or any other
15 HP shareholder had made a demand on the board before
16 filing suit, any -- any such demands would be a
17 futile gesture?

18 A I don't -- I don't recall reaching that
19 conclusion.

20 Q Okay. I asked this somewhat differently,
21 but before the agreement to acquire Hewlett-Packard
22 was signed --

23 MR. WOLINSKY: You mean Autonomy?

24 Q (By Mr. Greenfield) Let me rephrase it.
25 Prior to the time that the agreement between

1 Autonomy and HP was signed, was the board informed
2 by HP's legal counsel or KPMG that, quote, very
3 little nonpublic data would be available because of
4 UK takeover rules, end quote?

5 MR. WOLINSKY: Can you limit that answer
6 to KPMG just for the moment?

7 A I don't recall what -- what the board saw.
8 I -- I believe they were aware that KPMG was limited
9 in their investigation to publicly available
10 documents.

11 Q (By Mr. Greenfield) Okay. Did the
12 company get the same advice from Gibson Dunn and
13 Freshfields?

14 MR. WOLINSKY: Yeah. I direct you not to
15 answer that.

16 Q (By Mr. Greenfield) And I press the
17 question.

18 MR. WOLINSKY: Stand by my direction.

19 MR. GREENFIELD: Okay.

20 Q (By Mr. Greenfield) What is your estimate
21 of the total losses that HP has sustained and other
22 expenses HP has sustained as a result of its
23 acquisition of Autonomy?

24 A Well, it paid 11 billion, and subsequently
25 wrote that down to 2.2. I don't know if that -- I

1 don't recall that that has been written down
2 further. I don't recall. So there's the -- the 8.
3 Then there have been costs of investigation and
4 litigation and other things. I don't -- I don't
5 have a total.

6 Q Would it be fair to say it might amount to
7 another couple of hundred million dollars
8 altogether?

9 A Perhaps.

10 Q Would it be fair to say that if HP loses
11 its claims against Messrs. Hussain and/or Lynch in
12 the UK, it is likely to be exposed to many millions
13 of dollars in their counsel fees and expenses?

14 MR. WOLINSKY: Objection.

15 A I don't know.

16 Q (By Mr. Greenfield) Has anybody ever
17 informed you of that risk of litigation in the UK?

18 A That has probably been discussed, but I
19 don't -- I don't recall it specifically.

20 Q Do you know how much of the write-off of
21 \$8.8 billion attributed to the Autonomy acquisition
22 was attributable to the fact that HP could not
23 integrate Autonomy into itself?

24 A The company concluded that a majority of
25 the 8.8 was associated with the fraud. That

1 encompassed some amount of revenue being lower than
2 expected, growth being lower than expected, margins
3 being lower than expected, and synergies being lower
4 than expected. I don't have the specific amount --
5 I don't recall the specific amount of synergies, if
6 that's what you were referring to.

7 (Mr. Bookin left the room.)

8 Q (By Mr. Greenfield) Was the acquisition of
9 Autonomy a mistake for Hewlett-Packard?

10 A I think with hindsight, most people would
11 prefer not to have done it knowing what we know
12 today because of -- principally because of the
13 fraud, that the company overpaid substantially for
14 an asset.

15 MR. WOLINSKY: Good time to take break?

16 MR. GREENFIELD: Sure.

17 (Break taken.)

18 (Exhibit 2 marked.)

19 MR. GREENFIELD: I'm sorry I don't have
20 enough copies.

21 Q (By Mr. Greenfield) But we've marked as
22 Exhibit 2 a document that says Strategic
23 Considerations, colon, 2010. And it refers to what
24 is described as an Aggie Executive Summary. And
25 it's been marked confidential by Hewlett-Packard.

1 MR. WOLINSKY: So let's make the
2 question --

3 MR. DOWNS: What's the title?

4 MR. GREENFIELD: Aggie Executive Summary.
5 And the number, for your information, is
6 DER300012728.

7 MR. BOOKIN: It's called Strategic --

8 MR. GREENFIELD: Considerations, 2010.

9 MR. WOLINSKY: And for -- hold on. And at
10 least during the questioning on this document, I'll
11 designate the transcript as confidential. And then
12 after the questioning we'll go back and decide
13 whether it needs to be. So go ahead.

14 Q (By Mr. Greenfield) In the course of the
15 DRC's investigation, did you ever see this document
16 before today?

17 A I don't recall if we looked at this or
18 not.

19 Q Do you know what the term Aggie refers to?

20 A No.

21 Q If I represent to you that it's a code
22 name for Autonomy, would that refresh your
23 recollection in any way?

24 A I don't know that I have a recollection or
25 not. But if you tell me that it means Autonomy,

1 I'll accept that.

2 Q Okay. Remember we were discussing earlier
3 whether --

4 A Can you tell me what this is?

5 Q It is what it is. It was produced by your
6 counsel.

7 A But I don't have any context for it.

8 Q Well, we'll get -- we'll get there.

9 We discussed earlier whether Autonomy had
10 been presented to or considered by HP prior to 2011
11 as an acquisition candidate. Do you remember that
12 discussion we had?

13 A Yes.

14 Q Okay. And as far as you knew, it had not
15 previously been considered by HP.

16 MR. WOLINSKY: No. That's not what --

17 A That's not what I said.

18 Q (By Mr. Greenfield) Okay. Tell me, you
19 didn't know of any such consideration other than the
20 fact that it was on a list?

21 A It was on a list of companies potentially
22 to be acquired.

23 Q Okay.

24 A And I didn't know prior to Qatalyst
25 whether somebody else had brought it in and whether

1 there had been active discussion of a merger or
2 acquisition.

3 Q Okay. There are three -- four paragraphs
4 in this letter. The -- under the category of
5 Operational Considerations and Risks, it mentions a
6 number of factors that whoever drafted this and
7 presented it to HP highlighted a number of risks of
8 any acquisition of Autonomy. Do you know if the
9 same risks existed when the transaction ultimately
10 took place in 2011?

11 MR. WOLINSKY: Objection to -- to the
12 form.

13 A I can't really read it very well, so I'm
14 not --

15 Q (By Mr. Greenfield) Shall I read it to
16 you?

17 A Please.

18 Q Overpaying for business which may stagnate
19 requires further due diligence. Core search
20 business under attack, Open Source, Microsoft,
21 Google. To fuel standalone future growth requires
22 continuation of acquisition strategy, war chest of
23 \$756 million. Likely difficult to integrate.

24 MR. WOLINSKY: No operating margins. You
25 skipped a line.

1 MR. GREENFIELD: I'm sorry.

2 Q (By Mr. Greenfield) Operating margins
3 already at industry high, 40 to 50 percent, removes
4 lever for bottom-line growth. Likely difficult to
5 integrate. Requires conservative integration
6 strategy and timeline. Business units operate as
7 separate entities, less than ideal portfolio, GTM
8 and RTM synergies. Customer dissatisfaction,
9 unresponsive account support, arrogant sales force,
10 et cetera. Company culture mismatch, top down
11 controlled, engineering driven, elite culture, et
12 cetera. Indirect software sales and service model.
13 Scalable model, but orthogonal to HP's direct
14 motion. Highly complex pricing and portfolio.
15 No single rep can adequately represent portfolio.
16 HP tax services --

17 MR. WOLINSKY: Lacks, I think.

18 Q (By Mr. Greenfield) Lacks -- I'm sorry --
19 services, skills, capacity to scale breadth of
20 portfolio. Significant investment required.

21 As to those operational considerations
22 and risks, based upon the investigation that was
23 conducted by the DRC, did those risks exist when
24 HP made its acquisition?

25 A I guess I start with I don't know who

1 prepared this, when, or for what purpose or who saw
2 it, so I don't know if this was done by
3 Hewlett-Packard staff or somebody else and I don't
4 know how it was used. And I don't recall whether --
5 I don't recall seeing this in the DRC, although
6 we -- I may have.

7 Certainly there were -- I think it was
8 understood that there were risks to the acquisition
9 or to any acquisition. I don't recall if it's this
10 specific list that also describes the strategic
11 rationale and how it was, you know, attractive in
12 many ways. So it could be the risks were there.
13 It's a balance of risks and rewards.

14 Q That was not what I asked. Were these
15 itemized risks the same in 2011 as they were at the
16 time this document was drafted?

17 A I don't know from -- I wasn't on the board
18 at the time, so I didn't see it. The materials we
19 reviewed at the DRC, I recall there being discussion
20 of the risks both by the company and I think by the
21 advisors, that there was a discussion of risks and
22 opportunities. So some of them may have been the
23 same. I don't recall.

24 Q Periodically the DRC received documents
25 and reports from the Proskauer firm. Am I correct?

1 A Yes.

2 Q Okay. Was one of these a document that
3 contained potential reforms in January 2014?

4 A Is that the Robbins Geller proposal? Is
5 that what you're referring to?

6 Q (Showing.)

7 A You didn't hold it up long enough.

8 Q I'll represent to you I'm showing you the
9 cover page and couple other pages from this very
10 thick document, dated January 6-7, 2014, Independent
11 Committee Meeting.

12 A What's the date of it?

13 Q January 6-7, 2014.

14 A Okay. Okay. So I assume it was included
15 in what we reviewed.

16 Q Okay. Would it be fair to say that --
17 first of all, do you recall receiving this document?

18 A I -- I don't recall that particular
19 document. We received lots of documents.

20 Q Okay. Was that a document that evaluated,
21 to the best of your knowledge, what HP had done on
22 its own by way of corporate governance changes
23 following the write-off in Autonomy?

24 A Without reviewing the document, I -- I --
25 I couldn't tell you. I don't recall. We got lots

1 and lots and lots of documents, so...

2 Q Okay. Do you recall a document to the
3 effect that -- this document that I showed you the
4 cover page of?

5 A I think they all have a similar cover
6 page.

7 Q Right. Well, how often did you get
8 documents that had Robbins Geller's proposals?

9 A Okay. Did that say -- I didn't see the
10 cover well enough, then. Is that described as
11 Robbins Geller's proposals?

12 Q Potential reforms portion of counsel's
13 report.

14 A Okay. I think we separately received
15 Robbins Geller's proposals directly, but this may be
16 something different.

17 Q Okay. I'm going to ask you some -- I will
18 represent to you that this document contains
19 approximately 10 pages of improved -- as they
20 describe it, as improvements since Autonomy.

21 A Okay.

22 Q I'm showing you just one of the page
23 titles. I want to save you time and me time and not
24 go through all of this. To the best of your
25 recollection, by the time you had joined the board

1 through approximately the end of your first year --
2 first several months on the board, had the board put
3 into place a number of corporate governance changes
4 to address the merger and acquisitions issues that
5 have -- had arisen following the Autonomy write-off?

6 A I believe at some time in the period
7 following the Autonomy acquisition and prior to
8 January, I guess, of 2014, I believe management had
9 instituted some reforms to their M&A policies.

10 Q They were from your perspective rather
11 far-reaching, were they not?

12 A What management instituted -- I mean,
13 there were a lot of different series of reforms.
14 Management instituted some. Robbins Geller
15 recommended some additional ones. Proskauer took
16 that list and changed it around. We made
17 recommendations to the board. Then there were --
18 there were negotiations that resulted in additional
19 reforms. So there were lots of different
20 activities.

21 Q By November of 2013, few months after you
22 had joined the board, had the board put into place a
23 risk management committee to evaluate, among other
24 things, potential merger and acquisition candidates?

25 MR. MOLUMPBY: Which point in time,

1 Richard? Which point in time?

2 MR. GREENFIELD: November 2013.

3 A I would have --

4 MR. WOLINSKY: Objection.

5 A -- to look at the -- the description. I
6 don't recall -- at some point there was a risk
7 management committee. I don't recall when that went
8 in.

9 Q (By Mr. Greenfield) But would it be fair
10 to say that it was established and in place before
11 any negotiations with -- over the settlement of this
12 litigation began?

13 MR. MOLUMPHY: Objection. Vague.

14 A I think that is the case.

15 Q (By Mr. Greenfield) Okay. Now, Proskauer
16 made to the committee a number of recommendations
17 with respect to changes in the corporate governance.
18 You referred to them earlier.

19 A They took some of the Robbins Geller --

20 Q Before --

21 A -- proposals.

22 Q -- Robbins Geller came along, did they
23 make any recommendations to the committee?

24 A I don't recall that.

25 Q Okay. Do you know if they did?

1 A That's what I don't recall.

2 Q Oh, okay.

3 MR. WOLINSKY: Just -- none of the
4 questioning having to do with Bennett Exhibit 2
5 needs to be designated as confidential.

6 MR. GREENFIELD: Okay.

7 Q (By Mr. Greenfield) Is there any reason
8 why any of the recommendation -- in your mind, is
9 there any reason why any of the recommendations as
10 to changes in corporate governance as made by
11 Proskauer would be confidential today?

12 A I don't know. I think that's a legal
13 judgment.

14 Q No. I mean, as -- as -- as a director,
15 can you conceive of any reason why confidentiality
16 would attach to proposals made a couple years ago
17 about changes in corporate governance?

18 A I would rely on counsel to make that
19 determination. I don't have an independent view.

20 Q Okay. Do you remember anything at all
21 about Proskauer's recommendations as to corporate
22 governance changes?

23 A I remember we had a discussion of them.
24 Some we thought were useful and some we thought were
25 unworkable. I -- I -- without going through them

1 all, I can't remember necessarily what was what.

2 Q If you were comparing Proskauer's input
3 into the changes as compared to those from Robbins
4 Geller or any other plaintiffs' counsel, did one
5 make more contribution than the other to the changes
6 that ultimately were enacted?

7 A Well, there were a number of different
8 inputs. You know, there was input from Robbins
9 Geller. I think there was input -- or there was
10 inputs in the final negotiations, I think, from the
11 Cotchett firm. And, you know, the -- the things
12 that we accepted we -- we found useful and valuable.

13 Q Do you remember whether a proposal was
14 made that HP create rules of procedure consistent
15 with HP's charter and bylaws?

16 A That HP create rules and procedures
17 consistent with HP's bylaws?

18 Q Yes.

19 A I don't remember that specifically.

20 Q Okay. Because it's been redacted on here
21 for privilege grounds, and I was wondering if you
22 could tell me anything at all what might have been
23 proposed, to the best of your recollection, and what
24 Mr. Ferrara and Proskauer's response to that was.

25 MR. WOLINSKY: We've asserted privilege

1 for Proskauer's evaluation of the Robbins Geller
2 reforms, so --

3 MR. GREENFIELD: I don't see how I'm able
4 to assess the negotiations of the changes based upon
5 this blanket redaction based on claims of
6 attorney-client privilege. I mean, you've got pages
7 and pages of redactions.

8 MR. WOLINSKY: Yes. Yeah. I mean, it was
9 legal advice to the board -- to the committee
10 evaluating the -- the Robbins Geller reforms, and so
11 we've asserted privilege to that.

12 MR. GREENFIELD: There's no way -- there's
13 no way at least to get from Mr. Bennett because he
14 doesn't recall what proposals specifically the
15 Proskauer firm made and what its responses were.

16 MR. WOLINSKY: Correct. We've asserted
17 privilege for Proskauer's recommendations. You can
18 put in front of him the M&A reforms themselves and
19 ask him if he can trace where they came from. Did
20 they originate from Proskauer, do they originate
21 from Robbins Geller, or do they originate from
22 someplace else?

23 MR. GREENFIELD: Okay.

24 MR. WOLINSKY: But what we've asserted
25 privilege for is the legal advice that Proskauer

1 gave.

2 MR. GREENFIELD: Okay.

3 MR. WOLINSKY: I'm not sure that's going
4 to be a productive exercise, but if it's what your
5 goal is, there is a way to do it.

6 MR. GREENFIELD: We may be able to
7 short-circuit it.

8 Q (By Mr. Greenfield) Are you able to
9 determine from the list of corporate governance
10 changes which may have come from the company and its
11 board, which may have come from the Proskauer firm,
12 and which may have been initiated by the Robbins
13 Geller firm?

14 A I'm aware of the -- the more recent
15 additions, which I believe came from the settlement
16 negotiations, discussions, at least two of those.

17 One was the requirement that the FIC
18 committee see the reports from the various advisers,
19 and another one was that there be a charter for the
20 risk management committee. I recall those coming in
21 in the most -- in the last round. In the earlier
22 rounds, I -- I -- I don't have a good memory of what
23 came from whom.

24 Q Okay. Did you learn those facts during
25 the break --

1 A No.

2 Q -- or were you refreshed --

3 A Not during the break.

4 Q -- about them?

5 You remembered them?

6 A I was refreshed earlier.

7 Q By counsel?

8 A During my preparation for the deposition.

9 Q Okay. Do you know whether in the context
10 of the due diligence investigation of Autonomy,
11 anybody at Hewlett-Packard had tested any of
12 Autonomy's software?

13 A My recollection is that we were told that
14 there was some sort of test of the software.

15 Q By Hewlett-Packard personnel?

16 A I can't remember if it was by
17 Hewlett-Packard or whether it was general market
18 knowledge or whether it was a specific test. I
19 don't recall it now.

20 Q Would it surprise you if I told you that
21 there were no such tests by anybody at
22 Hewlett-Packard --

23 MR. WOLINSKY: Objection.

24 Q (By Mr. Greenfield) -- before the deal was
25 signed?

1 MR. WOLINSKY: Objection.

2 A Without -- it could be that they had an
3 independent source of knowledge that the software --
4 how the software worked, so not necessarily would
5 that surprise me.

6 Q (By Mr. Greenfield) Prior to the time you
7 joined the board, I gather you had some preexisting
8 relationship with Ralph Whitworth.

9 A Ralph and I had served together on the
10 board of Sprint for approximately a year, I think,
11 in 2005, 2006. His fund -- his firm had made an
12 investment in the company, and he came on the board.

13 Q Okay. Did you have any relationship
14 directly or indirectly with any of the other
15 directors of HP at that time?

16 A Before joining the board, I had no
17 relationship with any of the directors, other than I
18 had worked on -- on a board with Ralph for a year.

19 Q Um-hum. The same had been true with
20 respect to Leo Apotheker?

21 A I had never met Leo Apotheker before the
22 interview.

23 Q You told me earlier that there had not
24 been any recent meetings of the DRC or
25 communications in connection with its business. Are

1 there still pending shareholder demands that have
2 been addressed by the DRC or are they just out
3 there?

4 A I think I said I don't remember when we
5 last had a DRC committee meeting.

6 As to your other question, I believe there
7 are still demands that are open.

8 Q Did you receive any compensation for
9 serving on the DRC?

10 A Not that I know of.

11 Q Nothing extra over your annual fee as a
12 director?

13 A I don't think so. There are committee
14 fees, but I don't think the DRC is paying a fee.

15 Q Are you aware that HP has had either a DRC
16 or some such committee from time time over the last
17 five years or so prior to the time the DRC was
18 formed?

19 A What was your first question? What was
20 the first part of the question?

21 (Last question read.)

22 A I don't have specific knowledge of other
23 DRCs, that I can recall.

24 Q (By Mr. Greenfield) Do you know whether
25 there was any disclosure in HP's compensation --

1 HP's proxy statement with respect to the existence
2 of the DRC?

3 A I don't know.

4 Q Okay. Did the members of the board of
5 HP review the proxy statement before it goes out to
6 shareholders?

7 A Yeah. Generally the board would review
8 the proxy statement.

9 Q And the proxy statement is in the name of
10 the board, is it not?

11 A Well, that's a technicality. I don't
12 know. It's the name of the company.

13 Q The board makes recommendations in the
14 proxy statement, does it not?

15 A The company issues the proxy statement and
16 the board is aware of it and --

17 Q Does the board make recommendations in the
18 proxy statement?

19 A Yes. Yes, it does, regarding the voting,
20 of matters to be voted on at the meeting.

21 Q Okay. All right. In the course of
22 describing the members of the board, have you or any
23 other member of the DRC wanted there to be any
24 disclosures in the proxy statements regarding
25 Autonomy?

1 A I don't recall. I would rely on the
2 company's SEC counsel and SEC experts as to what is
3 contained in the proxy statement.

4 Q During your tenure on the DRC, did the
5 scope of its investigation change at all from what
6 it was when you joined it to the last time you did
7 anything in connection with it?

8 A I think the scope may have been expanded
9 when I joined it, if I remember correctly. I don't
10 recall if it has been expanded subsequently.

11 Q Maybe I can help. Did it -- the scope of
12 the DRC's investigation expand based upon the
13 ongoing settlement discussions that were taking
14 place between the company and lead counsel?

15 A I don't know the answer to that.

16 Q Were you -- rather, was the DRC asked to
17 look into other matters beyond those that were part
18 of its original mandate at the time you joined the
19 DRC?

20 A I'm not sure. I'd have to go back and
21 look at the individual minutes.

22 Q You don't remember?

23 A I don't -- off the top of my head, I don't
24 remember, no.

25 Q Okay. You told me that you had never seen

1 any transcripts or minutes of interviews of the
2 witnesses interviewed by Proskauer.

3 A I probably said I didn't recall seeing
4 them, but...

5 Q Okay. Do you recall reading any documents
6 regarding the Autonomy acquisition?

7 A What do you mean?

8 Q Did you read any documents in connection
9 with the Autonomy acquisition as part of the
10 investigation that was ongoing other than documents
11 prepared by Proskauer?

12 A Well, Proskauer prepared documents and
13 sent us other documents, so we reviewed lots of
14 things in the context of the work of the DRC.

15 Q Question is other than documents actually
16 prepared by Proskauer, did you review any documents
17 relating to the acquisition of Autonomy other than
18 Proskauer-generated documents?

19 MR. WOLINSKY: And other than what you've
20 already testified to.

21 A Right. We saw the Robbins Geller
22 proposals. I think we saw a lot of different
23 documents.

24 Q (By Mr. Greenfield) Relating to the actual
25 acquisition of Autonomy?

1 A Oh, I -- I'd have -- there were voluminous
2 documents. I can't today recite which ones may have
3 been prepared by Proskauer or otherwise.

4 Q Well, I'm not -- I'm asking you whether
5 there were any documents beyond those prepared by
6 Proskauer or by Robbins Geller.

7 MR. WOLINSKY: He just told you he
8 can't -- he can't -- doesn't recall.

9 A I don't recall. I expect that we saw some
10 original documents, but I don't -- I don't remember.

11 Q (By Mr. Greenfield) Okay. Do you know
12 whether there are any ongoing investigations by the
13 SEC, the Department of Justice -- Department of
14 Justice or any grand jury regarding the acquisition
15 of Autonomy?

16 MR. WOLINSKY: Hold on. You can answer
17 that yes or no.

18 A I believe there are.

19 Q (By Mr. Greenfield) Do you know whose
20 conduct is being investigated?

21 A I believe it is principally directed at
22 Lynch and Hussain.

23 Q And who else?

24 A Maybe other Autonomy executives, perhaps.

25 Q Do you know whether the investigation also

1 includes the public statements and filings of
2 Hewlett-Packard following the acquisition of
3 Autonomy?

4 THE DEPONENT: Can you read back the
5 question?

6 (Last question read.)

7 MR. WOLINSKY: I direct you not to answer.

8 MR. GREENFIELD: On what ground?

9 MR. WOLINSKY: You can answer -- if you
10 ask is HP a subject of a U.S. attorney or an SEC
11 investigation, I'll let him answer that.

12 Q (By Mr. Greenfield) Do you know whether
13 HP is a subject of any such investigation?

14 A I don't recall if it is or is not. I
15 think there was some discussion of it at some point,
16 but I don't today know -- recall the outcome of
17 that.

18 Q Okay. Let's go back to the more specific
19 question. Do you know whether the SEC or the DOJ or
20 any grand jury are looking into HP's disclosures or
21 public filings following the acquisition of
22 Autonomy?

23 MR. WOLINSKY: How is that more specific?

24 A I think it's the same answer. I -- I
25 don't recall specifically today. I recall hearing

1 some discussion of it, but I don't know what the
2 status of it is.

3 Q (By Mr. Greenfield) Doesn't the board get
4 periodic reports of any such investigations or are
5 they so routine that they don't get reported
6 anymore?

7 MR. WOLINSKY: Don't -- don't answer that.

8 Q (By Mr. Greenfield) Does the --

9 MR. WOLINSKY: I have an objection that I
10 reserve for special occasions. The objection is
11 wise guy. That was a wiseguy question.

12 Q (By Mr. Greenfield) Does the board get
13 regular reports of any investigations by the SEC,
14 the IRS, the Department of Justice?

15 A The board gets regular reports regarding
16 litigation of all types.

17 Q When were you last informed about any
18 investigations by the SEC or the Department of
19 Justice relating to Hewlett-Packard?

20 A I do not recall when the last -- I don't
21 recall if it came up at the last meeting or the
22 meeting before that. I don't -- I don't remember
23 when the last time it was.

24 Q When was the last meeting of the board?

25 A March, perhaps. I don't recall.

1 Q And you don't recall whether there was any
2 discussion of any ongoing investigation of the
3 company?

4 A I'd have to -- I'd have to go back and
5 look at the minutes of the meeting to refresh. I
6 don't recall.

7 Q Would that be an important event if the
8 company was a subject of investigation by the SEC or
9 Department of Justice?

10 A If it was -- if there was a development
11 and if it was material, then, yes.

12 Q Wouldn't --

13 A But I don't -- I don't recall the
14 discussion.

15 Q Wouldn't any investigation by the SEC or
16 Department of Justice been of concern to you,
17 whether material or not?

18 A I'd say if it was not material, then I
19 would not -- I would be concerned to the extent of
20 the materiality of it. And I just can't recall what
21 the nature of the last update was.

22 Q I don't know if I asked you this direct
23 question. In your evaluation of what claims might
24 or might not exist, in reviewing the Autonomy
25 acquisition, did you actually read KPMG's due

1 diligence report?

2 A We were shown the report. I can't recall
3 if we went through the whole report or it was
4 excerpted or summarized or we saw specific parts of
5 it. I don't remember.

6 Q But you were not provided with a copy of
7 the report, were you?

8 A We may have been. I don't -- I don't
9 remember. That's why I said I don't remember.

10 Q What was the most significant document you
11 saw in connection with your investigation of the
12 Autonomy acquisition and its aftermath?

13 MR. WOLINSKY: Objection.

14 Q (By Mr. Greenfield) Significant to you.

15 A We saw -- we saw lots of documents. I
16 think the things describing -- the documents
17 describing the diligence process, describing the
18 thinking leading up to the merger -- or the
19 acquisition, the diligence, the review of the -- the
20 pres -- KPMG, some of the other presentations. I
21 would have a hard time saying what were the most
22 significant. There were a number of -- of
23 documents.

24 Q Nothing stands out to you as being
25 particularly significant to you?

1 MR. WOLINSKY: Objection.

2 A Well, I think the KPMG thing was of
3 interest and significant. The company's charter.
4 Some of the company's financial reports. A
5 description of the Cathy Lesjak objections. There
6 were a number of things.

7 Q (By Mr. Greenfield) Did you take any notes
8 at any of the meetings of the DRC?

9 A Not that I recall.

10 Q Why not?

11 A I'm not in the habit of taking notes.

12 Q Did you take any notes at Mr. Apotheker's
13 interview?

14 A No.

15 Q Do you know whether any of the other
16 members of the DRC took notes at any of the meetings
17 that you had?

18 A I don't know.

19 Q Were you counseled by anyone not to take
20 notes?

21 A I don't think we were specifically.

22 Q Generally?

23 A I don't think we were counseled not to
24 take notes.

25 Q Were there minutes of the DRC meetings?

1 A I believe there were.

2 MR. GREENFIELD: Have they been produced?

3 MR. WOLINSKY: Yes. Have you looked at
4 them?

5 MR. GREENFIELD: I'm asking the question.
6 You aren't.

7 MR. WOLINSKY: Okay.

8 Q (By Mr. Greenfield) I'm trying to
9 remember, you said that -- I believe that
10 Mr. Whitworth hired Ralph Ferrara and his firm for
11 the DRC.

12 MR. WOLINSKY: Can I hear the question?
13 (Last question read.)

14 MR. WOLINSKY: Objection. Misstates prior
15 testimony.

16 A Right. I didn't say that. I said that
17 the committee had interviewed a number of potential
18 advisors, and the committee selected the Proskauer
19 firm.

20 Q (By Mr. Greenfield) Okay. Was Mr. -- was
21 Mr. Ferrara involved with HP in any way prior to
22 that first meeting when you were considering who to
23 hire as counsel?

24 A I wasn't part of that process. Proskauer
25 was hired before I joined the board.

1 Q Okay. All right. Did the members of the
2 DRC voice any opinions or make any comments with
3 respect to how broad the releases in the settlement
4 should be?

5 A I would say we relied on counsel to craft
6 the appropriate releases.

7 Q And as far as you were concerned, whatever
8 counsel did, because you trusted counsel, was fine
9 by the committee?

10 A As long as it was consistent with the
11 resolutions of the DRC and the board.

12 Q The settlement has gone through four
13 iterations. Are you aware that the release language
14 from the first iteration has been narrowed to the
15 present version?

16 A Yes.

17 Q Okay. Do you know why that occurred?

18 A My understanding is that the Judge
19 determined that they were too broad.

20 Q Okay. Did the DRC when it learned or when
21 you learned of the Judge's views do anything with
22 respect to the releases or did you continue to leave
23 it to counsel?

24 A We continued to rely on counsel to
25 negotiate the appropriate agreement.

1 Q Okay. If the DRC or the company could
2 have gotten a contribution from HP's insurance
3 carriers to settle this litigation, would that have
4 pleased you?

5 MR. WOLINSKY: Objection.

6 A I -- I don't know. That's -- I don't have
7 a response.

8 Q (By Mr. Greenfield) Sitting here today, if
9 you had gotten -- if you had been able to get
10 \$200 million from the D&O insurance carriers, would
11 you have preferred that to the present settlement?

12 MR. WOLINSKY: Objection.

13 A No. I think we concluded that the
14 settlements weren't worth \$200 million, and so we
15 wouldn't have wanted to -- to draw down our
16 insurance for something that we didn't think was
17 worth it.

18 Q (By Mr. Greenfield) And thereby keeping
19 the insurance in place for some future possibility?

20 A Well, using the insurance where you need
21 the insurance.

22 Q Okay. Did the committee ever discuss
23 actually retaining plaintiffs' counsel to directly
24 pursue the claims against Messrs. Lynch and Hussain?

25 MR. WOLINSKY: Are you referring to

1 Cotchett and Robbins Geller?

2 MR. GREENFIELD: Yes. Yeah.

3 MR. WOLINSKY: Okay.

4 A I believe that was part of the original
5 settlement, is that they would be -- they would
6 participate in the -- the litigation against them.

7 Q (By Mr. Greenfield) Well, there's a
8 difference between participate and actually
9 represent the company's interests in directly
10 pursuing.

11 MR. WOLINSKY: Is that a question?

12 MR. GREENFIELD: Yes.

13 MR. WOLINSKY: Okay.

14 Q (By Mr. Greenfield) Did the DRC ever
15 consider the possibility of retaining Robbins Geller
16 and the Cotchett firm to represent its interests in
17 going after Messrs. Hussain and Lynch?

18 A Well, we -- we concluded that it would be
19 acceptable for them to participate in the pursuit of
20 Lynch and Hussain. I don't recall if we talked
21 about having them do it exclusively, if that's what
22 you're referring to.

23 Q As you use the term "participate," would
24 you equate that term to monitor --

25 MR. WOLINSKY: Objection.

1 Q (By Mr. Greenfield) -- the prosecution of
2 the claims that the company was pursuing?

3 A No. I -- I -- by that I would mean
4 participate in -- in the process. They're able
5 counsel and might well have suggestions to offer in
6 the pursuit of the litigation.

7 Q Do you know why it took the company so
8 long to pursue the claims -- let me -- why it -- the
9 company first began pursuing the claims against
10 Messrs. Lynch and Hussain until last September,
11 2014?

12 MR. WOLINSKY: And I direct you not to
13 answer. Goes into the company's litigation
14 strategy.

15 Q (By Mr. Greenfield) I'm asking you what
16 you know as a director and member of the DRC.

17 MR. WOLINSKY: Sorry. I'm going to direct
18 him not to answer.

19 Q (By Mr. Greenfield) Do you know whether
20 there was any tolling agreement with respect to the
21 claims that the company might assert against Lynch
22 and Hussain?

23 MR. WOLINSKY: You can answer that, if you
24 know.

25 A I -- my memory would be no, but I'm not

1 certain of that.

2 Q (By Mr. Greenfield) Do you know why the --
3 in the course of the acquisition, do you know
4 whether Mr. Lynch or Mr. Hussain ever came to this
5 country to talk with Mr. Apotheker or anyone else at
6 HP about the acquisition?

7 A Are you talking about before or after the
8 acquisition?

9 Q Before the acquisition.

10 A I -- I believe that Leo did have meetings
11 with Lynch. I don't know if they were in this
12 country or some other country.

13 Q Okay. Do you know why Lynch and Hussain
14 were not sued in this country?

15 MR. WOLINSKY: I direct you not to answer.

16 Q (By Mr. Greenfield) You can answer the
17 question.

18 MR. WOLINSKY: Direct you not to answer.

19 Q (By Mr. Greenfield) It's a yes or no.

20 MR. WOLINSKY: No. Don't answer the
21 question.

22 Q (By Mr. Greenfield) You can answer it yes
23 or no.

24 MR. WOLINSKY: You're really going far
25 afield, and I'm going to direct him not to answer.

1 MR. GREENFIELD: He can answer it yes or
2 no. He doesn't have to give me anything more than
3 that.

4 MR. WOLINSKY: You're wasting everyone's
5 time. Move on, please.

6 Q (By Mr. Greenfield) Can you describe to me
7 the nature of the claims against Hussain and Lynch?

8 A I would say broadly they are that they
9 defrauded HP through their statements and through
10 their publicly filed financial statements as to the
11 company's financial condition.

12 Q Have either of them asserted any defenses
13 to those claims yet?

14 A You mean in the legal -- in the formal
15 sense of response to our litigation?

16 Q Yes.

17 A I'm not sure.

18 Q Would you expect to be kept informed about
19 that?

20 A As needed, yeah.

21 Q Would you regard the claims and defenses
22 in that litigation as being material?

23 MR. WOLINSKY: Objection. Material to
24 whom for what?

25 Q (By Mr. Greenfield) To you.

1 MR. WOLINSKY: Thank you.

2 A To me personally?

3 Q (By Mr. Greenfield) Yes, as a director.

4 A It's -- it's a piece of litigation that
5 hopefully will resolve in HP's favor, and that will
6 be beneficial for Hewlett-Packard.

7 Q In your mind, does such a resolution mean
8 settlement as compared to a potential verdict?

9 A I -- I don't know.

10 Q You don't know whether you'd rather see it
11 settled as distinction from litigated --

12 A I don't know.

13 Q -- to trial?

14 A I don't know the terms of what a
15 settlement would be so I can't speculate.

16 Q During the course of the DRC's
17 investigations, did the report and recommendations
18 to the board from the DRC get periodically adjusted
19 to conform to the releases in the settlement?

20 MR. WOLINSKY: Sorry. Let me hear that
21 back.

22 (Last question read.)

23 MR. WOLINSKY: Objection.

24 MR. MOLUMPBY: Objection. Vague.

25 Q (By Mr. Greenfield) You can answer.

1 A If it's --

2 MR. WOLINSKY: It's kind of a nonsensical
3 question.

4 MR. GREENFIELD: Maybe. I'm entitled to
5 ask nonsensical questions every once in a while.

6 Q (By Mr. Greenfield) Please answer it.

7 A My recollection is we made one resolution
8 that was recommended to the board of directors, and
9 that was the one that was enacted by the board.

10 Q Only one draft of that?

11 MR. WOLINSKY: Draft of what? The DRC
12 resolution?

13 Q (By Mr. Greenfield) Yes.

14 A We recommended the final version of -- of
15 the resolutions to the board.

16 Q Did the resolutions to the board or draft
17 resolutions to the board change from time to time to
18 conform to the settlement that was being negotiated
19 of this litigation?

20 A I don't think so.

21 Q Isn't it a fact that Mr. Ferrara wanted
22 the releases to be as broad as possible to -- to
23 encompass the greatest number of claims that they
24 could?

25 MR. WOLINSKY: Yeah. Direct you not to

1 answer as to what Mr. Ferrara's desires were.

2 Q (By Mr. Greenfield) What was your
3 understanding of what was transpiring with respect
4 to the scope of the releases that were to be
5 included in the settlement?

6 MR. WOLINSKY: He already answered that.

7 A As I said earlier, we reached the
8 determinations that we reached and -- and approved
9 the resolutions that we approved and were then
10 adopted by the board, and left counsel with
11 responsibility for negotiating the appropriate --
12 whatever releases are appropriate under the
13 circumstances.

14 Q (By Mr. Greenfield) Have you ever retained
15 investment bankers in connection with valuating a
16 prospective acquisition?

17 A Yes.

18 Q Okay. How do you ensure that they are
19 being objective in providing you with advice?

20 A Generally you count on their reputation.
21 Try to hire firms of -- of high reputation with
22 people of high reputation and expect that they will
23 do their job thoroughly.

24 Q Are there methods of compensating such
25 firms that are more likely than not to yield an

1 objective opinion than other methods?

2 A Well, there's a couple different ways
3 of -- of compensating them. One can be on a simple
4 fee basis, or one can be on a contingency fee basis.
5 And they both have their advantages and
6 disadvantages.

7 Q Does one methodology provide you with --
8 you, as a director, for example, provide you with
9 greater assurance of objectivity than the other?

10 A Not necessarily. I would be relying on
11 the reputation of the firm and the reputation of the
12 people involved.

13 Q To what extent did you evaluate the
14 services provided by Barclays and Wasserstein
15 Perella --

16 MR. WOLINSKY: Perella Weinberg.

17 Q (By Mr. Greenfield) -- Perella Weinberg as
18 provided to the company in connection with the
19 Autonomy acquisition?

20 A We were aware that they had been engaged
21 and that they had provided services to the company.
22 My recollection is they were on a contingency fee
23 basis.

24 Q And that was fine by you?

25 A It's not uncommon. It's very common. So

1 it wasn't surprising. And didn't have any reason to
2 believe that it undermined their independence in the
3 matter.

4 Q If you had your choice, would you have
5 investment bankers in those circumstances
6 compensated one way or the other or doesn't matter
7 to you?

8 A I -- I -- if you have a firm of high
9 repute, it shouldn't matter. From the company's
10 perspective, you have to decide -- you know, a
11 company that looks at lots of acquisitions, do they
12 want to pay a banker every time they're considering
13 an acquisition, which might become very expensive,
14 versus paying them on a success basis, in which case
15 you only pay if you actually decide to do the
16 transaction. So there's different ways to look at
17 it and advantages to both.

18 Q Did Wasserstein's firm --

19 MR. WOLINSKY: Perella.

20 Q (By Mr. Greenfield) -- Perella Weinberg or
21 Barclays bring any particular expertise to HP in
22 connection with the Autonomy acquisition that its
23 own internal personnel did not have?

24 A What -- what they brought, and I think
25 what bankers in general bring, is an outside party

1 validating the work of the internal team and
2 looking over their shoulder and reaching their own
3 conclusions as to the acquisition. You -- you
4 expect that they have familiarity with the industry
5 and with your own business and are in a position
6 to -- to provide that third-party endorsement.

7 Q And is that what both investment bankers
8 did here, they validated what management had done?

9 A They looked at -- at management's work and
10 concluded that based on the work that management had
11 done, that -- I believe they provided various
12 opinions, but that the transactions were fair. They
13 also provided some editorial commentary.

14 Q From the outset of the committee's
15 investigations, had it pretty much been decided that
16 the company would sue Messrs. Lynch and Hussain?

17 A I don't think anything was predetermined.
18 Nothing was before the committee began its work. So
19 based on the committee's work, I think, but also
20 based on the work that the company did on its own,
21 that was a conclusion that was reached.

22 MR. GREENFIELD: How's our time, Marc?

23 MR. WOLINSKY: I'd like to get out of here
24 at 3.

25 MR. GREENFIELD: I know you would.

1 Q (By Mr. Greenfield) I will represent to
2 you that in denying the motion for preliminary
3 approval of the second settlement proposal, the
4 Court specifically noted HP's admission and, thus,
5 concluded that, quote, These reforms may have little
6 or no value in relation to the allegations of the
7 complaint, end quote.

8 MR. WOLINSKY: Can I see that?

9 MR. MOLUMPHY: I'd like to see that, too.

10 MR. DOWNS: Can I see that?

11 MR. GREENFIELD: It's in our -- Page 11 of
12 our objections.

13 MR. WOLINSKY: Yeah. That's not the
14 ultimate source of authority, is it?

15 MR. GREENFIELD: You are.

16 MR. WOLINSKY: Okay. So do you have the
17 Judge's order? We can pull it up.

18 MR. BOOKIN: Is that a quote from the
19 Judge's order?

20 MR. GREENFIELD: It's from Document 265,
21 Page 9 --

22 MR. BOOKIN: I don't have the docket
23 memorized.

24 MR. GREENFIELD: -- of the Order.

25 Q (By Mr. Greenfield) The Court has raised

1 questions -- I will represent to you that the Court
2 has raised questions as to the value of the
3 corporate governance changes. Sitting here today,
4 do you think the settlement of this litigation has
5 generated material corporate governance reforms or
6 changes?

7 A Yes, I do. I -- I think the fact that we
8 are formalizing processes and -- and
9 institutionalizing disciplines to the process is
10 beneficial and valuable to the company.

11 Q Wasn't all that in place by November 2013?

12 A No. There -- there have been additional
13 changes made since then that I think are
14 enhancements to the previous policies.

15 Q Anything material, to use your word, to
16 you, material to you?

17 A Well, I think I described one earlier,
18 that -- making sure that all the expert reports,
19 advisory reports go to the finance and investment
20 committee. I think that's a good step.

21 Q Okay. That's a good step. Do you think
22 that's -- would be described by you as cutting edge
23 reform?

24 A I -- I think it's consistent with the
25 practices of -- of good governance, so I think

1 that's cutting edge, yes. I think that's a very
2 good governance procedure to have in place.

3 Q Do you recall -- as part of the DRC's
4 investigation, we had talked about Cathy Lesjak's
5 concerns. And she raised concerns again after the
6 signing and before the closing. Do you remember
7 learning of those facts as part of your
8 investigation?

9 MR. WOLINSKY: Objection.

10 A Can you be more specific?

11 Q (By Mr. Greenfield) Yeah. She again
12 raised the issue of the company -- that is,
13 Autonomy's revenue recognition practices.

14 MR. WOLINSKY: Can you show me that?

15 MR. GREENFIELD: Read our objections,
16 Marc.

17 MR. WOLINSKY: The redacted or unredacted?

18 MR. GREENFIELD: Whole thing.

19 MR. WOLINSKY: Okay. Is there a document
20 you're aware of that reflects that Cathy Lesjak
21 raised an issue with respect to revenue recognition?

22 MR. GREENFIELD: Yes.

23 MR. WOLINSKY: Okay.

24 A I don't re --

25 MR. GREENFIELD: And presumably the DRC is

1 well aware of it.

2 A I don't today recall seeing that -- I
3 don't know what time period you're talking about,
4 but I don't recall seeing the document.

5 Q (By Mr. Greenfield) Okay. Do you recall
6 that in the course of your investigation, Raymond
7 Lane called a meeting of a number of the independent
8 directors, without management, without consultant,
9 to consider whether Hewlett-Packard should walk away
10 from the acquisition of Autonomy?

11 A I recall that Ray had requested that
12 management inquire as to the possibility of doing
13 so, and had also asked Cathy a number of questions
14 about buying back stock. I don't have a memory
15 of -- of -- of there being a board meeting summoned
16 to discuss getting out the agreement.

17 Q I will represent to you that that meeting
18 took place on August 17th, 2011.

19 A Wasn't that the day it was signed?

20 MR. WOLINSKY: That was before signing.

21 A Before. So, yeah, there was a board
22 meeting -- my understanding is there was a board
23 meeting. Cathy raised her objections at that board
24 meeting. And then there was -- the board met
25 subsequently without management to discuss the

1 transaction, including discussing Cathy's
2 objections.

3 Q (By Mr. Greenfield) Okay. Do you recall
4 seeing any e-mails or documents or having them
5 reported to you to the effect that Mr. Lane reported
6 that there were new news that was troubling to him,
7 and that was the reason he called for this special
8 meeting of directors, to consider the acquisition?

9 A Well, the meeting that was held before the
10 signing of the agreement I believe was in response
11 to -- primarily to Cathy's objections and to give
12 the board a chance to discuss those among
13 themselves.

14 Q Did the subject at that meeting come up
15 that the company had a leadership crisis with
16 respect to Mr. Apotheker?

17 A I wasn't at that meeting.

18 Q I'm aware.

19 A I don't recall -- I don't recall if that
20 came up or not.

21 Q The reasons proposed for the possible
22 termination of the acquisition were, one, that
23 Mr. Apotheker had not developed an appropriate plan
24 for the announcements regarding Autonomy, which were
25 to happen on August 18th, that he lacked the

1 leadership skills and management style to implement
2 decisions, that he had lost the support of employees
3 and HP's executive team, and, four, was dismissive
4 of investor concerns and had told HP would not
5 undertake a large acquisition.

6 A What are you reading from?

7 (Mr. Downs left the room.)

8 Q (By Mr. Greenfield) Document HPDER
9 30012984.

10 MR. WOLINSKY: Yeah. I think you
11 misspoke in the question. There was termination of
12 Mr. Apotheker's employment, not the acquisition.
13 You said the acquisition.

14 MR. GREENFIELD: I'm sorry. You're
15 correct.

16 A Okay. That's what confused me.

17 MR. WOLINSKY: Yeah.

18 A So what was the question?

19 Q (By Mr. Greenfield) Are you aware that
20 while the board was considering what to do with
21 respect to the acquisition of Autonomy, it was also
22 considering the termination of Mr. Apotheker as CEO?

23 A Well, after the board had determined
24 to do the acquisition, and the company had signed
25 the acquisition agreements, and there -- and

1 therefore -- and it was announced, and there was an
2 adverse shareholder reaction in the period after
3 that, and I believe before the transaction closed, a
4 lot of concerns grew or developed about Leo, and
5 that resulted in his termination for the causes you
6 mentioned.

7 Q You concluded, though, from the interview
8 that you sat in on and everything else you learned
9 about Mr. Apotheker that he had done a good job with
10 respect to the acquisition of Autonomy?

11 A I concluded that I thought that Leo had
12 acted in a way that he felt was appropriate and was
13 executing a strategy that he felt was correct for
14 the company and felt that the board supported. When
15 the shareholders responded negatively to it, you
16 know, in the aftermath of the transaction, the
17 company grew concerned about his leadership.

18 Q The board resolution concludes that,
19 quote, In light of the magnitude of HP's industry --
20 injury, the directors, neither individually nor
21 collectively, have sufficient assets to make HP
22 whole, end quote. Do you recall that statement as
23 part of the resolution?

24 A I'd like to refer to the resolution, if
25 you can point me to where it is. I have it in front

1 me, so I can --

2 Q It's at the conclusion.

3 A Can you be more specific?

4 Q No.

5 A Okay. Then I'll have to read it to find
6 what you're reading from.

7 Q The conclusion.

8 MR. WOLINSKY: Yeah. No. It's maybe in
9 the conclusion of the board resolution, but I think
10 embedded in the body of the DRC resolution. I'll
11 help him find it.

12 MR. MOLUMPBY: Do you have the page that
13 you're referring to?

14 MR. GREENFIELD: No.

15 Q (By Mr. Greenfield) Let me pass on that
16 question. It is what it is.

17 MR. WOLINSKY: All right.

18 Q (By Mr. Greenfield) Do you remember how
19 soon after the -- this litigation was commenced that
20 efforts were made by the company to settle it?

21 A Well, I -- I didn't join the board until
22 July of '13. I -- I'm -- don't know when efforts
23 were made to settle the case.

24 MR. WOLINSKY: Do you want to gather your
25 thoughts and wrap this up?

1 MR. GREENFIELD: Hmm?

2 MR. WOLINSKY: Do you want to gather your
3 thoughts and wrap this up?

4 MR. GREENFIELD: I'm gathering. I'm
5 gathering.

6 MR. WOLINSKY: Why don't we take a break
7 while you wrap it up, figure out what you want to
8 do.

9 MR. GREENFIELD: I understand. We might
10 be faster without the break, though, so -- but you
11 want a break.

12 (Break taken.)

13 Q (By Mr. Greenfield) Do you know who was in
14 charge of the due diligence team for HP on the
15 Autonomy acquisition?

16 A I think that was Shane Robison.

17 Q Yeah.

18 A Well, he led the -- he led the deal team,
19 is my recollection, so diligence would be part of
20 it.

21 Q Under Hewlett-Packard's existing
22 procedure, shouldn't it have been Cathy Lesjak that
23 was head of the team?

24 MR. WOLINSKY: At the time of the
25 acquisition?

1 Q (By Mr. Greenfield) At the time of the
2 acquisition.

3 A I don't think so. I -- I don't...

4 Q (By Mr. Greenfield) Do you know why he was
5 chosen instead of Cathy Lesjak?

6 A No.

7 Q After the acquisition of Autonomy was
8 closed, did HP make any mistakes or errors of
9 judgment in trying to integrate Autonomy?

10 A I -- I'm not aware of any giant blunders.
11 I can't say that there were no mistakes. The
12 integration plan that I saw or that we discussed
13 seemed rational, and the execution of that seemed
14 logical under the circumstances.

15 Q Are you aware that John Schultz admitted
16 publicly that Autonomy did not have well-maintained
17 financial records at the time of the acquisition?

18 A I don't recall that.

19 Q Is that something that you considered?

20 A I don't recall seeing that he made that
21 statement, so I don't -- if you can tell me when and
22 where he made the statement, that might refresh me.
23 I don't recall.

24 Q It's Paragraph 99 in the Copeland 2
25 complaint.

1 A I don't have that in front of me.

2 Q Have you ever read the Copeland 2
3 complaint?

4 A I may have. I don't recall.

5 Q Did you make it a practice of reading
6 complaints where you and your fellow directors are
7 named as defendants?

8 A I may sometimes look through them. Other
9 times rely on counsel to provide me summary
10 information.

11 Q Even if you're a defendant?

12 A Yes.

13 Q Do you know whether Autonomy had been
14 offered to any other company at less than the amount
15 paid by Hewlett-Packard?

16 A I don't recall seeing any firsthand
17 evidence of that.

18 Q But you saw secondhand evidence?

19 A I -- I have a recollection that one of
20 HP's competitors claimed that they had passed on the
21 opportunity to buy it for less money.

22 Q For about \$6 billion, am I correct?

23 A I don't recall what number they said and I
24 don't know how reliable their statement was.

25 Q Well, it was from Larry Ellison, so --

1 A Exactly.

2 Q Do you know how much Barclays and Perella
3 were paid for their role in the acquisition of
4 Autonomy?

5 A No, I don't remember sitting here today.
6 I think I did know, but --

7 Q If I told you it was around \$30 million,
8 would that refresh your recollection?

9 A I don't remember.

10 Q What steps did the DRC take, if any, to
11 determine whether the public statements of Meg
12 Whitman or the company generally following the
13 acquisition were made accurately?

14 A We looked specifically at statements that
15 Meg Whitman made in May of -- I guess it was 2012.
16 She had made them earlier, and I think she repeated
17 them sometime later. We looked at those statements
18 and concluded that they -- that she had stated what
19 she believed to be the truth.

20 Q When did the company find out that there
21 were serious problems at Autonomy?

22 A The company -- well, what kind of
23 problems?

24 Q Any.

25 A I think almost immediately when they --

1 they were not hitting their numbers the company
2 realized that they were not performing as well as
3 they had expected them to perform.

4 Q When you say "almost immediately," how
5 soon?

6 A Within the first couple quarters.

7 Q Um-hum. At some point in time was there
8 someone who has been portrayed in the media as a
9 whistleblower come along?

10 A I believe in May of 2012 an Autonomy
11 employee in the U.S. came forward with some
12 allegations to, I think, the HP legal department.

13 Q And what was the nature of those
14 allegations?

15 A I think it had to do with the way they
16 were accounting for transactions.

17 Q Was that new information about which HP
18 knew nothing at the time?

19 A That's my understanding.

20 Q Did it set any investigation in motion
21 following that whistleblower's account?

22 A Yes, it did.

23 Q What was the nature of that investigation?

24 A That started an investigation that -- I
25 forget how long it lasted. I think a couple of

1 months at least. And then turned into an exercise
2 to reforecast the business and to create new
3 projections, which ultimately resulted in the
4 impairment that was taken.

5 Q When -- when did you -- did the time come
6 when you personally concluded that the whistleblower
7 was accurate -- and, remember, I understand you were
8 not on the board at the time, but when the board
9 recognized that the whistleblower's allegations were
10 accurate?

11 A I don't -- I don't know the exact timing.
12 I don't -- but somewhere in the process of their
13 investigation.

14 Q Sometime between May and November?

15 A Yes.

16 Q Once the board concluded that those
17 allegations were accurate -- and I assume it
18 ultimately did conclude those allegations were
19 accurate. Am I correct?

20 A Well, it concluded that the information
21 provided was not consistent with the company's
22 accounting policies and, therefore, went about the
23 process of -- of doing this rebasing exercise to
24 recreate the -- a budget and also a multiyear
25 business plan.

1 Q Once the board concluded those facts, did
2 the company make a public announcement either by way
3 of press release, 8-K, any filing with the SEC?

4 MR. WOLINSKY: Is this really a good use
5 of time?

6 MR. GREENFIELD: Um-hum.

7 A As you know, I wasn't there at the time.
8 I believe the company in the context of their
9 write-down of the business explained why.

10 Q (By Mr. Greenfield) Yeah. But that was in
11 November. Something happened between May and
12 November that finally triggered a lightbulb on the
13 part of the board's part that, hey, we were
14 defrauded.

15 A Um-hum.

16 Q And I'm trying to determine did that
17 happen November 1st? Did it happen over the summer?
18 When did it happen? Your investigation must have
19 shown something.

20 A I don't recall seeing a particular
21 lightbulb moment. There was a -- a process that
22 culminated in the conclusion that the business had
23 to be written down, and that was the culmination.

24 Q And that -- that determination came months
25 before November 2012, did it not?

1 A I don't know when it came.

2 Q Did you investigate when it occurred?

3 A I don't recall what amount of time we
4 spent trying to figure out exactly when the
5 lightbulb moment was, if there was one. There
6 was -- a process was undertaken. And at the end of
7 that process, a determination was made. And at the
8 time the determination was made, it was made public.

9 Q That was the determination in terms of
10 what to do?

11 A Determination that the write-down was
12 required.

13 Q But to use your term, lightbulb moment,
14 when that lightbulb moment occurred to the -- to the
15 board, did it make any disclosure of what was known
16 to the board?

17 A I -- as I said, I don't know if there
18 was -- you know, I don't know when the lightbulb
19 went off if it was one big or lots of little
20 lightbulbs. It culminated in the write-down, and
21 that's what was reported.

22 Q But you investigated all that?

23 A We looked at the rebasing exercise. We
24 looked at the write-down, yes.

25 Q And you looked at precisely what the

1 company was saying either through Meg Whitman or
2 others to the public?

3 A We concluded that the company had not made
4 material misstatements to the public.

5 Q Then if it did, why did you pay a hundred
6 million dollars to settle the --

7 MR. WOLINSKY: Asked and answered. Move
8 on. No. Really. Don't answer. Directing him not
9 to answer.

10 Q (By Mr. Greenfield) Please.

11 MR. WOLINSKY: No. I'm directing him not
12 to answer. You're trying the patience of everyone
13 in the room.

14 MR. GREENFIELD: Okay. I'm finished.

15 MR. WOLINSKY: Okay. Thanks.

16 EXAMINATION

17 BY MR. WOLINSKY:

18 Q Couple cleanup questions.

19 MR. GREENFIELD: Before I do, if you
20 volunteer any responses, I would appreciate if you
21 would preface them between whether you were
22 counseled during the break or whether you remember
23 as of your own -- on your own volition.

24 Q (By Mr. Wolinsky) Couple cleanup
25 questions. Mr. Bennett, you were asked some

1 questions about the sequence of the agreement to the
2 corporate governance reforms and how it related to
3 the timing of the memorandum of the settlement of
4 the -- of the derivative suit. Do you recall
5 whether or not the corporate governance reforms were
6 agreed to before there was any discussion of the fee
7 provisions of the settlement agreement?

8 A I recall that they were finalized before
9 the fee negotiation was conducted.

10 Q And you were asked some questions about
11 the -- the settlement agreement presented to the
12 board. And I think you said it was presented to the
13 board as a -- as a package.

14 A It was presented as an entire --

15 Q Okay.

16 A -- deal.

17 Q Do you have an understanding, one way or
18 the other, as to whether or not the fee provisions
19 of the ultimate settlement agreement were severable
20 from the settlement agreement as a whole, from
21 the -- from the other provisions of the settlement
22 agreement?

23 A Yes. The fee provisions were separate
24 from -- from the rest.

25 Q Okay. And you were asked some questions

1 about the DOJ and the SEC. To your knowledge, is
2 H -- Hewlett-Packard today a subject of an
3 investigation in connection with the Autonomy
4 acquisition by the Department of Justice?

5 A No.

6 Q And to your knowledge, is H -- HP today
7 the subject of an investigation in connection with
8 any aspect of the Autonomy acquisition and
9 subsequent accounting disclosures by the SEC?

10 A No.

11 MR. WOLINSKY: That's all I have.

12 EXAMINATION

13 BY MR. BOOKIN:

14 Q I have a couple questions, Mr. Bennett.
15 My name is Dan Bookin. I represent Shane Robison.
16 I'd like to direct you to your testimony about
17 Mr. Robison heading HP's team evaluating the
18 Autonomy acquisition. Am I correct that there were
19 a variety of different aspects to HP's evaluation of
20 Autonomy?

21 A Yes. I think that's correct.

22 Q Did multiple people report to Mr. Robison,
23 in other words, people -- other HP employees on his
24 team?

25 A Yes. Other people were doing firsthand

1 investigation, is my understanding, and reporting to
2 him.

3 Q Was there a particular person in charge of
4 due diligence that reported -- who reported to
5 Mr. Robison?

6 A I think there was.

7 Q Okay. Was his name Andy Johnson?

8 A Yes. That's correct.

9 MR. BOOKIN: No further questions.

10 MR. WOLINSKY: Anyone else?

11 MR. KABAN: No questions.

12 MR. DICANIO: No questions.

13 MR. GREENFIELD: Anybody else? Okay. I
14 have a couple.

15 EXAMINATION

16 BY MR. GREENFIELD:

17 Q You said the fee discussions, in your most
18 recent testimony, occurred after the rest of the
19 settlement agreement was negotiated.

20 A Yes.

21 Q Why didn't you remember that before?

22 A My memory was refreshed at one of the
23 breaks.

24 Q By counsel?

25 A Yes.

1 Q That isn't entirely accurate, is it?

2 A What?

3 Q That -- you don't remember that from your
4 own recollection, do you?

5 A No. Actually I do remember that from my
6 own recollection.

7 Q Why?

8 A I do recall that -- being told that the
9 way this was going to work is there would be a
10 negotiation of a settlement. After that would be a
11 negotiation of the fees, once the settlement was --
12 was reached.

13 Q Why did -- if that was the case, why --
14 and -- and as you said, the fee issue was severable,
15 why didn't you just leave it to the Court to
16 determine what the fees should be and not agree to
17 anything on behalf of HP?

18 A I'm -- I didn't dictate the legal
19 strategy. That -- that was the approach that was
20 recommended by counsel.

21 Q But you're the committee. You have to
22 determine what's good for the board and -- and the
23 company --

24 A We --

25 Q -- not counsel.

1 A We relied on the recommendations of
2 counsel in that respect.

3 Q And counsel wanted it tied all together?

4 MR. WOLINSKY: Objection.

5 A Counsel wanted to complete the
6 negotiations with respect to the forms, and
7 separately have a fee discussion.

8 Q (By Mr. Greenfield) Do you have any
9 documents that support that?

10 A I don't know if there are any committee
11 documents. I don't have any of my own documents
12 other than my own memory.

13 Q Now, you got e-mails from time to time
14 from Mr. Ferrara, did you not?

15 A I think so. Yeah.

16 Q Yeah. And did he report to you the status
17 of negotiations?

18 A I don't recall if that was reported by
19 e-mail or by telephone by -- in our meetings.

20 Q Okay. Okay.

21 MR. GREENFIELD: Again, Marc, I have to
22 ask, we've never been -- none of those
23 communications have been identified, at least by
24 enough information to constitute a log to give us an
25 opportunity to determine whether they are

1 appropriate for a claim of privilege or work
2 product, so I raise the issue again.

3 MR. WOLINSKY: Well, I'll take it under
4 consideration again. I know the Judge -- Magistrate
5 Judge has ruled on the subject. And you do have
6 documents that reflect what the witness just
7 testified to. The MOU recites it, and Judge Walker
8 put his name to that MOU. And Judge Walker
9 independently put in an affidavit swearing to what
10 the witness just said. So you can call everybody
11 liars, and I know that's maybe what you'd like to
12 do, but subject to that, we'll take your request
13 under advisement.

14 MR. GREENFIELD: Okay. And I might note
15 that in permitting the answers that the witness just
16 gave me, which he said came about by your refreshing
17 his recollection, it seems to me you have waived any
18 claim of privilege or work product in connection
19 with the fee discussions. And, again, I press the
20 point.

21 MR. DICANIO: I hear you. Thanks.

22 MR. GREENFIELD: Thank you.

23 (The deposition concluded at 3:35 p.m. on
24 July 7, 2015.)

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I, ROBERT BENNETT, do hereby certify that
I have read the foregoing transcript and that the
same and accompanying amendment sheets, if any,
constitute a true and complete record of my
testimony.

SRD

Signature of Deponent

() No amendments

() Amendments attached

Subscribed and sworn to before me this.

_____ day of _____,

_____.

Notary Public: _____

My commission expires _____

Seal:

1 STATE OF COLORADO)
) SS. REPORTER'S CERTIFICATE
2 COUNTY OF DENVER)

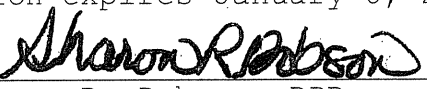
3 I, Sharon R. Dobson, do hereby certify
4 that I am a Registered Professional Reporter and
5 Notary Public within the State of Colorado; that
6 previous to the commencement of the examination, the
7 deponent was duly sworn to testify to the truth.

8 I further certify that this deposition was
9 taken in shorthand by me at the time and place
10 herein set forth, that it was thereafter reduced to
11 typewritten form, and that the foregoing constitutes
12 a true and correct transcript.

13 I further certify that I am not related
14 to, employed by, nor of counsel for any of the
15 parties or attorneys herein, nor otherwise
16 interested in the result of the within action.

17 In witness whereof, I have affixed my
18 signature on July 8, 2015.

19 My commission expires January 8, 2019.

20 
21 Sharon R. Dobson, RPR
22 216 - 16th Street, Suite 600
23 Denver, Colorado 80202
24
25

[& - accepted]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.