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16	taken at the request of the Debtor, before Truenea	16	
17	Teasley, CSR in the State of Texas, pursuant to Rules	17	
18	2004 and 9016 of the Federal Rules of Bankruptcy	18	
19	Procedure and Bankruptcy Local Rule 2004, on Tuesday,	19	
20	August 4, 2015, from 10:41 a.m. to 4:11 p.m., at	20	
21	4845 Alameda Avenue, El Paso, Texas 79905.	21	
22		22	
23		23	
24		24	
25		25	
Page 2		Page 4	
1	A P P E A R A N C E S	1	MR. SPROUSE: I'm handing you the notice
2	For the Debtor:	2	for today's deposition, which is Debtor's Notice of
3	Marvin E. Sprouse III	3	Rule 2004 Examination of James Stephen DeGroat. I'll
4	Jackson Walker L.L.P.	4	note that it's 10:41 mountain time and that we got a
5	100 Congress Avenue, Suite 110	5	late start today due to some miscommunication about the
6	Austin, Texas 78701	6	start time with the court reporter, and I did want to
7	msprouse@jw.com	7	reflect on the record that the reporter is here. I'm
8	For the El Paso County Hospital District d/b/a	8	here. Mr. Strubeck is here, and now we're waiting on
9	University Medical Center:	9	Mr. DeGroat. Thank you.
10	Louis R. Strubeck, Jr.	10	(Discussion off the record.)
11	Norton Rose Fulbright US LLP	11	MR. STRUBECK: Let me make a statement on
12	2200 Ross Avenue, Suite 3600	12	the record, too. This is Louis Strubeck, counsel for
13	Dallas, Texas 75201-7932	13	the El Paso County Hospital District, doing business as
14	louis.strubeck@nortonrosefulbright.com	14	University Medical Center. The reason that we're
15	For El Paso County Hospital District and	15	waiting on Mr. DeGroat is because there was a
16	El Paso First Health Plans, Inc.:	16	communication indicating that the court reporter would
17	Bruce Yetter	17	be here by eleven o'clock. It's now almost 10:45, and
18	Assistant County Attorney	18	Mr. DeGroat stepped out to make a phone call so I
19	1145 Westmoreland Drive	19	expect him to be back before eleven o'clock, which is
20	El Paso, Texas 79925	20	when we understood that the examination would resume.
21	BYetter@umcelpaso.org	21	(A recess was taken.)
22		22	(Exhibit Number 1 was marked.)
23	I N D E X	23	
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25	JAMES STEPHEN DEGROAT	25	
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<p>1 JAMES STEPHEN DEGROAT, 2 sworn by the Certified Court Reporter, testified as 3 follows: 4 EXAMINATION 5 BY MR. SPROUSE: 6 Q. Mr. DeGroat, I've handed you a document marked 7 as Exhibit 1. I want you to look at that and tell me 8 if you've seen it before? 9 A. I have not. 10 Q. Well, I'll represent to you that this is the 11 notice to Norton Rose and Fulbright of today's 12 deposition, and it's the mechanism that we sent to 13 counsel to provide for your examination today. There 14 are a number of requests for production at the end of 15 the notice, and there's also a separate section that 16 provides for the scope of the examination. 17 Is it your testimony that you have not 18 seen this document before today? 19 A. Yes. 20 Q. Mr. DeGroat, if you will, state your full name 21 for the record. 22 A. James Stephen DeGroat. 23 Q. And would you spell your last name, please. 24 A. D-E, capital, G-R-O-A-T. 25 Q. Do you go by any other names?</p>	<p>1 answer, and for the benefit of our good court reporter, 2 we'll try not to speak over each other. Okay? 3 A. Okay. 4 Q. If you don't understand one of my questions, 5 please ask me to clarify and I'll make an attempt to do 6 so. 7 A. Yes. 8 Q. Is there any reason that you couldn't answer 9 or understand my questions this morning? 10 A. Not so far. 11 Q. Good. All right. Mr. DeGroat, who have 12 you -- have you talked to about today's deposition? 13 A. Just our attorney, Mr. Strubeck. 14 Q. Who else? 15 A. That's all. 16 Q. Are you aware that Mr. Nunez was deposed in 17 this case? 18 A. Yes. 19 Q. Did you talk to Mr. Nunez about his 20 deposition? 21 A. No. 22 Q. Did you read the transcript of his deposition? 23 A. No. 24 Q. Are you aware that Mr. Valenti was deposed in 25 this case?</p>
<p>1 A. Steve. 2 Q. Where do you live, Mr. DeGroat? 3 A. El Paso, Texas. 4 Q. Have you been deposed before? 5 A. No. 6 Q. Have given testimony in court on any matters 7 before? 8 A. No. 9 Q. Have you ever been a party to a civil matter? 10 A. No. 11 Q. Have you been a party to any criminal matters? 12 A. No. 13 Q. Mr. DeGroat, you understand that today you're 14 under oath? 15 A. Yes. 16 Q. Okay. And the court reporter is here to take 17 down my questions and your answers, and those can be 18 used at a hearing or a trial. 19 Do you have that understanding? 20 A. Yes. 21 Q. Okay. And you're doing fine so far, but I 22 would ask that you continue to answer verbally so that 23 can be clean on the record. 24 A. Yes. 25 Q. And I'll try to wait for you to finish your</p>	<p>1 A. Yes. 2 Q. Did you talk to Mr. Valenti about his 3 testimony? 4 A. A little bit. 5 Q. What did you discuss with him? 6 A. Just, you know, how it went. And then I read 7 parts of the written deposition. 8 Q. What parts of the Valenti transcript do you 9 remember reading? 10 A. Not anything specific. 11 Q. Are you aware that other people have been 12 deposed by UMC in this case? 13 A. I'm aware that Mr. Herbers has been deposed. 14 Q. Have you read any of his testimony? 15 A. A little bit. 16 Q. What do you remember reading? 17 A. Nothing specific. 18 Q. Topically can you say? 19 A. No. 20 Q. Were you aware that Mr. Adams was deposed? 21 A. No. In fact, I think I've heard his name but 22 I don't really know who he is. 23 Q. Were you aware that Elias Armendariz was 24 deposed? 25 A. Yes.</p>

Page 9	Page 11
1 Q. Did you read any of his testimony?	1 today?
2 A. No.	2 A. I'm a member of the board of directors of the
3 Q. Are you aware that there was a hearing before 4 the bankruptcy court last week?	3 El Paso County Hospital District, and I'm the chairman 4 of the board.
5 A. Yes.	5 Q. Anything else?
6 Q. What do you know about that?	6 A. Nothing further specific to UMC.
7 A. Nothing specific.	7 Q. Do you have any other roles at UMC that may be 8 less formal?
8 Q. How did you come to know there was a hearing?	9 A. No.
9 A. Because Mr. Strubeck told me.	10 Q. Mr. DeGroat, are you familiar with the 11 Children's Hospital bankruptcy?
10 Q. Did you speak to anyone besides Mr. Strubeck 11 about the hearing last week?	12 A. Yes.
12 A. Mr. Valenti.	13 Q. And are you familiar with the litigation 14 that's related to that bankruptcy between the
13 Q. And what did you discuss about that?	15 Children's Hospital and UMC?
14 A. Same thing, just -- no specifics.	16 A. Yes.
15 Q. Did Mr. Valenti express to you an opinion 16 about the outcome of last week's hearing?	17 Q. When was the last time you spoke to Sam 18 Legate?
17 A. No.	19 A. Probably many months ago.
18 Q. Did you ask him any questions about it?	20 Q. Have you talked to him this year?
19 A. Just general questions.	21 A. Oh, yes.
20 Q. What do you remember asking him?	22 Q. Do you remember when?
21 A. You know, "How did it go?" But I don't -- no 22 specifics.	23 A. Probably prior to the bankruptcy filing so 24 prior to May, whenever that was, May 19th.
23 Q. What did he say when you asked him how it 24 went?	25 Q. Did you talk to him about the Children's
25 A. I don't remember.	
Page 10	Page 12
1 Q. Did he give you an impression as to how the 2 hearing went?	1 Hospital?
3 A. No.	2 A. Yes.
4 Q. Have you looked at any documents in 5 preparation for your testimony today?	3 Q. What do you remember about that conversation?
6 A. I read the mediation statement that was 7 presented by UMC and I reviewed the minutes of El Paso 8 Children's Hospital that we had on -- available.	4 A. I encouraged him not to file bankruptcy. 5 Q. Why was that?
9 Q. Where did you get the minutes?	6 A. Because I just didn't think it was -- would be 7 beneficial for the hospital or the community at large. 8 Q. Do you have experience in dealing with
10 A. From Eddie Sosa, our hospital counsel.	9 bankruptcy cases?
11 Q. So Mr. Sosa is counsel for UMC?	10 A. Not very much.
12 A. Yes, in-house.	11 Q. Have you participated in any way in a 12 Chapter 11 bankruptcy case before?
13 Q. And he had copies of the Children's Hospital 14 minutes?	13 A. Not directly.
15 A. Yes.	14 Q. Mr. DeGroat, did you graduate from high 15 school?
16 Q. And you reviewed some of those?	16 A. Yes.
17 A. Yes.	17 Q. Where did you go to high school?
18 Q. What else did you look at?	18 A. Burges High School in El Paso, Texas.
19 A. That's all.	19 Q. Did you go to college?
20 Q. For the benefit of the record, I'm just going 21 to say UMC, but I'll be referring to El Paso Hospital 22 District d/b/a University Medical Center of El Paso, if 23 we can have that understanding?	20 A. Yes.
24 A. Yes.	21 Q. Where did you go to college?
25 Q. Do you have any title or position at UMC	22 A. University of Texas at El Paso.
	23 Q. Did you get a degree?
	24 A. Yes.
	25 Q. What is your degree in?

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<p>1 A. I got a BBA and an MBA.</p> <p>2 Q. Any other degrees?</p> <p>3 A. I have a graduate degree in commercial banking</p> <p>4 from SMU.</p> <p>5 Q. What else?</p> <p>6 A. That's all.</p> <p>7 Q. Do you have any professional certifications?</p> <p>8 A. Several.</p> <p>9 Q. What are those?</p> <p>10 A. I'm a Certified Financial Planner. I'm a</p> <p>11 Chartered Life Underwriter. I'm a -- like a Certified</p> <p>12 Retirement Specialist, and a designation called CHFC.</p> <p>13 It's pretty much the equivalent of a CFP, Certified</p> <p>14 Financial Planner.</p> <p>15 Q. What else?</p> <p>16 A. That's all.</p> <p>17 Q. And since you graduated from UTEP, where have</p> <p>18 you worked?</p> <p>19 A. I was in the commercial banking business for</p> <p>20 about 16 years, and then I've been with Lincoln</p> <p>21 Financial Advisors for the last 26 years.</p> <p>22 Q. Where is the office for Lincoln Financial</p> <p>23 Advisors?</p> <p>24 A. At 3817 Constitution Drive, Suite 100,</p> <p>25 El Paso, Texas.</p>	<p>1 Q. Is the local employee benefit practice</p> <p>2 something that you're involved with directly?</p> <p>3 A. I have my own practice. Yes.</p> <p>4 Q. Are there others in your office that also</p> <p>5 provide that type of service?</p> <p>6 A. Yes.</p> <p>7 Q. When did you first become involved with UMC?</p> <p>8 A. I was -- I was appointed to the board by the</p> <p>9 county commissioners in 2003 and served until 2009.</p> <p>10 And then I was reappointed the summer of 2014.</p> <p>11 Q. Do you know why you were appointed in 2003?</p> <p>12 A. Because I was available.</p> <p>13 Q. What do you know about the selection process</p> <p>14 for that type of appointment?</p> <p>15 A. The candidates are vetted by specific county</p> <p>16 commissioners and then they are discussed with other</p> <p>17 county commissioners, and then they are voted on by the</p> <p>18 majority of the county commissioners.</p> <p>19 Q. And what was the genesis of the consideration</p> <p>20 that led to you being appointed?</p> <p>21 A. There was a Commissioner Scruggs who contacted</p> <p>22 me and asked me if I would be interested in serving on</p> <p>23 the county hospital district board.</p> <p>24 Q. Did you have, between 2003 and 2009, any</p> <p>25 particular role or title on the board?</p>
<p>Page 14</p> <p>1 Q. What do you do there, Mr. DeGroat?</p> <p>2 A. I'm the owner and I'm a Certified Financial</p> <p>3 Planner so I do financial planning, insurance and</p> <p>4 investments.</p> <p>5 Q. Who else works at Lincoln?</p> <p>6 A. Many people.</p> <p>7 Q. You have employees?</p> <p>8 A. I have four statutory employees, and the rest</p> <p>9 are -- their position of financial planners are not</p> <p>10 statutory employees. They are contractors.</p> <p>11 Q. How many of that category are there?</p> <p>12 A. Nine.</p> <p>13 Q. What kinds of clients does Lincoln have?</p> <p>14 A. Locally or nationally?</p> <p>15 Q. Well, let's start with the local.</p> <p>16 A. We do primarily professionals, executives and</p> <p>17 business owners.</p> <p>18 Q. And on a national level?</p> <p>19 A. The same.</p> <p>20 Q. Do you have any corporate or institutional</p> <p>21 clients?</p> <p>22 A. We do. We have an employee benefit practice</p> <p>23 where we do local El Paso businesses for employee</p> <p>24 benefits so health insurance, life insurance, dental,</p> <p>25 vision, 401(k), simple IRAs.</p>	<p>Page 16</p> <p>1 A. I served for a time as the secretary, and then</p> <p>2 also as the vice chairman.</p> <p>3 Q. You went off the board in 2009. Is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And what was the reason for your leaving?</p> <p>7 A. I think by then we had established that we</p> <p>8 would have three-year terms, and that we would limit</p> <p>9 the board participation to two terms. So I had served</p> <p>10 six years.</p> <p>11 Q. And you went back on the board in 2014. Is</p> <p>12 that right?</p> <p>13 A. That's correct.</p> <p>14 Q. And do you have any title or position on the</p> <p>15 board in your current tenure on the board?</p> <p>16 A. Chairman of the board.</p> <p>17 Q. Chairman of the board.</p> <p>18 Mr. DeGroat, at one point did UMC go by a</p> <p>19 different name?</p> <p>20 A. Originally it was Thomason Hospital.</p> <p>21 Q. When did the name change?</p> <p>22 A. I don't recall. In the last six, seven years,</p> <p>23 approximately.</p> <p>24 Q. During your tenure on the board between 2003</p> <p>25 and 2009, what were your duties as a board member?</p>

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1       **A. Just normal board governance so review of**  
2 **policies and interface with the president and CEO of**  
3 **the hospital.**  
4       Q. And since 2014, your current tenure as the  
5 chairman of the board, what are your duties in that  
6 role?  
7       **A. The same. Review of policies and procedures**  
8 **and interface with the president and CEO.**  
9       Q. How does the chair relate to the rest of the  
10 board at UMC?  
11       **A. We all have the same duties. The chairman**  
12 **just conducts the meeting.**  
13       Q. We've been talking generally about UMC. Where  
14 is that located?  
15       **A. In El Paso, Texas.**  
16       Q. Sure. Is there -- I presume there are street  
17 addresses. Are there more than one facility for UMC?  
18       **A. We have clinics throughout the community so**  
19 **different clinics. We're developing some new clinics.**  
20       Q. Do you have a section of UMC that you regard  
21 as the main campus?  
22       **A. Yes, here in the facility that we kind of sit**  
23 **in is the primary campus of UMC at the corner of**  
24 **Alameda and Reynolds.**  
25       Q. Are you aware of any UMC sites or locations

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1 that are now shut down?  
2       **A. No.**  
3       Q. You've testified a little bit, Mr. Degroat,  
4 about the county commissioners court.  
5               Can you tell us what that is?  
6       **A. That's a governing body of the County of**  
7 **El Paso. There are five members of the county**  
8 **commissioners court, elected by the public at large**  
9 **within the County of El Paso, and one of the**  
10 **commissioners is elected as the county judge and**  
11 **conducts the business of the county.**  
12       Q. Who is the judge today?  
13       **A. Veronica Escobar.**  
14       Q. How long has Ms. Escobar been the judge?  
15       **A. She's on her second term so around five or six**  
16 **years.**  
17       Q. How does UMC relate to the county  
18 commissioners court?  
19       **A. We are governed by the county commissioners.**  
20 **So we are -- we're owned by the county government,**  
21 **owned by the citizens of the County of El Paso.**  
22       Q. And do you, as a board member of UMC, have  
23 contact with the county commissioners court?  
24       **A. Occasionally. We have meetings with them**  
25 **to -- typically to discuss financials, financial**

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1 **statements, budgets.**  
2       Q. Are those regularly scheduled?  
3       **A. They're -- they're regularly scheduled during**  
4 **the budget time frame, which is really now, kind of**  
5 **August/September time frame. We had initial meetings**  
6 **in July.**  
7       Q. What did the additional meetings in July  
8 relate to?  
9       **A. Just rolling out the initial budget for**  
10 **2015/'16 fiscal year.**  
11       Q. Are the communications between the  
12 commissioners court and UMC public?  
13       **A. Unless we're in executive session, which**  
14 **doesn't happen very often so yes. The majority of**  
15 **discussions are in the public form.**  
16       Q. When was last time there was an executive  
17 session.  
18       **A. Oh, probably in the -- late June, early July,**  
19 **and it was to discuss bankruptcy proceedings.**  
20       Q. Who else communicates with the commissioners  
21 court on behalf of UMC?  
22       **A. Well, the individual board members have**  
23 **discussions with county commissioners occasionally, and**  
24 **the management of UMC Hospital has periodic discussions**  
25 **with the county judge and county commissioners.**

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1       Q. Are those communications informal?  
2       **A. Some informal, some formal.**  
3       Q. And how would you describe the distinction  
4 between a formal communication and an informal  
5 communication?  
6       **A. The president and CEO occasionally appears**  
7 **before the county commissioners for briefings on**  
8 **budgets, activities of the hospital. And the president**  
9 **and CEO would have, you know, private discussions with**  
10 **the county commissioners to keep them up to date on**  
11 **what's going on with the hospital district.**  
12       Q. And when you say the president and CEO, you're  
13 referring to the president and CEO of UMC. Is that  
14 right?  
15       **A. That's correct, Mr. Jim Valenti.**  
16       Q. Thank you.  
17               How long have you known Ms. Escobar?  
18       **A. Probably for the last 11 or 12 years.**  
19       Q. Is she a friend of yours?  
20       **A. Yes.**  
21       Q. How often do you speak to her?  
22       **A. Normally very infrequently, but lately because**  
23 **of the bankruptcy, maybe, once or twice a week.**  
24       Q. Is anybody on the commissioners court taking  
25 the lead on behalf of that court in dealing with the

Page 21	Page 23
<p>1 bankruptcy case?</p> <p>2 <b>A. Judge Escobar has been very active, as well as</b></p> <p>3 <b>County Commissioner David Stout.</b></p> <p>4 Q. So of the five it's mainly those two?</p> <p>5 <b>A. That's correct.</b></p> <p>6 (Mr. Yetter leaves proceedings.)</p> <p>7 Q. (BY MR. SPROUSE) Do you know what the current</p> <p>8 view of the commissioners court is of the bankruptcy</p> <p>9 proceedings?</p> <p>10 <b>A. Not specifically.</b></p> <p>11 Q. Generally how do they feel about it?</p> <p>12 <b>A. I think frustrated, impatient, not happy about</b></p> <p>13 <b>the amount of money that's being spent on attorney fees</b></p> <p>14 <b>and consultants instead of on health care.</b></p> <p>15 Q. And you mentioned the money. Is that the</p> <p>16 money that's being spent by and on behalf of UMC?</p> <p>17 <b>A. Primarily on behalf of the El Paso Children's</b></p> <p>18 <b>Hospital and UMC.</b></p> <p>19 Q. I see. Mr. DeGroat, I think you mentioned a</p> <p>20 board of managers for UMC. Who's on the board of</p> <p>21 managers?</p> <p>22 <b>A. Well, Jim Volk is my vice chairman. Brother</b></p> <p>23 <b>Nick is the secretary of the board, Tracy Yellen,</b></p> <p>24 <b>Monica Narvaez, Miguel Fernandez.</b></p> <p>25 How many did I give you?</p>	<p>1 Q. (BY MR. SPROUSE) How does the board of</p> <p>2 managers and the administrators of UMC relate to each</p> <p>3 other?</p> <p>4 <b>A. The president and CEO reports to the board of</b></p> <p>5 <b>directors, and then his management team, the CEO's</b></p> <p>6 <b>management team, reports to him.</b></p> <p>7 Q. How are executives at UMC hired?</p> <p>8 <b>A. The board hires the CEO, and then the CEO</b></p> <p>9 <b>hires his or her management team.</b></p> <p>10 Q. Does the board approves the CEO's selection?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Mr. DeGroat, it's my understanding that the</p> <p>13 Children's Hospital opened its doors on February the</p> <p>14 14th of 2012. Does that sound right to you?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Were you there when the hospital opened?</p> <p>17 <b>A. I was at the ribbon cutting. I was not active</b></p> <p>18 <b>on the hospital board or the Children's Hospital board</b></p> <p>19 <b>at the time.</b></p> <p>20 Q. What was your connection with either of those</p> <p>21 institutions, UMC or the Children's Hospital, at that</p> <p>22 time?</p> <p>23 <b>A. I had no involvement formally.</b></p> <p>24 Q. Informally did you have contact with the UMC</p> <p>25 board?</p>
<p>1 Q. That's five.</p> <p>2 <b>A. Including myself?</b></p> <p>3 Q. You did not include yourself.</p> <p>4 <b>A. Okay. I'm on the board so that's six. I need</b></p> <p>5 <b>one other.</b></p> <p>6 Q. Does Ms. Yellen have any particular title on</p> <p>7 the board?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Ms. Narvaez?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Mr. Fernandez?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Who are the administrators of UMC?</p> <p>14 <b>A. The primary administrators would be</b></p> <p>15 <b>Mr. Valenti as president and CEO, and then he has a</b></p> <p>16 <b>chief nursing officer, Joe Garcia, and kind of chief</b></p> <p>17 <b>operating officer whose name escapes me, but I'll come</b></p> <p>18 <b>back to it.</b></p> <p>19 Q. So how does the board of managers at UMC and</p> <p>20 the administrators of UMC -- how do those bodies react</p> <p>21 or act with each other?</p> <p>22 <b>A. Let me back up a little bit. The seventh</b></p> <p>23 <b>board member is Joy Martinez.</b></p> <p>24 MR. SPROUSE: I'll strike that question</p> <p>25 and ask a new one.</p>	<p>1 <b>A. Yes.</b></p> <p>2 Q. In what way?</p> <p>3 <b>A. I was a participant and still a participant as</b></p> <p>4 <b>a board member in El Paso First, which is the Medicaid</b></p> <p>5 <b>HMO that's community owned.</b></p> <p>6 Q. Prior to the Children's Hospital opening, did</p> <p>7 El Paso have a children hospital?</p> <p>8 <b>A. No, not a freestanding, separately licensed</b></p> <p>9 <b>children's hospital. There is a children's hospital</b></p> <p>10 <b>within a hospital run by Tenent Hospital Systems at</b></p> <p>11 <b>Providence Hospital.</b></p> <p>12 Q. Did El Paso have a need for a freestanding</p> <p>13 children's hospital?</p> <p>14 <b>A. Yes, because we were -- at the time, prior to</b></p> <p>15 <b>the opening of El Paso Children's Hospital, we were the</b></p> <p>16 <b>largest city in the United States without a</b></p> <p>17 <b>freestanding, separately licensed children's hospital.</b></p> <p>18 Q. Mr. DeGroat, you used the term separately</p> <p>19 licensed. What does that mean?</p> <p>20 <b>A. It means it's free -- it's freestanding. It's</b></p> <p>21 <b>not associated with another institution as, say, a</b></p> <p>22 <b>subsidiary of a hospital system. So it stands alone,</b></p> <p>23 <b>and it's -- the license is through governmental</b></p> <p>24 <b>agencies.</b></p> <p>25 Q. Is that -- is that licensure through the state</p>

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<p>1 or is it federal?</p> <p>2 <b>A. I'm -- I'm not -- I'm not sure. Certainly we</b></p> <p>3 <b>have -- you know, there are licenses that are -- that</b></p> <p>4 <b>have to be issued by Department of Health and Human</b></p> <p>5 <b>Services within Texas, and then Medicare and Medicaid</b></p> <p>6 <b>licenses that are federal.</b></p> <p>7 Q. Is the Children's Hospital non-taxing?</p> <p>8 <b>A. It is.</b></p> <p>9 Q. What does that mean?</p> <p>10 <b>A. It means it's a not-for-profit organization.</b></p> <p>11 <b>So if they do profit, they don't pay taxes.</b></p> <p>12 Q. Is the Children's Hospital supported by tax</p> <p>13 revenue?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Not at all?</p> <p>16 <b>A. The -- not directly. The building for the</b></p> <p>17 <b>Children's Hospital was funded by a bond issue through</b></p> <p>18 <b>the county government with a small tax increase that</b></p> <p>19 <b>pays for the principal and interest of that bond issue.</b></p> <p>20 Q. Today are there any tax dollars that directly</p> <p>21 support the Children's Hospital or its activities?</p> <p>22 <b>A. Not as originally planned, but because UMC has</b></p> <p>23 <b>supported El Paso Children's Hospital with services and</b></p> <p>24 <b>providing them buildings, they have indirectly</b></p> <p>25 <b>benefited from dollars that would be considered tax</b></p>	<p>1 Q. What else can you tell me about how that</p> <p>2 relationship works?</p> <p>3 <b>A. Nothing.</b></p> <p>4 Q. Has the Children's Hospital been able to serve</p> <p>5 the region's pediatric patients since it opened?</p> <p>6 <b>A. Yes. I think they've done a good job in their</b></p> <p>7 <b>clinical mission to serve El Paso County children.</b></p> <p>8 Q. So in that respect, the Children's Hospital</p> <p>9 has done what it was intended to do?</p> <p>10 <b>A. From a clinical standpoint, yes.</b></p> <p>11 Q. What do you know about the quality of the</p> <p>12 pediatric services that have been provided?</p> <p>13 <b>A. What little feedback I hear, it's been very</b></p> <p>14 <b>good, you know. They -- they've had JCAHO</b></p> <p>15 <b>accreditation and have done a good job.</b></p> <p>16 Q. Does the Children's Hospital provide indigent</p> <p>17 pediatric care?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And prior to the opening of the Children's</p> <p>20 Hospital, had UMC been providing indigent pediatric</p> <p>21 care?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Has the Children's Hospital relieved UMC of</p> <p>24 the burden of providing indigent pediatric care?</p> <p>25 <b>A. Yes.</b></p>
<p>1 <b>dollars.</b></p> <p>2 Q. Mr. DeGroat, would you regard the Children's</p> <p>3 Hospital today as being independent?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And what would you mean by independent?</p> <p>6 <b>A. Separately licensed, separate board of</b></p> <p>7 <b>directors or governance, and separate management teams.</b></p> <p>8 Q. And I think you testified, also, that the</p> <p>9 Children's Hospital is a nonprofit. Right?</p> <p>10 <b>A. That's correct.</b></p> <p>11 Q. So we've talked about the Children's Hospital</p> <p>12 being separately licensed, non-taxing, independent and</p> <p>13 nonprofit. Is that right?</p> <p>14 <b>A. That's correct.</b></p> <p>15 Q. Do you know why the Children's Hospital was</p> <p>16 established with those attributes?</p> <p>17 <b>A. Not specifically, but if you look at the</b></p> <p>18 <b>history of children's hospitals around the country,</b></p> <p>19 <b>they're typically not for profit, tied to an academic</b></p> <p>20 <b>facility.</b></p> <p>21 Q. Is the Children's Hospital in El Paso tied to</p> <p>22 an academic facility?</p> <p>23 <b>A. Yes, in its relationship with Texas Tech</b></p> <p>24 <b>University Health Science Center that provides</b></p> <p>25 <b>physician services.</b></p>	<p>1 Q. Has that saved UMC money?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. How do you know that?</p> <p>4 <b>A. It's just logical that if the Children's</b></p> <p>5 <b>Hospital took over the function of providing indigent</b></p> <p>6 <b>care that it doesn't cost UMC as much.</b></p> <p>7 Q. To do the same thing?</p> <p>8 <b>A. To do the same thing.</b></p> <p>9 Q. Mr. DeGroat, what is your understanding of why</p> <p>10 the Children's Hospital filed bankruptcy?</p> <p>11 <b>A. Because they're -- they pretty much exhausted</b></p> <p>12 <b>their equity. They had a negative equity position, and</b></p> <p>13 <b>that they were spending -- last fiscal year they spent</b></p> <p>14 <b>103 million and they collected about 63 million. So</b></p> <p>15 <b>they were \$40 million deficit in one fiscal year.</b></p> <p>16 Q. When you say "exhausted their equity," what do</p> <p>17 you mean by equity?</p> <p>18 <b>A. Original capital invested plus accumulated</b></p> <p>19 <b>profits.</b></p> <p>20 Q. In the context of the Children's Hospital,</p> <p>21 what do you mean by accumulated profits?</p> <p>22 <b>A. If your revenues exceed your expenses, you</b></p> <p>23 <b>create a profit.</b></p> <p>24 Q. Mr. DeGroat, when did you first have contact</p> <p>25 with the idea of a Children's Hospital in El Paso?</p>

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<p>1 A. In my board position as a board member of UMC, 2 starting early on in my board position probably 2003, 3 2004.</p>	<p>1 Q. You reference the numbers, and then the actual 2 numbers. Is that right?</p>
<p>4 Q. Was it a topic of discussion on the board?</p>	<p>3 A. Yes.</p>
<p>5 A. Yes, because it was -- for some of the board 6 members, it was a long-term goal to try to create and 7 open a children's hospital.</p>	<p>4 Q. So what two time periods are you talking 5 about?</p>
<p>8 Q. Did you have an opinion on the subject at the 9 time?</p>	<p>6 A. Well, the pro forma dated back to '12, '13, 7 '14, '15, that time frame. I've looked at the 8 Children's Hospital fiscal numbers for the fiscal year 9 end of 2013 and 2014. And the ones that I quoted the 10 numbers, that was fiscal year 2014 where they had 11 revenues of 63 million and expenses of 103 million.</p>
<p>10 A. Yes.</p>	<p>12 Q. I think you testified, Mr. DeGroat, that the 13 2007 study, the most recent feasibility study, was used 14 to garner support for the Children's Hospital in the 15 community. Is that right?</p>
<p>11 Q. What was your opinion?</p>	<p>16 A. That's correct.</p>
<p>12 A. That I was in favor for creating a children's 13 hospital, again, because I didn't want to be part of 14 the biggest city in the United States without a 15 freestanding children's hospital.</p>	<p>17 Q. So how was the feasibility study used in that 18 purpose?</p>
<p>16 Q. Are you aware that certain feasibility studies 17 had been conducted prior to the Children's Hospital 18 opening?</p>	<p>19 A. Well, if -- if citizens were asked -- if they 20 asked about what's the potential of financial</p>
<p>19 A. Yes.</p>	<p>21 performance, that we had an independent consulting firm 22 that put together the feasibility and showed income and 23 expenses. So that we could -- we could tell 24 politicians, i.e., the county commissioners or 25 interested community leaders or citizens what the</p>
<p>20 Q. What do you know about those studies?</p>	
<p>21 A. Just, you know, over the years many studies 22 were -- were done by different consulting firms. I 23 don't have the specific consulting firm, but -- and 24 that when we took the topic of the Children's Hospital 25 to the voters to create a bond issue, that a</p>	
Page 30	Page 32
<p>1 feasibility study was used to make the case with -- 2 with the county commissioners, with citizens at large.</p>	<p>1 pro forma financials looked like.</p>
<p>3 Q. Was this the 2007 feasibility study?</p>	<p>2 Q. Did you agree with the projections in the 3 feasibility study?</p>
<p>4 A. I couldn't specifically say which.</p>	<p>4 A. Yes.</p>
<p>5 Q. Does that sound right as far as the --</p>	<p>5 Q. Is it fair to say that the Children's Hospital 6 was approved based upon the assumptions contained in 7 that feasibility study?</p>
<p>6 A. That's about the right time frame.</p>	<p>8 A. Yes.</p>
<p>7 Q. Do you remember the name Kurt Salmon 8 Associates being associated with the feasibility study?</p>	<p>9 Q. At some point, Mr. DeGroat, a decision was 10 made that the Children's Hospital would be located on 11 the UMC campus. Isn't that right?</p>
<p>9 A. I remember the name, yeah, but not which 10 specific version they were involved with.</p>	<p>12 A. That's correct.</p>
<p>11 Q. Was the feasibility study that you just 12 testified to the most recent one?</p>	<p>13 Q. How was that determination made?</p>
<p>13 A. Yes.</p>	<p>14 A. I think, at the time, UMC had a bond issue to 15 expand the facilities and modernize the facilities, and 16 that was a separate bond issue of approximately 17 120 million.</p>
<p>14 Q. Have you seen it?</p>	<p>18 And the thought process, at the time, was 19 could you incorporate a children's bond issue to 20 build -- develop and build a children's hospital within 21 an expansion of UMC to utilize economies of scale of 22 construction and development, and then utilize the 23 economies of scale of some services that might be 24 provided by UMC to a children's hospital.</p>
<p>15 A. Yes.</p>	<p>25 Q. Did the feasibility study speak to where the</p>
<p>16 Q. Have you read it?</p>	
<p>17 A. Yes.</p>	
<p>18 Q. What did it say?</p>	
<p>19 A. I just -- I focused on the numbers in terms of 20 analyzing what should have taken place in terms of the 21 financial projections versus what actually took place, 22 and those numbers typically showed -- there was about a 23 five-year stretch of fiscal year end numbers generating 24 around 65 million, with expenses of about the same 25 amount, 65 million.</p>	



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<p>1 Children's Hospital might be located?</p> <p>2 <b>A. I believe so.</b></p> <p>3 Q. What did it say?</p> <p>4 <b>A. That it was the assumption that it would be on</b></p> <p>5 <b>the UMC campus.</b></p> <p>6 Q. Did the feasibility study call for a lease</p> <p>7 between UMC and the Children's Hospital?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. What did the feasibility study say about that</p> <p>10 lease?</p> <p>11 <b>A. Just said that they would make lease payments.</b></p> <p>12 Q. Did it have any other information about how</p> <p>13 those payments would be structured?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Did the feasibility study speak to what would</p> <p>16 be charged as rent under the lease?</p> <p>17 <b>A. I don't recall the exact assumptions but, yes,</b></p> <p>18 <b>there was an amount that was -- would be considered</b></p> <p>19 <b>facilities lease.</b></p> <p>20 Q. Was that tied to any benchmark?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Any mention of fair market value?</p> <p>23 <b>A. The discussion was that it would be based on</b></p> <p>24 <b>fair market value of the facility that would be built</b></p> <p>25 <b>and provided for El Paso Children's Hospital use.</b></p>	<p>1 <b>services to the other entity, and then the entity</b></p> <p>2 <b>receiving the services would reimburse the provider.</b></p> <p>3 Q. So just for the benefit of the record, the</p> <p>4 idea that was UMC would provide those services. Right?</p> <p>5 <b>A. That's correct.</b></p> <p>6 Q. And the Children's Hospital would pay UMC?</p> <p>7 <b>A. That's correct.</b></p> <p>8 Q. You've talked about the \$120 million bond</p> <p>9 arrangement for the construction of the Children's</p> <p>10 Hospital. Is that right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. So that was approved by the voters of El Paso.</p> <p>13 Is that right?</p> <p>14 <b>A. That's correct.</b></p> <p>15 Q. What did the bond funds pay for?</p> <p>16 <b>A. The construction of the portion of the</b></p> <p>17 <b>building on the UMC campus that would be dedicated to</b></p> <p>18 <b>the Children's Hospital.</b></p> <p>19 Q. What percentage of the construction was paid</p> <p>20 for by the bond funds?</p> <p>21 <b>A. 100 percent.</b></p> <p>22 Q. What else was paid for with the bond funds?</p> <p>23 <b>A. I don't know specifically, but I assume some</b></p> <p>24 <b>equipment and fixtures that were provided as part of</b></p> <p>25 <b>the building of the hospital.</b></p>
<p>Page 34</p> <p>1 Q. And that notion is in the feasibility study?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Do you remember anything else about that</p> <p>4 specifically in the feasibility study?</p> <p>5 <b>A. No.</b></p> <p>6 Q. I think you've talked generally about how UMC</p> <p>7 and the Children's Hospital might be -- benefited from</p> <p>8 having the facilities on a common campus. Is that</p> <p>9 right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. So how would that arrangement benefit the</p> <p>12 Children's Hospital specifically?</p> <p>13 <b>A. Because it was contemplated that certain</b></p> <p>14 <b>services that were generally administrative would be</b></p> <p>15 <b>provided by UMC so that you wouldn't have to duplicate</b></p> <p>16 <b>certain facilities. As an example, the dietary food</b></p> <p>17 <b>service, if it was provided by UMC then, from a</b></p> <p>18 <b>construction standpoint, you wouldn't have to build as</b></p> <p>19 <b>big, you know, a big, huge commissary to serve the</b></p> <p>20 <b>Children's Hospital individually, and then other</b></p> <p>21 <b>services: Information technology, human resources,</b></p> <p>22 <b>accounting, janitorial, security. It was contemplated</b></p> <p>23 <b>that they would be shared organizational services.</b></p> <p>24 Q. What do you mean by shared?</p> <p>25 <b>A. Meaning that one entity would provide those</b></p>	<p>Page 36</p> <p>1 Q. So equipment and fixtures for the Children's</p> <p>2 Hospital were, in part, paid for by a portion of the</p> <p>3 bond funds?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. Do you know anything more about the equipment</p> <p>6 and fixtures?</p> <p>7 <b>A. No.</b></p> <p>8 Q. How were the bonds to be repaid?</p> <p>9 <b>A. Over a 30-year period by a small increase in</b></p> <p>10 <b>the -- in the tax that's levied by the El Paso County</b></p> <p>11 <b>Hospital District.</b></p> <p>12 Q. Is UMC responsible for paying back the bonds?</p> <p>13 <b>A. The taxpayers provide the principal and the</b></p> <p>14 <b>interest to repay the bonds.</b></p> <p>15 Q. Does UMC itself repay any portion of the</p> <p>16 bonds?</p> <p>17 <b>A. No. And let me go backwards a little bit.</b></p> <p>18 <b>UMC -- the Hospital District is the taxing authority.</b></p> <p>19 <b>So they collect the taxes and then they make the</b></p> <p>20 <b>payments for the principal and interest. So it's -- it</b></p> <p>21 <b>is paid for by UMC, but the source of the principal and</b></p> <p>22 <b>interest payments are through a tax levy.</b></p> <p>23 Q. Would it be fair to say that UMC is kind of a</p> <p>24 pass-through in that arrangement?</p> <p>25 <b>A. Yes.</b></p>

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<p>1 Q. Do you know what the status is of the bonds 2 that were used to fund the Children's Hospital today?</p>	<p>1 <b>A. Yes.</b></p>
<p>3 <b>A. Specifically meaning what?</b></p>	<p>2 Q. Did you have a role in the creation of that 3 initial Children's Hospital board?</p>
<p>4 Q. Are they being repaid?</p>	<p>4 <b>A. No.</b></p>
<p>5 <b>A. Yes.</b></p>	<p>5 Q. Who put that together?</p>
<p>6 Q. Mr. DeGroat, how is the Children's Hospital 7 governed?</p>	<p>6 <b>A. As I recall Sam Legate and Charlie Gutierrez 7 were kind of the driving forces behind the formation of 8 the Children's Hospital.</b></p>
<p>8 <b>A. By a board of directors.</b></p>	<p>9 Q. And how was the formation of that initial 10 board created in relation to the board at UMC?</p>
<p>9 Q. When was that board created?</p>	<p>11 <b>A. They created -- the Children's Hospital 12 created their board separately. They had -- in the 13 days of the feasibility study, that was funded by UMC. 14 So obviously UMC, you know, helped in terms of helping 15 the board of directors in creating the vision of a 16 Children's Hospital, getting the bond issue and helping 17 to open the Children's Hospital.</b></p>
<p>10 <b>A. Probably about the time of the bond election, 11 around 2007.</b></p>	<p>12 Q. And you were involved in that effort?</p>
<p>12 Q. Who was on the initial board?</p>	<p>13 <b>A. I helped. I helped during the feasibility 14 study period when we talked to community leaders and 15 citizens. I walked neighborhoods encouraging people to 16 vote for the Children's Hospital bond election.</b></p>
<p>13 <b>A. Sam Legate and Charlie Gutierrez are the two 14 that come to mind.</b></p>	<p>18 Q. What was Mr. Valenti's role in the creation of 19 that initial Children's Hospital board?</p>
<p>15 Q. Who else?</p>	<p>18 <b>A. I don't -- don't recall specifically.</b></p>
<p>16 <b>A. I don't recall.</b></p>	<p>20 Q. Was this after you had stepped off the UMC 21 board?</p>
<p>17 Q. Were you on the Children's Hospital board?</p>	<p>23 Q. What was Mr. Valenti's role in the creation of 24 that initial Children's Hospital board?</p>
<p>18 <b>A. I was put on the Children's Hospital board 19 probably the summer of 2009.</b></p>	<p>24 <b>A. I don't -- don't recall specifically.</b></p>
<p>20 Q. Was this after you had stepped off the UMC 21 board?</p>	<p>25</p>
<p>22 <b>A. Yes.</b></p>	<p>25</p>
<p>23 Q. Was there any period of time when you were on 24 both boards?</p>	<p>25</p>
<p>25 <b>A. Not that I recall.</b></p>	<p>25</p>
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<p>1 Q. Did you have a title or specific role in the 2 Children's Hospital board?</p>	<p>1 Q. Was he around at the time?</p>
<p>3 <b>A. No, just a board member.</b></p>	<p>2 <b>A. Sure.</b></p>
<p>4 Q. How long did you serve on the Children's 5 Hospital board?</p>	<p>3 Q. Was he involved?</p>
<p>6 <b>A. Until the summer of 2011, approximately.</b></p>	<p>4 <b>A. I'm sure he was.</b></p>
<p>7 Q. Why did you leave the Children's Hospital 8 board?</p>	<p>5 Q. Who is Mr. Gutierrez?</p>
<p>9 <b>A. Because I wanted to.</b></p>	<p>6 <b>A. That's Dr. Charlie Gutierrez, a community 7 pediatrician who is instrumental in creating the desire 8 and the vision for a Children's Hospital.</b></p>
<p>10 Q. I presume that's the case.</p>	<p>9 Q. When did he leave the board?</p>
<p>11 Do you remember why you left?</p>	<p>10 <b>A. I don't recall.</b></p>
<p>12 <b>A. I didn't want to serve any more.</b></p>	<p>11 Q. Besides Mr. Legate, Mr. Gutierrez and 12 yourself, who else has served on the Children's 13 Hospital board?</p>
<p>13 Q. Was there anything going on on the board or at 14 the Children's Hospital that motivated you to leave 15 that position?</p>	<p>14 <b>A. The ones I can remember Kristen Cox, Mary Lou 15 Camarena, David Osborn, Cindy Villa.</b></p>
<p>16 <b>A. No.</b></p>	<p>16 Q. Who else?</p>
<p>17 Q. Do you know how the Children's Hospital board 18 members were selected?</p>	<p>17 <b>A. A representative from Texas Tech, which in the 18 past was -- I think they were nonvoting members so it 19 would have been Dr. De La Rosa, and now Dr. Rick Lange, 20 Dr. Chheda, a physician that is a Texas Tech physician 21 that does work at Children's Hospital. She was on the 22 board.</b></p>
<p>19 <b>A. Originally the thought was that there would be 20 nominations from different community groups, one being 21 the county commissioner, one being the University 22 Medical Center, Texas Tech, citizens at large, and they 23 would be nominated to -- and then elected by their 24 board.</b></p>	<p>23 Q. Prior to your going on the Children's Hospital 24 board, did you attend Children's Hospital board 25 meetings?</p>
<p>25 Q. Was that the practice that was followed?</p>	<p>25</p>

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<p>1 <b>A. No.</b></p> <p>2 Q. Did you ever attend a Children's Hospital</p> <p>3 board meeting when you were not on the Children's</p> <p>4 Hospital board?</p> <p>5 <b>A. Not to my recollection.</b></p> <p>6 Q. Are you aware of Mr. Valenti ever attending a</p> <p>7 Children's Hospital board meeting?</p> <p>8 <b>A. When I was on the board, yes. He attended</b></p> <p>9 <b>Children's Hospital board meetings.</b></p> <p>10 Q. What was the purpose of his attendance?</p> <p>11 <b>A. He was a nonvoting board member as I recall.</b></p> <p>12 Q. Did he report back to the UMC board the</p> <p>13 activities of the Children's Hospital board?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. What do you remember about that?</p> <p>16 <b>A. Nothing specifically.</b></p> <p>17 Q. Generally what did he tell you?</p> <p>18 <b>A. Just keeping the board informed about the</b></p> <p>19 <b>formation of the Children's Hospital.</b></p> <p>20 Q. This is prior to the opening of the Children's</p> <p>21 Hospital?</p> <p>22 <b>A. Yes, prior to 2012.</b></p> <p>23 Q. How about after?</p> <p>24 <b>A. I couldn't tell you. I was off the board.</b></p> <p>25 Q. Do you know when Mr. Valenti last attended a</p>	<p>1 Q. Mr. DeGroat, who has been the CEO of the</p> <p>2 Children's Hospital?</p> <p>3 <b>A. The original CEO was Larry Duncan, and then a</b></p> <p>4 <b>cast of characters that I don't recall. One Ray -- his</b></p> <p>5 <b>last name is Dzieszinski, and then they had another</b></p> <p>6 <b>intermediate Jim Sexton; their current Chief</b></p> <p>7 <b>Restructuring Officer, Mr. Herbers.</b></p> <p>8 Q. Larry Duncan was the first?</p> <p>9 <b>A. That's correct.</b></p> <p>10 Q. Were you involved in the selection process for</p> <p>11 Mr. Duncan?</p> <p>12 <b>A. Yes. We have a search and selection</b></p> <p>13 <b>committee.</b></p> <p>14 Q. Was the Children's Hospital board formed at</p> <p>15 that time?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Who was on the selection committee?</p> <p>18 <b>A. The only ones I recall is myself and Sam</b></p> <p>19 <b>Legate, Jim Valenti and several other people that I</b></p> <p>20 <b>don't recall.</b></p> <p>21 Q. Describe the process for me that led to the</p> <p>22 selection of Mr. Duncan.</p> <p>23 <b>A. I think they hired a search firm and collected</b></p> <p>24 <b>resumes. The resumes were vetted by the search</b></p> <p>25 <b>committee, and then candidates were interviewed. And I</b></p>
<p>1 Children's Hospital board meeting?</p> <p>2 <b>A. I do not.</b></p> <p>3 Q. Do you know which of the current or former</p> <p>4 Children's Hospital board members had been on the UMC</p> <p>5 board?</p> <p>6 <b>A. Rosemary Castillo had previously been a UMC</b></p> <p>7 <b>board member and is currently an El Paso Children's</b></p> <p>8 <b>Hospital board member.</b></p> <p>9 Q. Who else?</p> <p>10 <b>A. That's all I can recall. Sam Legate, of</b></p> <p>11 <b>course, although he's not a current board member, but</b></p> <p>12 <b>he had served as a board member for UMC previously.</b></p> <p>13 Q. Are you aware of any persons who are on the</p> <p>14 Children's Hospital board and the UMC board at the same</p> <p>15 time?</p> <p>16 <b>A. Not to my knowledge.</b></p> <p>17 Q. Are you aware of any current or former child</p> <p>18 hospital -- Children's Hospital board members who later</p> <p>19 became board members at UMC?</p> <p>20 <b>A. Not to my knowledge.</b></p> <p>21 Q. You would be one example, though. Right?</p> <p>22 <b>A. Sure.</b></p> <p>23 Q. Anybody else?</p> <p>24 <b>A. David Osborn was a -- he also served as a</b></p> <p>25 <b>board member of UMC, but not simultaneously.</b></p>	<p>1 <b>don't recall how many candidates, but three or four I</b></p> <p>2 <b>suspect, and then the final selection was made by the</b></p> <p>3 <b>committee and recommended to the Children's board.</b></p> <p>4 Q. Did you participate in interviews of</p> <p>5 candidates?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Did you interview Mr. Duncan?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Did you support his selection as the first CEO</p> <p>10 of the Children's Hospital?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. For the selection committee, was that choice</p> <p>13 unanimous?</p> <p>14 <b>A. I don't recall.</b></p> <p>15 Q. Do you remember if Mr. Valenti supported his</p> <p>16 selection?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. He did?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Mr. DeGroat, in the days prior to the</p> <p>21 Children's Hospital opening, the Children's Hospital</p> <p>22 and UMC entered into a series of agreements.</p> <p>23 Are you aware of that?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. What were those agreements?</p>

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1       **A. I couldn't tell you specifically because I was**  
2 **not on the board at the time that they were discussed**  
3 **and created.**  
4       Q. Are you aware of a master agreement?  
5       **A. No.**  
6       Q. Have you heard of such a thing between the  
7 parties?  
8       **A. No. I -- I hear master agreement in the**  
9 **connotation of agreements with Texas Tech and UMC, but**  
10 **I've never heard that used with UMC and El Paso**  
11 **Children's Hospital.**  
12       Q. And you're aware of a facility lease agreement  
13 between the Children's Hospital and UMC. Right?  
14       **A. Yes.**  
15       Q. Have you seen that lease?  
16       **A. No.**  
17       Q. Have you heard of an administrative services  
18 agreement?  
19       **A. Yes.**  
20       Q. Do you know what that provides?  
21       **A. Not specifically, but I must -- I'm sure it**  
22 **incorporates the administrative services that are**  
23 **provided by UMC for El Paso Children's Hospital,**  
24 **including but not limited to dietary, janitorial,**  
25 **security. In the early days it was contemplated that**

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1 **it would be human resources, accounting, which**  
2 **sometimes it's called revenue cycle, billing and**  
3 **collection.**  
4       Q. Did you have any role in the creation of these  
5 agreements?  
6       **A. No.**  
7       Q. Did you have any role in the negotiations of  
8 these agreements?  
9       **A. No.**  
10       Q. Were you involved with UMC at the time?  
11       **A. No.**  
12       Q. Were you involved with the Children's Hospital  
13 at the time?  
14       **A. No.**  
15       Q. Did you know that discussions about those  
16 agreements were taking place?  
17       **A. Not specifically because I wasn't -- I wasn't**  
18 **sitting on the -- on either board, the Children's**  
19 **Hospital or UMC.**  
20       Q. Were you involved with El Paso First at the  
21 time?  
22       **A. Yes.**  
23       Q. What was -- all right. Were you chairman of  
24 the board of El Paso First?  
25       **A. Yes.**

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1       Q. From when to when?  
2       **A. Currently, and probably dating back to around**  
3 **2008, maybe 2009.**  
4       Q. Are you aware of any of these agreements being  
5 amended since the Children's Hospital opened?  
6       **A. Well, I've heard of an updated agreement that**  
7 **included some forbearance so that they obviously**  
8 **changed the payment amounts, but don't have any -- I've**  
9 **never seen the forbearance agreement, don't know**  
10 **exactly what was -- what was done. There was**  
11 **discussion about -- that UMC was providing**  
12 **administrative services that included 5 percent**  
13 **overhead.**  
14                   And I think, in that forbearance  
15 agreement, some of those services were shrunk a little  
16 bit to try to reduce cost and the 5 percent  
17 administrative cost was eliminated or some people would  
18 call overhead cost.  
19                   MR. SPROUSE: All right. Let's go off  
20 the record.  
21                   (A recess was taken.)  
22       Q. (BY MR. SPROUSE) Mr. Degroat, we're back on  
23 the record.  
24                   And I think you had testified to a  
25 forbearance agreement between the parties. Is that

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1 right?  
2       **A. Yes.**  
3       Q. Do you know when that forbearance agreement  
4 was?  
5       **A. No.**  
6       Q. Was it prior to you going back on the UMC  
7 board?  
8       **A. Yes. I think it was around May of 2014.**  
9       Q. What else do you know about the forbearance  
10 agreement?  
11       **A. That's all. Never seen it.**  
12       Q. You mentioned the administrative fee that was  
13 being charged to the Children's Hospital. How was that  
14 determined?  
15       **A. I've only heard, in general discussion, that**  
16 **there was -- those service agreements included a**  
17 **5 percent overhead factor that UMC attached for**  
18 **administrating service agreements, and that in the**  
19 **forbearance agreement it was agreed that the Children's**  
20 **Hospital would be charged actual cost with no overhead.**  
21       Q. What is your understanding of actual costs?  
22       **A. Actual cost is actual cost. It's if you pay**  
23 **out a dollar, then you bill the company that you're**  
24 **providing the services a dollar.**  
25       Q. In the context of the relationship between the

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<p>1 Children's Hospital and UMC, how does the actual cost 2 concept work?</p> <p>3 <b>A. I assume they keep track of employee hours 4 times the employees rate, plus Social Security taxes, 5 Medicare taxes, unemployment insurance, all the things 6 that -- that are involved in providing employees. And 7 then, if they provide supplies, what their actual cost 8 is from buying supplies at vendors that they, in turn, 9 provide to the Children's Hospital.</b></p> <p>10 Q. In the relationship between Children's 11 Hospital and UMC, who makes the determination of what 12 those actual costs are?</p> <p>13 <b>A. I would assume, although I do not specifically 14 know, that that would be the employees of the 15 accounting department of UMC, probably with input on 16 what services are needed, what levels of services are 17 provided by the El Paso Children's Hospital.</b></p> <p>18 Q. Are you aware of the actual cost ever being 19 reviewed and adjusted?</p> <p>20 <b>A. I've heard informally that, during the 21 forbearance agreement time period when they were 22 discussing that, that they shrunk some of the services 23 to try to reduce the overall costs for El Paso 24 Children's.</b></p> <p>25 Q. By shrunk the services, you mean what the</p>	<p>1 <b>A. That's my assumption, yes.</b></p> <p>2 Q. Would it be fair to say that in the market 3 there would be a willing buyer and a willing seller for 4 those type of services?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And that that might represent fair market 7 value?</p> <p>8 <b>A. I assume so.</b></p> <p>9 Q. Are you aware of any determination of the fair 10 market value of the services provided by UMC to the 11 Children's Hospital?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Do you have an opinion as to how the actual 14 costs being charged to the Children's Hospital for 15 these services might relate to the fair market value 16 for those services?</p> <p>17 <b>A. I have no idea. I had a discussion with Sam 18 Legate many, many months ago, probably a year ago prior 19 to -- obviously prior to the filing of bankruptcy, 20 where I suggested that if they thought they were paying 21 too much, which would be -- if our actual charges were, 22 they thought, too high, that they go out and get their 23 own service providers and take UMC out of the loop. 24 That was never done. And the reason it was never done 25 is they didn't have the money to pay for the providers</b></p>
<p>Page 50</p> <p>1 Children's Hospital was actually receiving?</p> <p>2 <b>A. Probably meaning that if they provided X 3 number of employees to provide that service, that the 4 two parties got together and said, "Can we do it with X 5 minus 1, X minus 2?" Or maybe even if it was one 6 employee, they said, "Well, we only need half of an 7 employee." So I'm sure they negotiated with each other 8 to try to reduce those services to try to reduce the 9 overall cost to El Paso Children's.</b></p> <p>10 Q. Was that in the forbearance era?</p> <p>11 <b>A. I'm assuming, yes.</b></p> <p>12 Q. Are you aware of any discussions to adjust or 13 reduce the actual costs?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Are you aware, Mr. DeGroat, if the services 16 provided by UMC to the Children's Hospital have a fair 17 market value?</p> <p>18 <b>A. That's a little ambiguous to me so why don't 19 you clarify that.</b></p> <p>20 Q. Sure. How would you define fair market value?</p> <p>21 <b>A. Fair market value is what a willing buyer and 22 a willing seller would negotiate in terms of price.</b></p> <p>23 Q. So you testified earlier as to the fact that 24 UMC provides housekeeping services to the Children's 25 Hospital. Is that right?</p>	<p>Page 52</p> <p>1 <b>in my opinion.</b></p> <p>2 Q. When was that conversation?</p> <p>3 <b>A. Probably -- probably early on in 2015.</b></p> <p>4 Q. Was the Children's Hospital paying UMC for 5 those services at the time?</p> <p>6 <b>A. No.</b></p> <p>7 Q. So when you testified that the Children's 8 Hospital didn't have the money to pay an outside vendor 9 for the services --</p> <p>10 <b>A. It's on the assumption that they didn't have 11 money to pay UMC. So if they didn't have that money to 12 pay UMC, then they couldn't go to the market and try to 13 realize cost savings because they didn't have the money 14 to pay.</b></p> <p>15 Q. And you made that suggestion to Mr. Legate?</p> <p>16 <b>A. Absolutely.</b></p> <p>17 Q. And what did he say?</p> <p>18 <b>A. He didn't say anything. He just accepted it 19 as a suggestion.</b></p> <p>20 Q. But you're not aware that it was ever pursued?</p> <p>21 <b>A. No. I don't know if it was pursued or not. 22 But, again, my assumption is it probably couldn't be 23 pursued because they didn't have the cash to pay for a 24 third-party vendor because they didn't have the money 25 to pay for UMC as a vendor.</b></p>

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<p>1 Q. What are the terms of the facility lease 2 between the Children's Hospital and UMC?</p> <p>3 A. It was a 30-year lease. It was based on fair 4 market value appraisal of the property for lease 5 purposes. I think the dollar amount is about \$860,000 6 per month for the 30-year time frame. And the way they 7 got fair market value -- again, this is just 8 conversation. I have not seen the appraisals. But 9 they got two appraisals from two different expert 10 companies, and -- to establish the value of the lease, 11 and I think they took the two and averaged them and 12 came up with a lease amount.</p> <p>13 Q. And how do you know about the appraisals?</p> <p>14 A. I just heard it in conversation.</p> <p>15 Q. Have you seen the appraisals?</p> <p>16 A. No.</p> <p>17 Q. Mr. DeGroat, what are the actual costs to UMC 18 for maintaining the property that's the subject of the 19 facility lease?</p> <p>20 A. I have no -- no idea specifically what those 21 costs are that -- that lease was to provide like a 22 triple net lease so that they had to reimburse UMC for 23 providing some services, consistent with any building 24 lease, such as utilities, maintenance, repair and 25 depreciation.</p>	<p>1 Q. Is that a component of the depreciation?</p> <p>2 A. Yes.</p> <p>3 Q. How about for maintenance?</p> <p>4 A. I don't know specifically whether that is 5 included in the 860 or it's an additional, as part of a 6 triple net arrangement.</p> <p>7 Q. But generally it's your understanding that the 8 triple net obligations under the facility lease are in 9 addition to the \$860,000 a month that's owed?</p> <p>10 A. Yes.</p> <p>11 Q. How much of the 860,000 a month do you believe 12 is attributable to the depreciation?</p> <p>13 A. The majority of it.</p> <p>14 Q. How would you -- I think you've testified to 15 this.</p> <p>16 Just so we're clear, the idea of 17 depreciation would be what it would cost UMC to create 18 a replacement facility at the end of the lease term?</p> <p>19 A. Or to keep it -- keep it modern, keep it up to 20 first class standards, and certainly in the long term 21 it would be for replacement. Otherwise you -- 30 years 22 down the road, you have a worn out, dilapidated 23 building with no cash to replace it.</p> <p>24 Q. And what is UMC's basis for the depreciation?</p> <p>25 A. That's an accounting question that I'm not</p>
<p>Page 54</p> <p>1 Q. You mentioned a rent figure of \$860,000 a 2 month. Is that right?</p> <p>3 A. Yes. That's my recollection.</p> <p>4 Q. Does that figure include amounts that are paid 5 under the triple net portion of the lease or are those 6 additional amounts?</p> <p>7 A. Those are additional for -- primarily for 8 utilities.</p> <p>9 Q. So the 860 -- strike that. 10 So the \$860,000 a month to be paid by the 11 Children's Hospital to UMC under the facility lease 12 does not include charges for utilities?</p> <p>13 A. That's my understanding.</p> <p>14 Q. Does not include charges for repairs?</p> <p>15 A. The primary purpose for that lease is actually 16 to provide for replacement long term of the facility 17 because of the inherent depreciation. So at the end of 18 the 30 years, you've got -- theoretically you've got a 19 reserve that you can use to rebuild or remodel.</p> <p>20 Q. Just so the record is clear, Mr. DeGroat, the 21 \$860,000 a month the Children's Hospital is to pay UMC 22 for the facility lease is not intended to address 23 repairs for that property?</p> <p>24 A. I think it is to address repairs, especially 25 long term.</p>	<p>Page 56</p> <p>1 qualified to answer. The 860 obviously was based on 2 fair market value from an appraisal, from a series of 3 appraisals.</p> <p>4 Q. I'm trying to understand, Mr. DeGroat, if UMC 5 paid nothing for the construction of the facility how 6 UMC can also claim the benefit of depreciation?</p> <p>7 MR. STRUBECK: I'm going to object. I 8 don't think it's a question that's been asked.</p> <p>9 Q. (BY MR. SPROUSE) Can you explain that?</p> <p>10 A. Restate the question.</p> <p>11 Q. Sure. Please explain to me, Mr. DeGroat, how 12 UMC is able to charge depreciation for space that it 13 paid nothing to construct?</p> <p>14 A. Because the -- when the bond issue was done, 15 the taxpayers were going to pay principal and interest, 16 and any commercial lease principal and interest is only 17 one component of the total lease. The lease also 18 includes typically maintenance, repairs, janitorial, 19 taxes if it's a tax entity, and depreciation. And if 20 it's a commercial lease, it includes a return on the 21 investment for the investor.</p> <p>22 Q. Is this a commercial lease?</p> <p>23 A. Yes.</p> <p>24 Q. So you believe that UMC is entitled to a 25 return on the investment as you say?</p>

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<p>1       <b>A. I think UMC is entitled to a lease payment</b>  2 <b>that equals fair market value as determined by</b>  3 <b>third-party experts.</b></p> <p>4               MR. SPROUSE: Can you read back my  5 question, please.</p> <p>6               (The record was read as requested.)</p> <p>7       Q. (BY MR. SPROUSE) Mr. DeGroat, do you believe  8 that a portion of the rent charged to the Children's  9 Hospital under the facility lease represents a return  10 on investment to UMC?</p> <p>11       <b>A. I have no idea because I haven't looked at the</b>  12 <b>appraisals and how that was determined so I don't know</b>  13 <b>if it included a return on an investment or it was</b>  14 <b>strictly based on comparable space if you leased it</b>  15 <b>from any commercial hospital.</b></p> <p>16       Q. You testified earlier that you believe that a  17 majority of the rent would fairly be attributable to  18 depreciation. Is that right?</p> <p>19       <b>A. Yes.</b></p> <p>20       Q. So how would you account for the remaining  21 portion of the rent under the lease?</p> <p>22       <b>A. Well, the lease is based on fair market value,</b>  23 <b>which would mean that it would compensate the hospital</b>  24 <b>for providing the space, and provide for depreciation</b>  25 <b>for future replacement. And then, if it's a triple net</b></p>	<p>1 value?</p> <p>2       <b>A. I have no idea.</b></p> <p>3       Q. The rent charged under the lease is based upon  4 fair market value. Is that right?</p> <p>5       <b>A. It's my understanding.</b></p> <p>6       Q. You've also testified the primary purpose of  7 the rent is to account for depreciation?</p> <p>8       <b>A. Yes.</b></p> <p>9       Q. So how does depreciation under this lease  10 relate to fair market value?</p> <p>11       <b>A. The lease was determined based on fair market</b>  12 <b>value, comparable space for comparable use, but for</b>  13 <b>UMC -- they're not a commercial investor. So the</b>  14 <b>purpose of the lease was to provide replacement</b>  15 <b>reserves long term, and on a short-term basis to -- to</b>  16 <b>keep the facilities modern.</b></p> <p>17       Q. Is that a component of the depreciation?</p> <p>18       <b>A. Depreciation is an accounting term for</b>  19 <b>replacement. So it is what it is. It's a replacement</b>  20 <b>reserve.</b></p> <p>21       Q. You said that a component of that would be  22 funds needed to keep the facility modern. Is that  23 right?</p> <p>24       <b>A. Yes.</b></p> <p>25       Q. And that's a component of the depreciation?</p>
<p>1 <b>lease, it provides for additional costs to reimburse</b>  2 <b>UMC for utilities and some maintenance.</b></p> <p>3       Q. Is it possible, Mr. DeGroat, that any portion  4 of the rent paid under the facility lease represents a  5 return on investment to UMC?</p> <p>6       <b>A. I don't know.</b></p> <p>7       Q. Is it possible?</p> <p>8               MR. STRUBECK: Object to the form of the  9 question.</p> <p>10       Q. (BY MR. SPROUSE) You can answer.</p> <p>11       <b>A. I answered it. I don't know.</b></p> <p>12       Q. Mr. DeGroat, you testified that you believe  13 the majority of the rent under the facility lease  14 accounts for depreciation. Is that right?</p> <p>15       <b>A. Yes.</b></p> <p>16       Q. You've testified to the triple net feature of  17 the lease. Is that right?</p> <p>18       <b>A. Yes.</b></p> <p>19       Q. Besides depreciation and the triple net  20 components, what else in the rent -- strike that.</p> <p>21               What else of the rent proceeds goes to  22 compensate UMC for its actual costs?</p> <p>23       <b>A. Again, I've testified that it's primarily for</b>  24 <b>depreciation. It's for long-term replacement.</b></p> <p>25       Q. How does depreciation relate to fair market</p>	<p>1       <b>A. Yes. It's the -- an accounting term to</b>  2 <b>provide for monies used for the wear and tear and</b>  3 <b>replacement of the property.</b></p> <p>4       Q. But you're not aware today how depreciation  5 under this lease relates to fair market value?</p> <p>6       <b>A. No. Maybe if you read the fair market value</b>  7 <b>appraisal, maybe that's included. I haven't seen it.</b></p> <p>8       Q. Do you believe the Children's Hospital is  9 paying rent -- or obligated to pay rent that exceeds  10 the depreciation costs to UMC for the facility?</p> <p>11       <b>A. I don't know specifically. I've never --</b>  12 <b>again, I've never seen the fair market value. I don't</b>  13 <b>know what the components of the fair market value</b>  14 <b>included.</b></p> <p>15       Q. Mr. DeGroat, how is the Children's Hospital to  16 obtain money to pay rent under the lease?</p> <p>17       <b>A. Through generation of revenues, patient --</b>  18 <b>primarily patient revenues.</b></p> <p>19       Q. How else?</p> <p>20       <b>A. How else?</b></p> <p>21       Q. Yes.</p> <p>22       <b>A. That's the primary source is revenues.</b></p> <p>23       Q. You said patient revenue. That would include  24 payment by patients who use the hospital. Is that  25 right?</p>

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<p>1       <b>A. Yes.</b></p> <p>2       Q.    Would it include any other type of</p> <p>3 reimbursement for those services?</p> <p>4       <b>A. Well, it would be -- it would be</b></p> <p>5 <b>reimbursements from patients, from commercial payers,</b></p> <p>6 <b>from Medicaid, and from private pay, people that pay</b></p> <p>7 <b>for their children's health care.</b></p> <p>8       Q.    You said commercial payers. Do you mean</p> <p>9 insurance?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q.    So it was your understanding that the</p> <p>12 Children's Hospital would be able to pay the rent with</p> <p>13 funds obtained from insurance, private payers and</p> <p>14 Medicaid. Is that right?</p> <p>15       <b>A. Yes.</b></p> <p>16       Q.    What other sources of funds were you aware of?</p> <p>17       <b>A. The only other sources would be</b></p> <p>18 <b>intergovernmental transfers.</b></p> <p>19       Q.    Is that sometimes called IGT?</p> <p>20       <b>A. Yes.</b></p> <p>21       Q.    What is IGT?</p> <p>22       <b>A. It's intergovernmental transfers.</b></p> <p>23       Q.    Can you explain what an intergovernmental</p> <p>24 transfer is?</p> <p>25       <b>A. It's when one organization provides a</b></p>	<p>1       <b>A. My understanding, yes. You contribute to</b></p> <p>2 <b>HHSC, and then they recontribute to a community health</b></p> <p>3 <b>care provider to pay for community health services.</b></p> <p>4       Q.    Is IGT something that you've been involved</p> <p>5 with during your tenure as a board member at UMC?</p> <p>6       <b>A. Yes, from a distance. It's a very</b></p> <p>7 <b>complicated, technical -- I'm not qualified to tell you</b></p> <p>8 <b>much more than what I've already told you, but it's</b></p> <p>9 <b>done in the normal course of business with hospitals in</b></p> <p>10 <b>our community, including El Paso Children's, but there</b></p> <p>11 <b>are several other hospitals that participate in the</b></p> <p>12 <b>same type of intergovernmental transfers. And it's for</b></p> <p>13 <b>the good of the community because you contribute a</b></p> <p>14 <b>dollar and maybe you get back \$1.40 that helps pay for</b></p> <p>15 <b>health care for our community.</b></p> <p>16       Q.    What are the other requirements of</p> <p>17 participation in that program?</p> <p>18       <b>A. I'm not an expert. I couldn't tell you.</b></p> <p>19       Q.    Who at UMC takes the lead in managing the IGT</p> <p>20 program?</p> <p>21       <b>A. The CEO, the CFO, and then they involve a law</b></p> <p>22 <b>firm who specializes in helping set up</b></p> <p>23 <b>intergovernmental transfers.</b></p> <p>24       Q.    Who is the CFO?</p> <p>25       <b>A. Michael Nunez.</b></p>
<p>1       <b>contribution to HHSC for services that are provided by</b></p> <p>2 <b>another organization. So as an example, one hospital</b></p> <p>3 <b>makes a contribution to provide services for another</b></p> <p>4 <b>hospital, which UMC does on a regular basis. So -- and</b></p> <p>5 <b>the reason it's done is that there is a matching</b></p> <p>6 <b>component. So it creates additional dollars that can</b></p> <p>7 <b>be spent on the community health care.</b></p> <p>8       Q.    Do those funds derive from the state?</p> <p>9       <b>A. It's done through the state with federal --</b></p> <p>10 <b>state matching and federal matching.</b></p> <p>11       Q.    Was it the anticipation that Children's</p> <p>12 Hospital would have access to IGT funds?</p> <p>13       <b>A. Yes, if they were available, absolutely.</b></p> <p>14       Q.    Is that an arrangement that was proposed by</p> <p>15 UMC?</p> <p>16       <b>A. Historically, yes. It was proposed by UMC in</b></p> <p>17 <b>their effort to try to leverage health care dollars</b></p> <p>18 <b>that were available to the community, and it's been</b></p> <p>19 <b>done even recently. The El Paso Children's Hospital,</b></p> <p>20 <b>my understanding, received 4 or \$5 million recently</b></p> <p>21 <b>with intergovernmental transfers to help pay for</b></p> <p>22 <b>community health services.</b></p> <p>23       Q.    When we talk about IGT, are we talking</p> <p>24 specifically about the matching funds that are routed</p> <p>25 through the HHSC?</p>	<p>1       Q.    What's the name of the law firm?</p> <p>2       <b>A. I don't recall.</b></p> <p>3       Q.    We talked about the pro formas that related to</p> <p>4 the Children's Hospital's revenue before it opened. Is</p> <p>5 that right?</p> <p>6       <b>A. Uh-huh. Yes.</b></p> <p>7       Q.    And did that -- those pro formas take into</p> <p>8 account revenues from insurance, private pay, Medicaid</p> <p>9 and IGT?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q.    Were there other sources of funding that were</p> <p>12 anticipated?</p> <p>13       <b>A. Not that I recall.</b></p> <p>14       Q.    When did the Children's Hospital fall behind</p> <p>15 in its rent payments under the lease?</p> <p>16       <b>A. I don't know because I wasn't involved at the</b></p> <p>17 <b>time.</b></p> <p>18       Q.    When speaking of the lease, is UMC supposed to</p> <p>19 make any money on the lease?</p> <p>20               MR. STRUBECK: Object to the form of the</p> <p>21 question.</p> <p>22       <b>A. Make money is a broad term so from my</b></p> <p>23 <b>standpoint it has no meaning.</b></p> <p>24       Q.    (BY MR. SPROUSE) Did UMC anticipate that it</p> <p>25 would use the revenue received as rent from the</p>
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<p>1 Children's Hospital for purposes that had nothing to do 2 with the Children's Hospital?</p> <p>3 <b>A. Not that I know of. It's strictly related to 4 the operation of Children's Hospital.</b></p> <p>5 Q. To be clear it's your understanding that all 6 of the rent charged under the facility lease was 7 designed to compensated UMC for the space and related 8 services under the lease?</p> <p>9 <b>A. And long-term and short-term replacement.</b></p> <p>10 Q. Mr. DeGroat, were there changes to insurance 11 that impacted the Children's Hospital revenue and its 12 ability to pay UMC?</p> <p>13 <b>A. My understanding is when -- in the feasibility 14 studies it was contemplated that Children's Hospital 15 would be reimbursed from some sources, specifically 16 Medicaid, based on the cost of providing those 17 services, and that was a method of reimbursement that 18 was eliminated prior to the opening of the Children's 19 Hospital.</b></p> <p>20 Q. Do you believe the Children's Hospital was 21 aware that that program had changed before it opened?</p> <p>22 <b>A. I don't recall. Again, I wasn't involved at 23 the time.</b></p> <p>24 Q. Were there other changes to the sources of 25 revenues that you've testified to that impacted the</p>	<p>1 the record.</p> <p>2 In the context of the feasibility study, 3 I think you had testified earlier that the idea of the 4 Children's Hospital being located on the UMC campus was 5 contemplated in that study.</p> <p>6 Is that your recollection?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Were alternative sites considered in the 9 feasibility study?</p> <p>10 <b>A. Not to my knowledge.</b></p> <p>11 Q. At some point, Mr. DeGroat, you're aware that 12 the Children's Hospital got into financial difficulty. 13 Is that fair to say?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. How did that happen?</p> <p>16 <b>A. Their expenses vastly exceeded their revenues. 17 Their revenues were pretty much on target. Their 18 expenses were, by my estimation, 30 or \$40 million 19 higher than anticipated in the feasibility study.</b></p> <p>20 Q. Were there any problems that you're aware of 21 on the revenue side of that equation?</p> <p>22 <b>A. Based on the actual results, the fiscal year 23 2015 total revenue was about what the pro forma showed, 24 almost to the dollar, like 63, 65 million. That's what 25 was actual, and that's what was on the pro formas.</b></p>
<p>Page 66</p> <p>1 Children's Hospital and its ability to pay?</p> <p>2 <b>A. Not that I'm aware of. And as I stated 3 previously, based on the pro formas, the revenues that 4 they've collected currently are approximately the 5 amounts that were contemplated in the pro formas so it 6 was not a problem of collections. It was a problem of 7 expense control.</b></p> <p>8 Q. Mr. DeGroat, did UMC want the Children's 9 Hospital to succeed financially?</p> <p>10 <b>A. Absolutely.</b></p> <p>11 Q. What steps did UMC take to make sure that 12 happened?</p> <p>13 <b>A. I don't know specifically, but obviously they 14 negotiated a forbearance agreement to try to provide 15 time and support for the Children's Hospital's success. 16 In all of our discussions about the Children's 17 Hospital, we want and still want long-term success.</b></p> <p>18 Q. Are you aware of any provisions of the various 19 agreements between the parties that provide for 20 renegotiation in the event revenues available to the 21 Children's Hospital changed?</p> <p>22 <b>A. I'm not aware.</b></p> <p>23 MR. SPROUSE: Let's go off the record. 24 (A luncheon recess was taken.)</p> <p>25 Q. (BY MR. SPROUSE) Mr. DeGroat, we're back on</p>	<p>Page 68</p> <p>1 Q. Are you aware of anything that negatively 2 impacted the Children's Hospital's revenues?</p> <p>3 <b>A. Other than what we've already talked about, 4 the change and cost reimbursement that's done by 5 Medicaid, no. I'm not familiar with any. And again, 6 as I stated before, I don't think it was a revenue 7 problem. It was an expense problem.</b></p> <p>8 Q. What expenses did the Children's Hospital 9 incur that caused it to experience financial 10 difficulty?</p> <p>11 <b>A. In my review of the minutes, I'll quote Sam 12 Legate. After he terminated the original CEO, he 13 introduced the new CEO, and he said, "We have three 14 issues. First of all, our cost structure is too high. 15 Second is our contracts with Texas Tech, and third is 16 our contracts with UMC."</b></p> <p>17 Q. And these expenses, by category, were 18 different from what was contemplated in the pro formas?</p> <p>19 <b>A. Well, the pro formas contemplated total 20 expenses of around 65 million. Last fiscal year total 21 expenses were 103 million.</b></p> <p>22 Q. I presume you agreed with what Mr. Legate 23 said?</p> <p>24 <b>A. I haven't thought about that, but I thought it 25 was -- I thought it was important to mention that</b></p>

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<p>1 because in all of our discussions from here out we only 2 focus on UMC costs, yet this was whenever -- it was the 3 board meeting following the termination of the original 4 CEO. He made that point.</p>	<p>1 endocrinologist performing pediatric services.</p>
<p>5           So I just thought that -- and I never 6 hear Children's Hospital talking about their expense 7 structure or talking about the Texas Tech contracts. 8 That all -- seems like everything is focused on UMC.</p>	<p>2           From a practical standpoint, it's very 3 difficult to have just one specialist in any field so 4 generally you have two to provide backup. So I must 5 assume that five endocrinologists cost significantly 6 more than having one or two, plus if you're paying 7 40 percent overhead, and that's exactly what they pay 8 for those pediatric endocrinologists. They pay 9 40 percent overhead on top of decent salaries.</p>
<p>9           Q. Do you believe that Children's Hospital 10 managed its expenses poorly?</p>	<p>10          Q. And the overhead, is that related to Texas 11 Tech?</p>
<p>11          A. Absolutely.</p>	<p>12          A. Yes.</p>
<p>12          Q. Explain that.</p>	<p>13          Q. How so?</p>
<p>13          A. You can't -- no business can have a revenue 14 stream of 63 million and have an expense of 15 103 million. It's not rocket science.</p>	<p>14          A. In Texas Tech's contracts, they say this is 15 our -- this is the cost that we're providing a 16 physician, and on top of that you will pay 40 percent 17 overhead to Texas Tech as an organization.</p>
<p>16          Q. I understand the math, Mr. DeGroat. What 17 could the Children's Hospital have done differently?</p>	<p>18          Q. So for the speed of overhead growth, you've 19 testified to the addition of doctors and the addition 20 of employees. What do you know about the employees?</p>
<p>18          A. Grown their overhead much slower, maybe 19 didn't -- had better contracts with Texas Tech. 20 Another thing, El Paso Children's Hospital took 21 exception with the fact that UMC was charging them 22 5 percent, yet lots of contracts at Texas Tech charges 23 them for 40 percent overhead.</p>	<p>21          A. I don't know anything specifically, just that 22 it appears that the infrastructure that they built for 23 the revenue stream is too large. And I state that 24 because I'm focused on the numbers. Again, you cannot 25 have a revenue stream that collects 60 cents and you</p>
<p>24                 The entire relationship that Texas Tech 25 has -- the average overhead is 18 percent. Yet I never</p>	
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<p>1 hear that that's an exception or that's a problem. Yet 2 UMC was basically scolded for charging 5 percent 3 overhead.</p>	<p>1 spend a dollar doing it. You can't last for very long.</p>
<p>4           Q. Do you believe that Texas Tech has a similar 5 relationship to the Children's Hospital to that of UMC?</p>	<p>2          Q. What else do you know about the disparity 3 between revenue and expenses at the Children's 4 Hospital?</p>
<p>6          A. I have no idea. I don't -- I have no 7 knowledge what their relationship is like.</p>	<p>5          A. Nothing.</p>
<p>8           Q. But we're comparing the overhead between UMC 9 and Texas Tech. Isn't that right?</p>	<p>6          Q. You're not aware of any specifics about the 7 expenses and how they begin to exceed revenue?</p>
<p>10          A. Yes, but I'm just quoting the math numbers, 11 you know. UMC charged 5 percent overhead. Texas Tech, 12 on many contracts, charged 40 percent overhead. Yet 13 seems like El Paso Children's is focused on the fact 14 that UMC should not have charged 5 percent overhead.</p>	<p>8          A. No, other than it's obvious that they grew 9 their overhead too fast for their income stream.</p>
<p>15          Q. You said that one thing that the Children's 16 Hospital could have done differently was to grow 17 overhead slower. Is that right?</p>	<p>10          Q. Mr. DeGroat, I think you've testified that you 11 have never seen the master agreement between the 12 parties. Is that right?</p>
<p>18          A. Yes.</p>	<p>13          A. That is true.</p>
<p>19          Q. What do you mean by that?</p>	<p>14          Q. Are you aware of any of the provisions of that 15 agreement?</p>
<p>20          A. In adding employees, in adding physicians to 21 their staff through Texas Tech. As an example, I have 22 not examined their numbers to any depth, but here's an 23 example I hear in the community, that El Paso 24 Children's hired five pediatric endocrinologists. A 25 hospital, in its infancy, probably needs one</p>	<p>16          A. No.</p> <p>17          Q. So the record's clear, are you aware of any 18 provisions to that agreement that provide for an 19 obligation to renegotiate the various agreements in 20 certain events?</p> <p>21          A. I haven't seen the agreements so obviously, 22 no, I do not know any of the provisions.</p> <p>23          Q. Has anyone told you about those provisions?</p> <p>24          A. No.</p> <p>25          Q. On an annual basis, what was -- or what is the</p>

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<p>1 largest obligation of the Children's Hospital to UMC?</p> <p>2 <b>A. Well, it was approximately \$11 million in rent</b></p> <p>3 <b>and approximately 14 million -- 13 to 14 million in</b></p> <p>4 <b>contracted services.</b></p> <p>5 Q. And that's pursuant to various agreements?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. But the largest stand-alone contract is the</p> <p>8 lease. Would you agree with that?</p> <p>9 <b>A. No. If the lease is 11 million and the</b></p> <p>10 <b>service agreements are -- combined equal 13 to 14, then</b></p> <p>11 <b>the service agreements cost more than the lease.</b></p> <p>12 Q. In the aggregate?</p> <p>13 <b>A. In the aggregate.</b></p> <p>14 Q. On a per agreement basis?</p> <p>15 <b>A. I have no knowledge of on a per agreement. I</b></p> <p>16 <b>have no idea. I just know an aggregate of what the</b></p> <p>17 <b>services are charged for.</b></p> <p>18 Q. Are you aware of the Children's Hospital ever</p> <p>19 asking UMC to reduce the rent under the lease?</p> <p>20 <b>A. UMC has had lots of discussions, lots of</b></p> <p>21 <b>offers and counteroffers on how to help with cost</b></p> <p>22 <b>control.</b></p> <p>23 Q. Do you have a recollection as to a request to</p> <p>24 reduce the rent under the lease?</p> <p>25 <b>A. I have knowledge that there were discussions</b></p>	<p>1 <b>A. Absolutely.</b></p> <p>2 Q. Has UMC ever expressed a willingness to adjust</p> <p>3 the rent due under the lease?</p> <p>4 <b>A. Absolutely.</b></p> <p>5 Q. When?</p> <p>6 <b>A. Many times.</b></p> <p>7 Q. When is the first time you remember that</p> <p>8 happening?</p> <p>9 <b>A. In the first -- in the first mediation. I</b></p> <p>10 <b>mean we -- general discussion amongst the board members</b></p> <p>11 <b>of the management of UMC -- I mean I'm sure it took</b></p> <p>12 <b>place a long time ago. But in terms of quantifying it,</b></p> <p>13 <b>it was discussed in mediation.</b></p> <p>14 Q. When was that first mediation?</p> <p>15 <b>A. I would have to refer to my calendar.</b></p> <p>16 Q. Was it the beginning of last year?</p> <p>17 <b>A. Yeah. It was probably -- I want to say March,</b></p> <p>18 <b>March time frame, March of 2015, approximately.</b></p> <p>19 Q. Are you aware of occasions prior to that when</p> <p>20 the Children's Hospital requested that UMC reduce or</p> <p>21 adjust the rent under the lease?</p> <p>22 <b>A. Not specifically.</b></p> <p>23 Q. Mr. DeGroat, would you agree that UMC was</p> <p>24 instrumental in helping to plan the Children's Hospital</p> <p>25 and how it would work?</p>
<p>1 <b>about reducing the rent and reducing the accrued debt</b></p> <p>2 <b>to them.</b></p> <p>3 Q. What do you remember about the request to</p> <p>4 reduce the rent under the lease?</p> <p>5 <b>A. Most of that took place in mediation so I</b></p> <p>6 <b>don't think I'm supposed to quote specific numbers that</b></p> <p>7 <b>were part of the mediation, but it was discussed.</b></p> <p>8 Q. Which mediation are you referring to?</p> <p>9 <b>A. Many of them.</b></p> <p>10 Q. Did you participate?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. In all the mediations?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And rent was an issue in those mediations?</p> <p>15 <b>A. Absolutely.</b></p> <p>16 Q. Was Mr. Valenti a participant in the</p> <p>17 mediations?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Do you believe he was aware of the Children's</p> <p>20 Hospital request to reduce the rent under the lease?</p> <p>21 <b>A. Sure, but you can't -- since they weren't</b></p> <p>22 <b>paying, it's hard to reduce it from zero.</b></p> <p>23 Q. Would you agree that a reduction in rent due</p> <p>24 under the lease would help the Children's Hospital</p> <p>25 financially?</p>	<p>1 <b>A. Yes.</b></p> <p>2 Q. Would that include the finances for the</p> <p>3 Children's Hospital?</p> <p>4 <b>A. Well, I think the -- I think the third-party</b></p> <p>5 <b>consultant had a lot to do with that in terms of how --</b></p> <p>6 <b>how it was structured and what the pro forma showed in</b></p> <p>7 <b>terms of income and expenses, but, yes. And UMC and</b></p> <p>8 <b>its board members at the time -- the driving force was</b></p> <p>9 <b>really Sam Legate and Dr. Charles Gutierrez. They had</b></p> <p>10 <b>a lot to do with it.</b></p> <p>11 Q. Was UMC instrumental in how the Children's</p> <p>12 Hospital would be staffed?</p> <p>13 <b>A. Not to my knowledge. I think that was -- that</b></p> <p>14 <b>was El Paso Children's Hospital.</b></p> <p>15 Q. How many UMC employees came over to the</p> <p>16 Children's Hospital?</p> <p>17 <b>A. I don't know exactly, but I've heard in the</b></p> <p>18 <b>range of 200.</b></p> <p>19 Q. And additional UMCs were engaged in providing</p> <p>20 services to the Children's Hospital. Isn't that right?</p> <p>21 <b>A. Yeah, in the service agreements.</b></p> <p>22 Q. So we have 200 that actually became employees</p> <p>23 of the Children's Hospital. Is that right?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And some additional number of UMC employees</p>

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<p>1 provided services to the Children's Hospital?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Mr. DeGroat, have you talked to the media</p> <p>4 about the bankruptcy case?</p> <p>5 <b>A. Once.</b></p> <p>6 Q. What was the media outlet?</p> <p>7 <b>A. TV station.</b></p> <p>8 Q. Do you remember which one?</p> <p>9 <b>A. Probably KVIA.</b></p> <p>10 Q. Were you interviewed?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. On camera?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Who set that up?</p> <p>15 <b>A. The reporter called me.</b></p> <p>16 Q. And you agreed to meet?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. What did the reporter ask you?</p> <p>19 <b>A. He just asked me questions about, you know,</b></p> <p>20 <b>what had happened, what transpired, you know, what</b></p> <p>21 <b>caused the bankruptcy filing.</b></p> <p>22 Q. Was this shortly after the filing?</p> <p>23 <b>A. Yeah, probably a few days after.</b></p> <p>24 Q. Still in May?</p> <p>25 <b>A. Yeah, in May.</b></p>	<p>1 for your television interview?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Have you talked to any print media about the</p> <p>4 bankruptcy case?</p> <p>5 <b>A. I probably talked to one print media, the</b></p> <p>6 <b>"El Paso Times", but I don't remember what was</b></p> <p>7 <b>discussed. And then, maybe, one other on-camera</b></p> <p>8 <b>interview where we discussed the financials.</b></p> <p>9 Q. Did you arrange the discussion with the</p> <p>10 "El Paso Times?"</p> <p>11 <b>A. No.</b></p> <p>12 Q. They contacted you?</p> <p>13 <b>A. The county judge asked me to.</b></p> <p>14 Q. Ms. Escobar?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. What did she ask you to do?</p> <p>17 <b>A. She just said, "Will you please sit for an</b></p> <p>18 <b>interview with the newspaper."</b></p> <p>19 Q. And you did so?</p> <p>20 <b>A. I did at her request.</b></p> <p>21 Q. Do you remember the reporter's name?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Do you remember what you were asked?</p> <p>24 <b>A. I think just general questions about, you</b></p> <p>25 <b>know, what was the -- what was the genesis of the</b></p>
<p data-bbox="743 1052 857 1083" style="text-align: right;">Page 78</p> <p>1 Q. Do you remember what you told him?</p> <p>2 <b>A. I probably told him that it was a problem with</b></p> <p>3 <b>excess expenses over revenues, that that was the</b></p> <p>4 <b>primary cause.</b></p> <p>5 Q. What else do you remember telling him?</p> <p>6 <b>A. I told him that I thought that, in our</b></p> <p>7 <b>mediation process, that El Paso Children's Hospital was</b></p> <p>8 <b>not negotiating in good faith because they had approved</b></p> <p>9 <b>a bankruptcy filing in February, and yet here we were</b></p> <p>10 <b>negotiating. And we were negotiating in good faith in</b></p> <p>11 <b>February, March, April, and then they filed bankruptcy</b></p> <p>12 <b>in May.</b></p> <p>13 Q. And you believed that reflects on the good</p> <p>14 faith of the Children's Hospital?</p> <p>15 <b>A. Absolutely.</b></p> <p>16 Q. Why is that?</p> <p>17 <b>A. Because they had already planned to file</b></p> <p>18 <b>bankruptcy, yet they were showing us that they were</b></p> <p>19 <b>trying to make an effort to negotiate a settlement. I</b></p> <p>20 <b>don't think they were negotiating in good faith.</b></p> <p>21 Q. Do you have any sense of why the Children's</p> <p>22 Hospital would continue to negotiate if they planned to</p> <p>23 file bankruptcy anyway?</p> <p>24 <b>A. No. It doesn't make sense to me.</b></p> <p>25 Q. Did you see the final report that was aired</p>	<p data-bbox="1425 1052 1539 1083" style="text-align: right;">Page 80</p> <p>1 <b>bankruptcy, and I just quoted the same type of</b></p> <p>2 <b>financial numbers, that it was an issue of expenses</b></p> <p>3 <b>vastly exceeding the revenues.</b></p> <p>4 Q. When did you talk to the "El Paso Times?"</p> <p>5 <b>A. I don't have a recollection on specific dates,</b></p> <p>6 <b>but it was shortly after the bankruptcy filing. So the</b></p> <p>7 <b>bankruptcy filing was May the 19th so it was probably</b></p> <p>8 <b>in the -- around the -- between the 20th and 24th.</b></p> <p>9 Q. Was a story generated from your interview?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Did you read it?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Did you hear about it?</p> <p>14 <b>A. No.</b></p> <p>15 Q. How do you know it was printed?</p> <p>16 <b>A. I saw it in the headlines but I don't read it.</b></p> <p>17 <b>I don't view my interviews either.</b></p> <p>18 Q. What do you mean "view your interviews?"</p> <p>19 <b>A. On TV.</b></p> <p>20 Q. I see. What did the headline say?</p> <p>21 <b>A. I don't remember.</b></p> <p>22 Q. Since then you had another on-camera</p> <p>23 interview?</p> <p>24 <b>A. It was at the same time frame.</b></p> <p>25 Q. Different TV station?</p>

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1       **A. It was -- I don't recall the station, but I**  
2 **think it was KVIA as well.**

3       Q. Has UMC engaged a PR firm to deal with the  
4 bankruptcy?

5       **A. No.**

6       Q. Does it have a PR person?

7       **A. Yes.**

8       Q. Who is that?

9       **A. Ryan -- last name is Mielke.**

10      Q. What's his title?

11      **A. He's public information officer, PIO.**

12      Q. For UMC?

13      **A. Yes.**

14      Q. Does he do additional work for the county or  
15 is he just with UMC?

16      **A. No, just UMC.**

17      Q. What is his role for UMC in relation to the  
18 bankruptcy case?

19      **A. He's the -- he's the spokesman for the**  
20 **hospital. So I try to avoid interviews with the media**  
21 **and let the professionals do it.**

22      Q. Mr. DeGroat, does UMC have access to the  
23 Children's Hospital financial information?

24      **A. We have, yes.**

25      Q. When was that?

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1       **A. The last financials that I know of, that I've**  
2 **seen, were the fiscal year 2014.**

3       Q. On an ongoing basis can UMC access the  
4 Children's Hospital financials?

5       **A. I don't know.**

6       Q. Are you aware of that?

7       **A. I've heard comments that they aren't, but I**  
8 **don't have -- I don't know if they have access or not.**  
9 **They had access to some financial information during**  
10 **the due diligence process.**

11      Q. When was the due diligence process?

12      **A. Earlier this year.**

13      Q. That was associated with one of the  
14 mediations?

15      **A. Yeah.**

16      Q. What was the purpose of the due diligence?

17      **A. To review the financial information, contracts**  
18 **with vendors and contracts with physicians, if UMC were**  
19 **to acquire the Children's Hospital through the**  
20 **negotiation process with Children's.**

21      Q. Was UMC working with any third parties as part  
22 of that due diligence?

23      **A. They used a law firm to help review some of**  
24 **the contracts and they used their accounting firm to**  
25 **review some of the financials.**

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1       Q. What was the law firm?

2       **A. It was Rose Norton and Fulbright.**

3               MR. STRUBECK: That's close.

4       **A. Or Norton Rose and Fulbright. There you go.**

5       Q. (BY MR. SPROUSE) What was the name of the  
6 accounting firm?

7       **A. I can't remember the name. If you give me a**  
8 **second, I'll come back to that, but it's the accounting**  
9 **firm that UMC employs for their annual audit.**

10      Q. Any other professionals involved with the due  
11 diligence?

12      **A. I think hospital staff and the hospital**  
13 **attorney Eddie Sosa. I'm sure lots of review of**  
14 **numbers by the CFO, Mr. Michael Nunez.**

15      Q. Any additional outside professionals?

16      **A. Not to my knowledge.**

17      Q. Does UMC receive philanthropic contributions?

18      **A. There is a foundation that was created to try**  
19 **to encourage local citizens to make contributions that**  
20 **would accrue primarily to children's health care, and**  
21 **so, yes. It's not a significant amount. As I recall,**  
22 **maybe, it's somewhere between two to \$3 million per**  
23 **year, but it helps.**

24      Q. Are most of those funds applied to the  
25 Children's Hospital?

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1       **A. As far as I understand, yes.**

2       Q. Who would know more about that?

3       **A. The CEO of the foundation, Dennece Knight.**

4       Q. Does she also solicit donations for UMC  
5 itself?

6       **A. Yes, although I think her primary focus is on**  
7 **children's projects that would benefit children's**  
8 **health care.**

9       Q. Does UMC have staff that works on  
10 philanthropic donations?

11      **A. Through the foundation, yes.**

12      Q. Any other staff?

13      **A. Not that -- not to my knowledge.**

14      Q. Mr. DeGroat, you're aware that UMC asserts a  
15 claim against the Children's Hospital in this case?

16      **A. For indebtedness that's owed to UMC?**

17      Q. Yes.

18      **A. Yes, I do.**

19      Q. Do you know the amount of that claim?

20      **A. Around 90 to \$100 million.**

21      Q. What are the parts of that claim?

22      **A. That would be for unpaid service contracts and**  
23 **for unpaid lease agreements.**

24      Q. What else?

25      **A. That's -- that's all I know of. There was**

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<p>1 originally some working capital that was lent to 2 Children's, but it's my understanding that that was 3 paid previously.</p> <p>4 Q. Who's Deloitte?</p> <p>5 A. Oh, that's an accounting firm.</p> <p>6 Q. Is that the one you were trying to think of 7 before?</p> <p>8 A. No. Sorry, but I just have a blank.</p> <p>9 Q. What role does Deloitte have in the current 10 case?</p> <p>11 A. I'm unclear about that. I've heard that 12 mentioned. They may have -- there was a time frame 13 when Children's had discussions with Dallas Children's 14 Hospital so Deloitte may have been involved in doing 15 their own pro formas on the Children's Hospital.</p> <p>16 Q. What's Deloitte doing in the case today?</p> <p>17 A. I don't know.</p> <p>18 Q. Who would know?</p> <p>19 A. Jimmy Valenti or Michael Nunez.</p> <p>20 Q. Is that something that the board is observing 21 or monitoring in any way?</p> <p>22 A. Not currently.</p> <p>23 Q. How is Deloitte being paid?</p> <p>24 A. I don't know. If they are involved with the 25 hospital, they're doing some phase of due diligence</p>	<p>1 Mr. Valenti and that runs until May 31st of 2016.</p> <p>2 Q. Who will decide if that's extended?</p> <p>3 A. The board of directors, probably influenced by 4 the county commissioners.</p> <p>5 Q. Is that something that they've contemplated 6 yet?</p> <p>7 A. No, not officially. I've heard some 8 discussion about it, but, no. There's been no 9 deliberation about his contract extension.</p> <p>10 Q. Sitting here today do you anticipate that an 11 offer will be made to Mr. Valenti to extend his 12 contract?</p> <p>13 A. No.</p> <p>14 Q. Why is that?</p> <p>15 A. I just don't think it will.</p> <p>16 Q. Is that based upon the informal communications 17 you've had with the court?</p> <p>18 A. Yes.</p> <p>19 Q. Mr. DeGroat, you're the chairman of the board 20 of El Paso First. Is that right?</p> <p>21 A. Yes.</p> <p>22 Q. What is El Paso First?</p> <p>23 A. It's a community-owned Medicaid and CHIP's 24 HMO, Health Maintenance Organization.</p> <p>25 Q. What does that mean?</p>
<p>Page 86</p> <p>1 with Michael Nunez and Jim Valenti and, yes, the 2 hospital would pay for them. Just I'm not familiar 3 with exactly what they are doing.</p> <p>4 Q. Do you know if UMC will claim -- make a claim 5 for recovery of its own attorney fees against 6 Children's Hospital?</p> <p>7 A. I don't know.</p> <p>8 Q. Historically what's your understanding of who 9 makes the hiring and firing decisions at the Children's 10 Hospital?</p> <p>11 A. The Children's Hospital management.</p> <p>12 Q. Has UMC participated in those decisions 13 historically?</p> <p>14 A. Not to my knowledge.</p> <p>15 Q. We talked about the search for the initial 16 CEO.</p> <p>17 A. Right.</p> <p>18 Q. So other than that, has UMC had any influence 19 over hiring or firing at the Children's Hospital?</p> <p>20 A. Not to my knowledge.</p> <p>21 Q. What do you know about Mr. Valenti's term of 22 office as CEO?</p> <p>23 A. You know, he's been an employee of the 24 hospital district since 2003, and around 2005 the 25 hospital entered into an employment agreement with</p>	<p>Page 88</p> <p>1 A. It means that it provides Medicaid 2 reimbursements for its clients who are primarily 3 children who qualify for Medicaid as their health 4 insurance.</p> <p>5 Q. Do citizens enroll or contract with El Paso 6 First?</p> <p>7 A. Citizens can -- if they qualify for Medicaid, 8 which is based off annual income, times number of 9 dependents -- they can enroll with several different 10 vendors that are Medicaid providers, to include El Paso 11 First and Superior, and then there's a newer one that's 12 in El Paso.</p> <p>13 Q. Do the enrollees pay a premium?</p> <p>14 A. No.</p> <p>15 Q. They just have to qualify?</p> <p>16 A. Yes, based on income.</p> <p>17 Q. How does El Paso First receive its own 18 funding?</p> <p>19 A. They -- for each child that enrolls for 20 Medicare, for CHIP, underneath that El Paso First 21 organization, then the Department of Health and Human 22 Services provides them with a capitation fee, meaning 23 that they get paid X number of dollars per month to do 24 the entire health care required for that child.</p> <p>25 Q. Does El Paso First have any other sources of</p>



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<p>1 what?</p> <p>2 A. No. Mr. Dominguez is the CEO of El Paso First</p> <p>3 today.</p> <p>4 Q. Right.</p> <p>5 A. But at the formation of the Children's</p> <p>6 Hospital, he was an employee of El Paso First. The CEO</p> <p>7 was Carol Smallwood.</p> <p>8 Q. So they were on the El Paso First side?</p> <p>9 A. Yes.</p> <p>10 Q. Who was the Children's Hospital side?</p> <p>11 A. I don't know specifically, but I would assume</p> <p>12 it was Larry Duncan, the CEO, and their CFO, Mr. Mier.</p> <p>13 Q. Is it your testimony, Mr. Degroat, that you</p> <p>14 don't know how the negotiated rates relate to the</p> <p>15 Children's Hospital's actual costs?</p> <p>16 A. No. And as board members we do not get</p> <p>17 involved in the negotiating process at all. We're not</p> <p>18 experts about Medicare reimbursements. We're not</p> <p>19 experts about negotiating with a vendor. We've never</p> <p>20 participated in that since I've been on the board.</p> <p>21 Q. Who at El Paso First would know about the</p> <p>22 relationship between those rates and actual costs?</p> <p>23 A. If anyone Frank Dominguez because he -- that's</p> <p>24 kind of his specialty, but again the -- when an</p> <p>25 insurance company negotiates with a provider, their</p>	<p>1 UMC on a consolidated accounting basis.</p> <p>2 Q. Are you aware of the -- strike that.</p> <p>3 Are you aware of any occasion where the</p> <p>4 relationship between the Children's Hospital and</p> <p>5 El Paso First has created a profit that benefited the</p> <p>6 Children's Hospital?</p> <p>7 A. I don't understand the question.</p> <p>8 Q. Sure. I think your testimony was that by</p> <p>9 proximity of the relationship between UMC and El Paso</p> <p>10 First, if El Paso First realizes revenue in excess of</p> <p>11 its expenses, that benefits UMC?</p> <p>12 A. Yes.</p> <p>13 Q. Does something similar to that ever happen to</p> <p>14 benefit the Children's Hospital?</p> <p>15 A. No.</p> <p>16 Q. Has El Paso First ever loaned money to UMC?</p> <p>17 A. Yes.</p> <p>18 Q. How does that work?</p> <p>19 A. In the early days, El Paso First was</p> <p>20 struggling financially and UMC had to lend it money to</p> <p>21 continue operations until we turned the operation</p> <p>22 around and started creating profit -- profitable years</p> <p>23 versus loss years. So within the last few years, that</p> <p>24 process has reversed itself and El Paso First has paid</p> <p>25 back monies that were advanced by UMC.</p>
<p>Page 94</p> <p>1 cost structure is not an important factor because the</p> <p>2 provider wants to contract with a reimbursement that is</p> <p>3 fair and reasonable to all concerned, but if a hospital</p> <p>4 has a high cost structure, that doesn't necessarily</p> <p>5 drive the reimbursements.</p> <p>6 Q. Did UMC encourage the Children's Hospital to</p> <p>7 enter into a provider agreement with El Paso First?</p> <p>8 A. Not to my knowledge, but again it would be an</p> <p>9 assumption that El Paso First would enter into</p> <p>10 agreements with any and all insurance providers that</p> <p>11 they could.</p> <p>12 Q. Are you aware of any pressure that UMC put on</p> <p>13 the Children's Hospital to enter into a contract with</p> <p>14 El Paso First?</p> <p>15 A. No.</p> <p>16 Q. Is El Paso First a revenue source for UMC?</p> <p>17 A. Sometimes.</p> <p>18 Q. How does that work?</p> <p>19 A. Again, they get -- El Paso First earns its</p> <p>20 revenue by capitation fees paid by the Department of</p> <p>21 Health and Human Services, and then they pay all actual</p> <p>22 claims. If -- if revenue exceeds claims, then they</p> <p>23 make a profit, and that profit benefits El Paso First,</p> <p>24 which is a subsidiary of UMC. So on a consolidated</p> <p>25 basis, that -- if they make a profit, it does benefit</p>	<p>Page 96</p> <p>1 And now, on a temporary basis, prior to</p> <p>2 the collection of tax revenues by UMC, El Paso First</p> <p>3 has entered into a lending agreement to provide UMC</p> <p>4 with short-term loans that are approved by HHSC and</p> <p>5 Texas Department of Insurance because technically</p> <p>6 El Paso First is an insurance company domiciled in</p> <p>7 Texas.</p> <p>8 Q. You referred to the early days of El Paso</p> <p>9 First. What time line are we talking about?</p> <p>10 A. I think that company was created about the</p> <p>11 year 2000. My involvement began around 2004, and they</p> <p>12 were -- they were unprofitable at that time and owed</p> <p>13 UMC about 17 million. And that's when we hired a new</p> <p>14 CEO. We provided new directors that included some of</p> <p>15 the names that I mentioned, and we got -- we got the</p> <p>16 organization profitable.</p> <p>17 And we paid back the 17 million, and now</p> <p>18 we're capable of lending UMC, I think, in the</p> <p>19 neighborhood of \$18 million on a very short-term basis.</p> <p>20 But again it has to be -- all that has to be approved</p> <p>21 by El Paso First's board, and it has to be approved by</p> <p>22 the county. Generally the county commissioners have</p> <p>23 their approval, the state Department of Insurance and</p> <p>24 the Department of Health and Human Services.</p> <p>25 Q. Do you know what the interest rate is?</p>



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<p>1 A. No, not off the top of my head. I would -- I 2 would say around 4 to 4.5 percent.</p> <p>3 Q. Are you aware, Mr. DeGroat, that UMC has 4 stated on the record in this case that the Children's 5 Hospital has experienced financial difficulties due to 6 mismanagement?</p> <p>7 A. Not specifically, but it's fair to assume that 8 if your expenses exceed your revenues by \$40 million 9 that that is an incident of mismanagement.</p> <p>10 Q. So you agree with the statement that the 11 Children's Hospital has been mismanaged?</p> <p>12 A. I would agree with that, yes.</p> <p>13 Q. Who at the Children's Hospital is responsible 14 for that mismanagement?</p> <p>15 A. The CEO, which was originally Larry Duncan, 16 and now this series -- vast series of new and acting 17 CEOs, but I think the -- you know, the damage was done 18 in the early operating years of the Children's 19 Hospital, when I mentioned previously that they grew 20 their expense structure much faster than their revenue 21 stream.</p> <p>22 Q. Who, in addition to the CEO, is responsible 23 for the mismanagement of the Children's Hospital?</p> <p>24 A. I don't know specifically.</p> <p>25 Q. Do you believe that Mr. Duncan mismanaged the</p>	<p>1 A. Just to try to help with the creation of 2 solution sets to help the Children's Hospital.</p> <p>3 Q. Did the task force have a name?</p> <p>4 A. Yes, the task force.</p> <p>5 Q. The task force. Who else was on that?</p> <p>6 A. Sam Legate, Rosemary Castillo, Ron Acton, 7 myself, several other people associated with Children's 8 Hospital board, but I don't recall specifically who 9 participated, but they didn't last long. We only had 10 about three or four meetings.</p> <p>11 Q. Do you believe that Mr. Dzieszinski is 12 responsible for mismanagement at the Children's 13 Hospital?</p> <p>14 A. I have no personal idea.</p> <p>15 Q. What about Mr. Sexton?</p> <p>16 A. I have no personal idea.</p> <p>17 Q. How about Mr. Herbers?</p> <p>18 A. No personal idea.</p> <p>19 Q. So it's really Mr. Duncan that you're 20 confident about?</p> <p>21 A. That set the stage for excessive expenses, 22 yes.</p> <p>23 Q. Anybody else?</p> <p>24 A. Not to my knowledge.</p> <p>25 Q. Do you believe that the Children's Hospital</p>
<p>Page 98</p> <p>1 Children's Hospital?</p> <p>2 A. I believe Mr. Duncan was in charge of growing 3 the revenue and expense streams so, yes, Mr. Duncan.</p> <p>4 Q. How about Mr. Dzieszinski?</p> <p>5 A. I wasn't very actively involved with anything 6 that Mr. Dzieszinski -- I think he probably was making 7 an effort to -- that was when we started having kind of 8 informal task force meetings with lots of constituents 9 to try to come up with solutions. And I think he was 10 earnest about trying to come up with ideas to help the 11 Children's Hospital, but there was a time when he was 12 instructed by Sam Legate not to share any financial 13 information with UMC, and so that task force dissolved.</p> <p>14 Q. What time frame did that exist?</p> <p>15 A. Early on in their -- you know, when their 16 problems first surfaced. So that would have been prior 17 to the forbearance agreement.</p> <p>18 Q. Were you on the task force?</p> <p>19 A. Yes. I attended several meetings.</p> <p>20 Q. Was this during a time when you were not a 21 member of either board for the Children's Hospital or 22 UMC?</p> <p>23 A. Yes. I was -- I was involved in my capacity 24 as a board member of El Paso First.</p> <p>25 Q. Okay.</p>	<p>Page 100</p> <p>1 made a mistake in entering into any of the agreements 2 with UMC?</p> <p>3 A. Not to my knowledge.</p> <p>4 MR. SPROUSE: All right. Let's go off 5 the record.</p> <p>6 (A recess was taken.)</p> <p>7 Q. (BY MR. SPROUSE) Mr. DeGroat, we're back on 8 the record. Just so we're clear, you have testified 9 that the Children's Hospital was mismanaged in that it 10 incurred expenses in excess of its revenues. Is that 11 fair?</p> <p>12 A. Yes.</p> <p>13 Q. And what other ways was the Children's 14 Hospital mismanaged?</p> <p>15 A. I have no direct knowledge of specifics.</p> <p>16 Q. In terms of dollars, how much has that 17 mismanagement cost the Children's Hospital?</p> <p>18 A. I'm going to say around 60 to \$80 million 19 because they lost 40 million in fiscal year '14, and I 20 think they lost about 25 in fiscal year '13, and then 21 had some accumulated losses prior to that.</p> <p>22 Q. Is Mr. Valenti a client of Lincoln?</p> <p>23 A. He has historically been a client of one of my 24 certified financial planners, but I think the last 25 contract to date was the fall of 2013.</p>

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<p>1 Q. What do you mean by contract date?</p> <p>2 A. When we do financial planning, we enter into a</p> <p>3 written contract.</p> <p>4 Q. Are they for a term of months, years?</p> <p>5 A. They can be anything. I think his probably</p> <p>6 was a term of 12 months.</p> <p>7 Q. Are you aware of whether Mr. Valenti has an</p> <p>8 active contract with Lincoln today?</p> <p>9 A. He does not.</p> <p>10 Q. Who was the advisor that worked with</p> <p>11 Mr. Valenti?</p> <p>12 A. Rob Sesich.</p> <p>13 Q. Have you ever provided financial advice to</p> <p>14 Mr. Valenti?</p> <p>15 A. Product-wise back in 2007 is the last time.</p> <p>16 It was a small transaction.</p> <p>17 Q. Since then you have not discussed</p> <p>18 Mr. Valenti's finances with him?</p> <p>19 A. No. No. We were doing financial planning</p> <p>20 services, not financial advice, advising.</p> <p>21 Q. Thanks for that correction.</p> <p>22 Have you discussed financial planning</p> <p>23 with him since 2007?</p> <p>24 A. I've had several meetings with him back --</p> <p>25 dating back to 2009, 2010.</p>	<p>1 A. No.</p> <p>2 Q. Have you heard a name similar to it?</p> <p>3 A. No.</p> <p>4 Q. Are you aware of any other professionals</p> <p>5 engaged by UMC, outside professionals that are dealing</p> <p>6 with the bankruptcy case in any way?</p> <p>7 A. They -- they talked about, in this process, of</p> <p>8 hiring an investment banking firm. I don't recall</p> <p>9 which firm and haven't heard much discussion about</p> <p>10 that.</p> <p>11 Q. Who was discussing hiring an investment</p> <p>12 banking firm?</p> <p>13 A. Jim Valenti and Michael Nunez.</p> <p>14 Q. Do you know if an investment banking firm was</p> <p>15 hired?</p> <p>16 A. I believe so, yes, but I don't recall the</p> <p>17 name.</p> <p>18 Q. What does an investment banking firm do?</p> <p>19 A. They -- if -- if UMC was to enter into an</p> <p>20 agreement to acquire the Children's Hospital, they</p> <p>21 would review that transaction for -- you know, kind of</p> <p>22 do their own due diligence on the transaction.</p> <p>23 Q. If UMC wanted to hire an investment banking</p> <p>24 firm for that purpose, would the board have to approve</p> <p>25 it?</p>
<p>Page 102</p> <p>1 Q. Since then?</p> <p>2 A. No.</p> <p>3 Q. Just with Mr. Sesich?</p> <p>4 A. Yes. He's -- Mr. Sesich is his contact.</p> <p>5 Q. Has Mr. Valenti done business with anyone else</p> <p>6 at Lincoln?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. Before we talked about an accounting firm that</p> <p>9 had assisted UMC with due diligence earlier this year.</p> <p>10 Do you remember that?</p> <p>11 A. Not yet.</p> <p>12 Q. The name of the entity, you don't remember</p> <p>13 that?</p> <p>14 A. Right. Right.</p> <p>15 Q. But you do remember that there was an entity</p> <p>16 involved?</p> <p>17 A. Yes. For the due diligence?</p> <p>18 Q. Yes.</p> <p>19 A. Yeah. They used the primary accounting firm,</p> <p>20 the one that they used for their audit.</p> <p>21 Q. Is it Halsal (phonetic)?</p> <p>22 A. No.</p> <p>23 Q. What is Halsal?</p> <p>24 A. I have no idea.</p> <p>25 Q. Have you heard that name?</p>	<p>Page 104</p> <p>1 A. It depends on the amount of the contract.</p> <p>2 Q. Is there a threshold?</p> <p>3 A. Yeah. Generally \$100,000. So I don't believe</p> <p>4 that that kind of contract would exceed that, but I</p> <p>5 don't know exactly because we haven't spent a lot of</p> <p>6 time talking about that.</p> <p>7 Q. When you say "we," who are you talking about?</p> <p>8 A. The board of directors of UMC.</p> <p>9 Q. If UMC had hired an investment banker, even</p> <p>10 below that threshold, would that be something that the</p> <p>11 board would be aware of?</p> <p>12 A. Yes. In general discussion, you know, we need</p> <p>13 to engage our accounting firm. We're going to engage</p> <p>14 our legal -- legal firm to review contracts. We're</p> <p>15 going to hire investment bankers so just in general.</p> <p>16 Q. Do you know if UMC has or has not hired an</p> <p>17 investment banker?</p> <p>18 A. I believe they have.</p> <p>19 Q. You don't know the name?</p> <p>20 A. No.</p> <p>21 Q. And you presume that whatever the engagement</p> <p>22 is it's for less than \$100,000?</p> <p>23 A. Yes.</p> <p>24 Q. Because otherwise you would know?</p> <p>25 A. Yes.</p>

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<p>1 Q. That would require board approval?</p> <p>2 A. I believe so.</p> <p>3 Q. Who would pay an investment banker?</p> <p>4 A. UMC.</p> <p>5 Q. Would that be from taxpayer revenue?</p> <p>6 A. It could be. Let me back up. The accounting</p> <p>7 firm was BKD because that's the large accounting firm</p> <p>8 that UMC uses for its annual audit, and has helped them</p> <p>9 with due diligence.</p> <p>10 Q. Okay. And I'll note for the record,</p> <p>11 Mr. DeGroat, I'm not trying to put you on the spot that</p> <p>12 you're using your portable device.</p> <p>13 Are you looking up answers to my</p> <p>14 questions?</p> <p>15 A. Just the BKD.</p> <p>16 Q. Okay. And so that's the accounting firm that</p> <p>17 you're aware of assisting UMC with its due diligence</p> <p>18 earlier this year?</p> <p>19 A. Yes.</p> <p>20 Q. And you're still not sure who the investment</p> <p>21 banker is?</p> <p>22 A. No.</p> <p>23 Q. Okay. My question was if UMC is paying an</p> <p>24 investment banker would taxpayer dollars be utilized to</p> <p>25 pay that entity?</p>	<p>1 A. I would imagine. And Michael Nunez because my</p> <p>2 understanding is it's all about part of the due</p> <p>3 diligence process.</p> <p>4 Q. For what purpose?</p> <p>5 A. To review any potential transaction.</p> <p>6 Q. Related to the bankruptcy?</p> <p>7 A. Or related to the acquisition or both.</p> <p>8 Q. Besides Mr. Valenti and Mr. Nunez, who else?</p> <p>9 A. I wouldn't know.</p> <p>10 Q. Are you aware, Mr. DeGroat, that UMC has</p> <p>11 suggested that it would like to file a plan of</p> <p>12 reorganization of its own in this Chapter 11 case?</p> <p>13 A. Yes.</p> <p>14 Q. What do you know about that plan?</p> <p>15 A. Just that we requested that we be allowed to</p> <p>16 file our own plan versus having the debtor in</p> <p>17 possession file their own plan, but -- and there's</p> <p>18 going to be a hearing about that on August the 11th.</p> <p>19 That's all I know.</p> <p>20 Q. Do you know any particulars of the plan that's</p> <p>21 been suggested by UMC?</p> <p>22 A. No, no particulars. I think it -- the</p> <p>23 backbone of that plan is the similar things that we</p> <p>24 talked about in mediation.</p> <p>25 Q. Would that be one way for UMC to make the</p>
<p>Page 106</p> <p>1 A. It's a technical question, and the answer is</p> <p>2 it comes out -- anything that UMC pays comes out of its</p> <p>3 revenue stream. Its revenue stream is about a half a</p> <p>4 billion dollars. Of that they collect about 50 to</p> <p>5 \$60 million in tax revenue. So, yes, it's part of the</p> <p>6 revenue stream. Yes. It's tax -- part of its tax</p> <p>7 dollars, not the majority.</p> <p>8 Q. Are the tax funds segregated by UMC?</p> <p>9 A. Yes. Simplistically they are separated for</p> <p>10 operations and debt repayment, principal and interest</p> <p>11 payments.</p> <p>12 Q. Are they earmarked in any fashion for those</p> <p>13 purposes?</p> <p>14 A. Just the -- just the principal and interest</p> <p>15 payments are earmarked specifically for the purpose</p> <p>16 repayment of the bonds. The other is just used in</p> <p>17 normal operations, primarily for uninsured or</p> <p>18 underinsured patients that are treated by the hospital</p> <p>19 or the clinics.</p> <p>20 Q. Does UMC have the equivalent of a general</p> <p>21 revenue account?</p> <p>22 A. I couldn't -- I couldn't tell you. That's too</p> <p>23 specific for my pay grade.</p> <p>24 Q. Would it be Mr. Valenti who was having</p> <p>25 communications with the investment banker?</p>	<p>Page 108</p> <p>1 current litigation go away?</p> <p>2 A. No. Our interest is to seek a resolution</p> <p>3 outside of the bankruptcy as soon as possible for the</p> <p>4 long-term success of the Children's Hospital.</p> <p>5 Whether -- we really don't -- this is my personal</p> <p>6 opinion. We really don't want to acquire the</p> <p>7 Children's Hospital. We just want it to survive.</p> <p>8 So any resolution that takes it out of</p> <p>9 bankruptcy and puts it back into the hands of community</p> <p>10 people and a CEO and focuses on health care instead of</p> <p>11 focusing on bankruptcy, consultant cost and attorney</p> <p>12 cost is a good plan for us.</p> <p>13 Q. And the things that you've just describe can</p> <p>14 happen without UMC taking over the control over the</p> <p>15 Children's Hospital?</p> <p>16 A. Sure. If Children's Hospital, in the process,</p> <p>17 either comes up with a successful plan or if they come</p> <p>18 up with another acquirer.</p> <p>19 Q. What would a successful plan by the Children's</p> <p>20 Hospital look like?</p> <p>21 A. I'm not a bankruptcy expert so I would assume</p> <p>22 that it would look like that they can make it</p> <p>23 financially, that they can last long term, that their</p> <p>24 revenues would be equal to or greater than their</p> <p>25 expenses, and that they would somehow get the creditors</p>

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<p>1 paid.</p> <p>2 Q. By getting the creditors paid, you mean paying</p> <p>3 UMC in full. Is that correct?</p> <p>4 A. I mean paying all the creditors, whether in</p> <p>5 full or whether in partial, something that works.</p> <p>6 Q. What does the proposed plan by UMC suggest</p> <p>7 that would have UMC taking over control of the</p> <p>8 Children's Hospital?</p> <p>9 A. Again, in the early negotiations and the</p> <p>10 mediation, the big picture concept is that it would</p> <p>11 remain a freestanding, separately licensed, separately</p> <p>12 governed children's hospital. It would become a member</p> <p>13 or a wholly owned subsidiary of UMC. And that there</p> <p>14 are certain advantages to that, primarily the</p> <p>15 realization of some of these shared organizational</p> <p>16 services so that you don't duplicate some of the</p> <p>17 overhead that exists today.</p> <p>18 Q. Under the UMC plan, how would the Children's</p> <p>19 Hospital CEO be chosen?</p> <p>20 A. Jointly by the Children's Hospital board and</p> <p>21 the UMC board.</p> <p>22 Q. And how would the board members for the</p> <p>23 Children's Hospital be chosen?</p> <p>24 A. By UMC.</p> <p>25 Q. Would UMC continue to provide services to the</p>	<p>1 Q. Has UMC investigated the merits of those</p> <p>2 claims?</p> <p>3 A. No.</p> <p>4 Q. Who has?</p> <p>5 A. No one.</p> <p>6 Q. Well, Mr. DeGroat, I'm describing UMC's plan.</p> <p>7 So I guess my question is where in the planning process</p> <p>8 are we today?</p> <p>9 A. Again, the backdrop of any plan to assume</p> <p>10 ownership of the Children's Hospital was based on</p> <p>11 mediation discussions. The E [sic] and O thing --</p> <p>12 that's just been mentioned. It has not been explored.</p> <p>13 Q. By anyone?</p> <p>14 A. No, not to my knowledge.</p> <p>15 Q. The UMC plan is also to be funded in part by</p> <p>16 preference recoveries. Are you aware of that?</p> <p>17 A. Not specifically.</p> <p>18 Q. Do you know what a preference recovery is?</p> <p>19 A. A secured creditor.</p> <p>20 Q. Are you aware of anyone at UMC who is</p> <p>21 investigating preferences recoveries?</p> <p>22 A. No.</p> <p>23 Q. Do you have any notion as to the value of the</p> <p>24 D&amp;O claims that you've testified to?</p> <p>25 A. All I know is that there's a \$5 million D&amp;O</p>
<p>1 Children's Hospital?</p> <p>2 A. Yes, as many services as are economically</p> <p>3 feasible for the long-term success of the Children's</p> <p>4 Hospital.</p> <p>5 Q. Mr. DeGroat, I'll represent to you that the</p> <p>6 UMC plan states that it would be funded, in part,</p> <p>7 through the proceeds of D&amp;O insurance.</p> <p>8 Are you aware of that?</p> <p>9 A. I've heard that mentioned.</p> <p>10 Q. What's your understanding of how that would</p> <p>11 work?</p> <p>12 A. That if a party were interested that they</p> <p>13 could pursue the proceeds of the directors and officers</p> <p>14 liability policy based on actions or inactions by the</p> <p>15 El Paso Children's board.</p> <p>16 Q. You mentioned Mr. Duncan might be a subject of</p> <p>17 scrutiny in that regard. Is that right?</p> <p>18 A. Well, he was the CEO and he was in charge when</p> <p>19 the Children's Hospital became financially impaired so,</p> <p>20 yes. He has some responsibility.</p> <p>21 Q. And for these D&amp;O claims, who else besides</p> <p>22 Mr. Duncan would be the target of those claims?</p> <p>23 A. Directors.</p> <p>24 Q. Anybody specific?</p> <p>25 A. No.</p>	<p>1 policy. That's the extent of my knowledge.</p> <p>2 Q. Are you aware of any value associated with</p> <p>3 potential preference recoveries?</p> <p>4 A. No, other than except for two small creditors</p> <p>5 that are, I believe, medical device/medical supply</p> <p>6 providers that may total 1 to \$2 million that UMC is</p> <p>7 the primary -- other than that, they are the primary</p> <p>8 secured creditor.</p> <p>9 Q. Are you aware of UMC having a written</p> <p>10 bankruptcy plan today?</p> <p>11 A. I haven't seen one.</p> <p>12 Q. Do you know what a disclosure statement is in</p> <p>13 a Chapter 11 case?</p> <p>14 A. Not really.</p> <p>15 Q. Have you heard that term before?</p> <p>16 A. (Nods head.)</p> <p>17 Q. But you don't know what it means?</p> <p>18 A. (Shakes head.)</p> <p>19 Q. You've got to answer verbally, please.</p> <p>20 A. No. I don't know what it means.</p> <p>21 Q. Are there any other purposes of a proposed UMC</p> <p>22 bankruptcy plan that you haven't testified to yet?</p> <p>23 A. No. UMC's interest is primarily to make sure</p> <p>24 that the Children's Hospital continues in the future</p> <p>25 and, if possible, that we are reimbursed some of the</p>

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<p>1 monies owed to UMC by Children's Hospital.</p> <p>2 Q. Are you aware of Mr. Valenti testifying about</p> <p>3 meetings with pediatric physicians in El Paso?</p> <p>4 A. Yes, through the press.</p> <p>5 Q. Did you read any excerpts on that subject of</p> <p>6 his deposition testimony?</p> <p>7 A. No.</p> <p>8 Q. Did you discuss that issue with Mr. Valenti?</p> <p>9 A. No.</p> <p>10 Q. Did you discuss it with anyone else?</p> <p>11 A. No.</p> <p>12 Q. Have you met with Mr. Valenti and pediatric</p> <p>13 physicians in El Paso?</p> <p>14 A. Yes, lots of times.</p> <p>15 Q. Since the bankruptcy was filed?</p> <p>16 A. No.</p> <p>17 Q. Are you aware of a letter to the bankruptcy</p> <p>18 judge signed by pediatric physicians relating to the</p> <p>19 bankruptcy case?</p> <p>20 A. Yes.</p> <p>21 Q. Have you read the letter?</p> <p>22 A. Parts of it, not the whole letter.</p> <p>23 Q. Have you seen a signed copy of that letter?</p> <p>24 A. Yes.</p> <p>25 Q. What did the letter say?</p>	<p>1 A. Well, he -- they're taking exception to his</p> <p>2 claim that he's visited with 80 percent of the</p> <p>3 pediatric physicians in the community. We have visited</p> <p>4 with a lot of community physicians. There's a</p> <p>5 difference in this list and what I would call community</p> <p>6 physicians.</p> <p>7 Many of these physicians are on the Texas</p> <p>8 Tech staff. So they are unique to the Texas Tech as a</p> <p>9 provider. I'm assuming that his reference was that he</p> <p>10 had met with a lot of private practice physicians in</p> <p>11 the community, and I've done the same. I've met with</p> <p>12 some of the Texas Tech.</p> <p>13 Q. Are we talking about pediatric physicians?</p> <p>14 A. Yes.</p> <p>15 Q. What was the occasion of those meetings?</p> <p>16 A. We met with many groups and just discussed</p> <p>17 what would happen if UMC would become the sole</p> <p>18 corporate member and operate the Children's Hospital,</p> <p>19 and just to get a reaction of what the community</p> <p>20 doctors thought, if they would be supportive of that</p> <p>21 effort.</p> <p>22 Q. When did those meetings take place?</p> <p>23 A. They've been ongoing since the problem</p> <p>24 developed at Children's Hospital. So I would say</p> <p>25 they've -- they've been happening for the last 12</p>
<p>Page 114</p> <p>1 A. It just said that they didn't trust Jim</p> <p>2 Valenti and they don't want UMC to be a party to any</p> <p>3 acquisition of the Children's Hospital.</p> <p>4 (Exhibit Number 2 was marked.)</p> <p>5 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been</p> <p>6 handed a document marked as Exhibit Number 2. Do you</p> <p>7 recognize the letter?</p> <p>8 A. Yes.</p> <p>9 Q. This is the letter you were just testifying</p> <p>10 about?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recognize any of the signatures on the</p> <p>13 next page?</p> <p>14 A. It's a question? Do I know some of the</p> <p>15 doctors that signed the letter?</p> <p>16 Q. Yes.</p> <p>17 A. Yes.</p> <p>18 Q. What was your reaction to this letter when you</p> <p>19 read it?</p> <p>20 A. I thought it was a character assassination of</p> <p>21 Mr. Valenti.</p> <p>22 Q. Do you believe that there are statements in</p> <p>23 this letter that are unfair to him?</p> <p>24 A. Yes.</p> <p>25 Q. Which ones?</p>	<p>Page 116</p> <p>1 months.</p> <p>2 Q. Where did the meetings take place?</p> <p>3 A. Different places, physicians' offices, in a</p> <p>4 conference room here at the Children's Hospital, at a</p> <p>5 reception for physicians at El Paso First. And then,</p> <p>6 you know, I can't speak to where Mr. Valenti had</p> <p>7 meetings. I mean he talks to physicians every day,</p> <p>8 many of them.</p> <p>9 Q. At these meetings one of the subjects of</p> <p>10 discussion was the possibility of UMC taking greater</p> <p>11 control of the Children's Hospital?</p> <p>12 A. The discussion was centered around that we</p> <p>13 would retain El Paso Children's Hospital as a</p> <p>14 freestanding, separately licensed, not-for-profit</p> <p>15 children's hospital, separately governed and separately</p> <p>16 managed, but oversighted by UMC.</p> <p>17 Q. When you say separately governed and</p> <p>18 separately managed, is that still in the context of UMC</p> <p>19 selecting the Children's Hospital CEO?</p> <p>20 A. That means that the Children's Hospital has</p> <p>21 their own CEO and has their own board.</p> <p>22 Q. Selected by UMC?</p> <p>23 A. The CEO would be selected jointly by the</p> <p>24 Children's Hospital and UMC, not the CEO.</p> <p>25 Q. And the Children's Hospital board would be</p>

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<p>1 selected by --</p> <p>2       <b>A. Would be seated by UMC, with community</b></p> <p>3 <b>representatives.</b></p> <p>4       Q. What was the reaction of the pediatric</p> <p>5 physicians you met with to that scenario?</p> <p>6       <b>A. It was positive, but they all said that they</b></p> <p>7 <b>would be supportive, that they would continue admitting</b></p> <p>8 <b>patients. There was discussions about, you know, the</b></p> <p>9 <b>quality of the -- quality of clinical care at the</b></p> <p>10 <b>Children's Hospital.</b></p> <p>11               And frankly a lot of the physicians that</p> <p>12 I visited with were very impatient about getting</p> <p>13 something resolved by the Children's Hospital, and they</p> <p>14 couldn't understand why it was taking so long. And</p> <p>15 they -- many of them had the assumption, without even</p> <p>16 implying or asking, that UMC was the logical answer to</p> <p>17 help restructure and run the Children's Hospital.</p> <p>18       Q. Did any of the pediatric physicians that you</p> <p>19 visited with express any reservations about UMC</p> <p>20 obtaining greater control over the Children's Hospital?</p> <p>21       <b>A. No.</b></p> <p>22               (Exhibit Number 3 was marked.)</p> <p>23       Q. (BY MR. SPROUSE) Mr. DeGroat, I've handed you</p> <p>24 a document or the reporter has handed you a document</p> <p>25 that has been marked as Exhibit 3. And I'll represent</p>	<p>1 with?</p> <p>2       <b>A. Yes. But my belief is the majority of these</b></p> <p>3 <b>physicians are on Texas Tech staff, and my effort and</b></p> <p>4 <b>Mr. Valenti's effort were to make contact with</b></p> <p>5 <b>community physicians, not contracted Texas Tech</b></p> <p>6 <b>physicians.</b></p> <p>7       Q. Why is that distinction significant to you?</p> <p>8       <b>A. Because for a Children's Hospital to be</b></p> <p>9 <b>successful, we need the community physicians, not</b></p> <p>10 <b>directly associated with the Children's Hospital, to</b></p> <p>11 <b>encourage necessary admissions in El Paso Children's</b></p> <p>12 <b>versus other hospitals, primarily Providence that has a</b></p> <p>13 <b>pediatric effort, but it's not a freestanding hospital.</b></p> <p>14               And the theory on that is that Texas Tech</p> <p>15 doctors are paid for by the Children's Hospital. So we</p> <p>16 kind of have a financial duty and responsibility to the</p> <p>17 Children's Hospital. So we weren't so worried about</p> <p>18 that. They are a good group of generalists and</p> <p>19 specialists that are serving the Children's Hospital.</p> <p>20               But for the future success of the</p> <p>21 hospital, you've got to have independent community</p> <p>22 physicians that will encourage admissions to the</p> <p>23 Children's Hospital. So that was our effort. It was</p> <p>24 not -- we had no interest in talking to a lot of Texas</p> <p>25 Tech physicians.</p>
<p>Page 118</p> <p>1 to you this is a typed list of the pediatric physicians</p> <p>2 who have signed the letter that's Exhibit 2.</p> <p>3               Do you recognize any of the names on this</p> <p>4 list?</p> <p>5       <b>A. Yes.</b></p> <p>6       Q. As part of your effort with Mr. Valenti to</p> <p>7 visit with the pediatric physicians in the community</p> <p>8 over the last 12 months, are any of the folks on this</p> <p>9 list -- did they participate in any of your meetings?</p> <p>10       <b>A. Yes, in -- in my meetings, not necessarily</b></p> <p>11 <b>with Mr. Valenti. As an example, Dr. Lisa</b></p> <p>12 <b>Ayoub-Rodriguez is a provider here at the Children's</b></p> <p>13 <b>Hospital and I met with her and about five other</b></p> <p>14 <b>physicians here at the Children's Hospital with County</b></p> <p>15 <b>Judge Veronica Escobar and Tracy Yellen.</b></p> <p>16       Q. Other than Dr. Ayoub-Rodriguez, do you</p> <p>17 recognize any other names on this list as doctors</p> <p>18 you've met with in the last 12 months?</p> <p>19       <b>A. Yes. I've met with Dr. Charlie Gutierrez.</b></p> <p>20 <b>I've met with one of the Dr. Patels. I've visited with</b></p> <p>21 <b>Dr. Heydemann, Dr. Ayoub-Rodriguez that I mentioned</b></p> <p>22 <b>before, and that's about all.</b></p> <p>23       Q. So there are four doctors --</p> <p>24       <b>A. Yes.</b></p> <p>25       Q. -- on this list that you remember meeting</p>	<p>Page 120</p> <p>1       Q. Are there any independent community physicians</p> <p>2 on the list I've handed you as Exhibit 3?</p> <p>3       <b>A. Well, Dr. Gutierrez is an independent.</b></p> <p>4 <b>Dr. Heydemann is an independent, although he does most</b></p> <p>5 <b>of his practice at Providence, but my guess is that the</b></p> <p>6 <b>majority of these are Texas Tech faculty and staff.</b></p> <p>7       Q. Of the four doctors you recall speaking to on</p> <p>8 this list, did any of them express to you any concerns</p> <p>9 or reservations about UMC's plans with respect to the</p> <p>10 Children's Hospital?</p> <p>11       <b>A. No.</b></p> <p>12       Q. Did it surprise you that they signed the</p> <p>13 letter?</p> <p>14       <b>A. All of these physicians?</b></p> <p>15       Q. No. The four we're talking about.</p> <p>16       <b>A. Yes, because in the -- you know, in the past</b></p> <p>17 <b>in their conversation, I think, they -- they wanted to</b></p> <p>18 <b>hear from our side like some of the few Texas Tech</b></p> <p>19 <b>physicians, you know, why -- why do we have an interest</b></p> <p>20 <b>in keeping the Children's Hospital? Would we keep it</b></p> <p>21 <b>separate? Would we run it independently?</b></p> <p>22               And my up-front answer was that was the</p> <p>23 entire intent, you know. We were on the front lines</p> <p>24 when we created the concept of a Children's Hospital.</p> <p>25 We wanted it to be freestanding. We wanted it to be</p>

<p style="text-align: right;">Page 121</p> <p>1 independently operated and governed. We wanted it tied 2 to an academic environment. We wanted it to be not for 3 profit.</p> <p>4                   So, yeah, the few that I met with and 5 expressed their support kind of surprised me that they 6 would come back and say they didn't want any UMC 7 involvement.</p> <p>8       Q. Do you know of a Dr. Segapeli?</p> <p>9       <b>A. Yes.</b></p> <p>10      Q. Who is Dr. Segapeli?</p> <p>11      <b>A. He's a physician in the -- a large pediatric</b> 12 <b>practice called El Paso Pediatric Associates.</b></p> <p>13      Q. Would he be one of the community physicians 14 that you were speaking about earlier --</p> <p>15      <b>A. Yes.</b></p> <p>16      Q. -- as a potential referral source for patients 17 to the Children's Hospital?</p> <p>18      <b>A. Yes.</b></p> <p>19      Q. Did you meet with Mr. Segapeli?</p> <p>20      <b>A. Dr. Segapeli.</b></p> <p>21      Q. Thank you. Dr. Segapeli.</p> <p>22      <b>A. Yes.</b></p> <p>23      Q. What did he tell you?</p> <p>24      <b>A. He was very supportive.</b></p> <p>25      Q. When did you meet with Dr. Segapeli?</p>	<p style="text-align: right;">Page 123</p> <p>1 <b>tell you what percentage. I don't even know the exact</b> 2 <b>total count of pediatricians in El Paso.</b></p> <p>3       Q. Okay.</p> <p>4       <b>A. So to make a claim, it would help if you knew</b> 5 <b>that number.</b></p> <p>6       Q. Do you recall any of these physicians telling 7 you or Mr. Valenti that they thought the UMC plan with 8 respect to the Children's Hospital was a bad idea?</p> <p>9       <b>A. No.</b></p> <p>10      Q. Is it fair to say that if they expressed an 11 opinion at all it was supportive?</p> <p>12      <b>A. Yes.</b></p> <p>13      Q. If UMC were to implement its plan with respect 14 to the Children's Hospital, what would your role be in 15 that scenario?</p> <p>16      <b>A. I might be a board member for a short period</b> 17 <b>of time, within the first six to 12 months, in an</b> 18 <b>effort to try to stabilize the Children's Hospital and</b> 19 <b>restore confidence in the community physicians and the</b> 20 <b>community at large, but I would have no interest in</b> 21 <b>servng as a board member for a long period of time.</b></p> <p>22      Q. Would you be the chairman of the board?</p> <p>23      <b>A. No.</b></p> <p>24      Q. Who would be the chairman of the board?</p> <p>25      <b>A. That wasn't discussed in detail. What we</b></p>
<p style="text-align: right;">Page 122</p> <p>1       <b>A. Earlier this year, but I couldn't tell you</b> 2 <b>exactly. Before the bankruptcy filing.</b></p> <p>3       Q. Was Mr. Valenti with you?</p> <p>4       <b>A. Yes.</b></p> <p>5       Q. What other community physicians do you 6 remember meeting with?</p> <p>7       <b>A. I met with Dr. Patel who is number 24 on the</b> 8 <b>list. I met with Dr. Nicolas Rich. I met with</b> 9 <b>Dr. Allan Alpard and Dr. Coleman, also in the El Paso</b> 10 <b>Pediatric Group.</b></p> <p>11      Q. Were the doctors that you just identified 12 supportive of UMC's plans with respect to the 13 Children's Hospital?</p> <p>14      <b>A. Yes.</b></p> <p>15      Q. Did any of them express any concerns or 16 reservations about that plan?</p> <p>17      <b>A. No.</b></p> <p>18      Q. Do you believe that between you and 19 Mr. Valenti you have visited with 80 percent of the 20 pediatric physicians in the community in the last 12 21 months?</p> <p>22      <b>A. I wouldn't express an exact percentage. I</b> 23 <b>just would say that we've met with a lot of community</b> 24 <b>physicians, not associated directly with Texas Tech,</b> 25 <b>but I'm not going to -- I'm not going to sit here and</b></p>	<p style="text-align: right;">Page 124</p> <p>1 <b>talked about is having five board members, to keep it</b> 2 <b>small and to fast track it and get people with</b> 3 <b>extensive experience. We didn't have time to train,</b> 4 <b>you know, unexperienced board members, and one would be</b> 5 <b>a community physician.</b></p> <p>6       Q. How many board members are there now for the 7 Children's Hospital?</p> <p>8       <b>A. Interesting enough, I understand five, but</b> 9 <b>there used to be dozens.</b></p> <p>10      Q. Do you know what a Mock Joint Commission is?</p> <p>11      <b>A. Yes.</b></p> <p>12      Q. What is that?</p> <p>13      <b>A. It's a vendor who comes in and does an</b> 14 <b>inspection, slash, survey of your operation in</b> 15 <b>preparation for a joint survey, a JCAHO survey.</b></p> <p>16      Q. Has UMC engaged such a provider?</p> <p>17      <b>A. In the past, yes.</b></p> <p>18      Q. This year?</p> <p>19      <b>A. I think they -- I think they probably had two</b> 20 <b>mock surveys in the last 12 months.</b></p> <p>21      Q. When were they?</p> <p>22      <b>A. I couldn't tell you.</b></p> <p>23      Q. What was the most recent one?</p> <p>24      <b>A. I couldn't tell you.</b></p> <p>25      Q. What was purpose of the mock surveys in the</p>

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<p>1 last 12 months?</p> <p>2 A. It's to review your policies and procedures to</p> <p>3 make sure you're prepared for a JCAHO survey.</p> <p>4 Q. Who conducts the JCAHO survey?</p> <p>5 A. Employees and contractors of JCAHO.</p> <p>6 Q. Is that a government agency?</p> <p>7 A. I don't know specifically, but I believe it's</p> <p>8 an independent, not-for-profit organization.</p> <p>9 Q. Does the -- by JCAHO do you mean Joint</p> <p>10 Commission?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Does that relate to accreditation for UMC?</p> <p>13 A. Yes.</p> <p>14 Q. What does accreditation mean?</p> <p>15 A. It just -- it's kind of like if you're being</p> <p>16 certified. You've been evaluated, inspected and you</p> <p>17 meet minimum accepted standards in providing health</p> <p>18 care for your community.</p> <p>19 Q. Are you aware that recently UMC's</p> <p>20 accreditation was affected by an inspection?</p> <p>21 A. Yes.</p> <p>22 Q. What do you know about that?</p> <p>23 A. That they did a JCAHO accreditation survey,</p> <p>24 and they found procedural issues in the sterilization</p> <p>25 processing department, primarily relating to the</p>	<p>1 really related, again, to certification and</p> <p>2 documentation, not that the quality of the</p> <p>3 sterilization was bad, but that their procedures and</p> <p>4 their certification was flawed.</p> <p>5 Q. Are you aware of any findings by the Joint</p> <p>6 Commission that related to blood and tissue being found</p> <p>7 in the sterilization area?</p> <p>8 A. Not specifically.</p> <p>9 Q. Generally have you heard that?</p> <p>10 A. No.</p> <p>11 Q. Is it unusual for the Joint Commission to make</p> <p>12 determinations such as those that were made with</p> <p>13 respect to UMC in the last three weeks?</p> <p>14 A. I have no idea. It's unusual for UMC to have</p> <p>15 flaws in its survey because that's -- my understanding</p> <p>16 has not been a historical event, but in terms of how</p> <p>17 often it happens, I have no idea.</p> <p>18 Q. Was UMC precluded from performing surgeries</p> <p>19 for a period of time?</p> <p>20 A. Primarily because a joint agreement with Texas</p> <p>21 Tech that they suspend elective surgeries until the</p> <p>22 follow-up survey was done.</p> <p>23 Q. That was as a result of the Joint Commission</p> <p>24 findings?</p> <p>25 A. Yes.</p>
<p>Page 126</p> <p>1 recertification of equipment, employees and their</p> <p>2 documentation of policies and procedures.</p> <p>3 Q. When was that?</p> <p>4 A. Oh, about three weeks ago.</p> <p>5 Q. Has there been a follow-up inspection?</p> <p>6 A. Yes.</p> <p>7 Q. Did UMC pass?</p> <p>8 A. Yes.</p> <p>9 Q. Was any of the Mock Joint Commission activity</p> <p>10 related to what you just testified to?</p> <p>11 A. I have no idea.</p> <p>12 Q. Who would know?</p> <p>13 A. The hospital administrator.</p> <p>14 Q. Who is responsible for the issues that led to</p> <p>15 the findings of the Joint Commission?</p> <p>16 A. The sterilization department employees that</p> <p>17 are -- that department and the process is -- has shared</p> <p>18 managerial responsibility with the Chief Operating</p> <p>19 Officer Maria Zampini, and the Chief Nursing Officer</p> <p>20 Joe Garcia. Some has to do with nursing type and some</p> <p>21 has to do with biomed, kind of the mechanics of it. So</p> <p>22 it -- it really revolved around eight employees and</p> <p>23 then the supervision of them.</p> <p>24 Q. Have those problems been addressed?</p> <p>25 A. Yes. And just for the record, the problems</p>	<p>Page 128</p> <p>1 Q. Was the Children's Hospital able to assist UMC</p> <p>2 with sterilization for that period?</p> <p>3 A. It's my understanding, yes, that Luis</p> <p>4 Armendariz, the chief nurse, right away, after the</p> <p>5 announcement of the issues with UMC's sterilization --</p> <p>6 he made the offer to help, which was a very nice offer.</p> <p>7 Q. Do you believe that the Children's Hospital</p> <p>8 helped UMC to pass its reinspection?</p> <p>9 A. I have no knowledge of that. I think they</p> <p>10 helped them in sterilizing for ongoing operation, but I</p> <p>11 have no idea whether they helped or not.</p> <p>12 (Exhibit Number 4 was marked.)</p> <p>13 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been</p> <p>14 handed a document that's been marked as Exhibit</p> <p>15 Number 4. I'll represent to you that this is a UCC</p> <p>16 Financing Statement, as it states in the upper</p> <p>17 left-hand corner.</p> <p>18 Do you recognize this document?</p> <p>19 A. I recognize it that it's a UCC filing, but I</p> <p>20 haven't seen it before.</p> <p>21 Q. What is your understanding of the purpose of</p> <p>22 this form?</p> <p>23 A. That it was part and parcel to the forbearance</p> <p>24 agreement that, you know, gave Children's Hospital time</p> <p>25 to try to address its financial issues, but</p>



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<p>1 simultaneously gave UMC a security interest in the 2 typical assets that the hospital would have, which are 3 primarily accounts receivable and supplies. 4 Q. I think you had testified that the forbearance 5 agreement -- well, let me just ask you when was the 6 forbearance agreement? 7 A. May of 2014, because I think it coincided with 8 a year to the bankruptcy filing. That's the only 9 reason I remember. 10 Q. If you'll look in the upper right-hand corner 11 of Exhibit 4, there's a line there that says filing 12 date. It says May 28, 2014. Do you see that? 13 A. Right. Right. 14 Q. Do you know why this document was filed on 15 that day? 16 A. I have no idea. 17 Q. What benefit did UMC gain by taking a lien in 18 the Children's Hospital assets? 19 A. I would assume that in a worst case, if 20 Children's filed bankruptcy and went through a 21 reorganization and were not reorganized and were 22 liquidated, that UMC would have a security interest in 23 the receivables and the supplies. So it was to protect 24 UMC's financial position. 25 Q. What did the Children's Hospital gain by</p>	<p>1 foreclosing on our security interest. 2 MR. STRUBECK: Can we take a break? 3 MR. SPROUSE: Sure. Off the record. 4 (A recess was taken.) 5 Q. (BY MR. SPROUSE) Mr. DeGroat, we're back on 6 the record. 7 Are you aware of any joint mock -- or 8 Mock Joint Commission activity on behalf of UMC since 9 the bankruptcy filing? 10 A. Not that I'm aware of. 11 Q. Are you aware of anyone interviewing 12 physicians in El Paso on behalf of UMC related to the 13 bankruptcy case? 14 A. No. 15 (Exhibit Number 5 was marked.) 16 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been 17 handed a document that's been marked as Exhibit 18 Number 5. It appears to be an e-mail from you to 19 Mr. Valenti, at the bottom, in June of this year. 20 Do you recognize this e-mail? 21 A. Yes. 22 Q. Can you describe it for me? 23 A. It's an e-mail that I sent to Jim Valenti and 24 copied Tracy Yellen, Judge Veronica Escobar, Ryan 25 Mielke, the PIO, that I'm responding to a comment from</p>
<p>Page 130</p> <p>1 granting a lien? 2 A. I wasn't there when it was done, but I would 3 assume that they got forbearance, that they -- they 4 didn't have to make certain payments or payments were 5 reduced, and in consideration for that UMC got to file 6 a security agreement. 7 Q. What was the monetary value of that 8 forbearance? 9 A. I can't speak to that specifically, other than 10 from about that point on they didn't make lease 11 payments, and they weren't making payments on the 12 service agreements. So monetarily that -- that sounds 13 like \$25 million a year, and so pretty significant. 14 In some of the negotiations, UMC offered 15 to subordinate its security interest if they brought in 16 an investor, which I think was, you know, a generous 17 offer. So in other words, you -- you have an 18 interested acquirer, someone who would make a financial 19 contribution, and we'll subordinate our security 20 interest to protect that investing party. 21 So again our interest was in the 22 continued operation of Children's Hospital, not to -- 23 not to take a security interest and realize on it, 24 meaning foreclosing. And by the way, that was never 25 ever discussed. There was never ever any mention of</p>	<p>Page 132</p> <p>1 Rosemary Castillo about her perceived motion that UMC 2 was going to exercise or foreclose on our security 3 interest or lien. 4 Q. When did Ms. Castillo make that reference? 5 A. I don't -- I don't recall exactly, but I'm 6 sure it was sometime before this -- this e-mail, which 7 was on June the 8th. I think this concept of 8 exercising our lien was actually a discussion topic in 9 some of the ongoing negotiations that were happening 10 during the month of April and May with Children's 11 Hospital board members. 12 Q. Why did you say that notion was a fairy tale? 13 A. Because no one at UMC, to my knowledge, had 14 ever advanced the idea that we would foreclose on our 15 security interest. 16 Q. Was that a topic of discussion in the 17 negotiations prior? 18 A. I think it was a fear or reservation that was 19 expressed by some of their board members that they were 20 in jeopardy that we would foreclose on our security 21 interest, and we tried to assure them that that was not 22 our intention. It had never been discussed. We had -- 23 in the process, we had offered to subordinate our 24 security interest if they came up with an investor. 25 Q. Would you agree that taking a security</p>

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<p>1 interest and filing a financing statement are steps 2 that precede a foreclosure? 3 MR. STRUBECK: I just object to the 4 extent it calls for a legal conclusion. 5 But you can answer. 6 <b>A. I'm not qualified to answer that. That's a --</b> 7 <b>that's a legal matter.</b> 8 Q. (BY MR. SPROUSE) I'm not asking your opinion 9 as a lawyer. I know you're not a lawyer. 10 Do you have an opinion otherwise? 11 <b>A. No.</b> 12 (Exhibit Number 6 was marked.) 13 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been 14 handed a document that's been marked as Exhibit 15 Number 6. 16 Do you recognize this e-mail? 17 <b>A. Yes. It's an e-mail that I sent to the board</b> 18 <b>of directors expressing my disappointment that the</b> 19 <b>Children's Hospital filed for bankruptcy and that I was</b> 20 <b>disappointed by that. I think it was a reflection on</b> 21 <b>all of us that are involved in UMC. It was to the</b> 22 <b>detriment of our community.</b> 23 Q. Is that what you meant, also, when you said 24 "this too shall pass?" 25 <b>A. That means that eventually we'll come up with</b></p>	<p>1 appears to be from you in the second paragraph. Do you 2 see that? 3 <b>A. Uh-huh.</b> 4 Q. It quotes you as saying, "It never had to be 5 this way, and that is a tragedy for our community." 6 Did you say that? 7 <b>A. Which line are you looking at?</b> 8 Q. Second paragraph on the second page, the 9 entire thing appears to be a quote from you. 10 <b>A. Yes. I said that.</b> 11 Q. What did you mean when you said, "It was a 12 tragedy for the community?" 13 <b>A. That it reflects poorly on our community, for</b> 14 <b>our community organization to file bankruptcy, that we</b> 15 <b>couldn't fix it. We couldn't fix those problems with</b> 16 <b>some other methodology, and that's all.</b> 17 (Exhibit Number 8 was marked.) 18 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been 19 handed a document that's been marked as Exhibit 20 Number 8, and it appears to be a letter from 21 Mr. Valenti dated March the 24th of 2014. 22 Have you seen this letter before? 23 <b>A. Yes. I just -- I don't -- I don't recall it</b> 24 <b>specifically.</b> 25 Q. You don't have to read the whole thing. If</p>
<p>1 <b>some resolution for the continuation and long-term</b> 2 <b>success of Children's Hospital.</b> 3 Q. And the recipients of your e-mail at the 4 bottom, those are the UMC board members? 5 <b>A. Yes.</b> 6 (Exhibit Number 7 was marked.) 7 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been 8 handed a document that's been marked as Exhibit 7. Do 9 you recognize this? 10 <b>A. As a press release that was issued after the</b> 11 <b>bankruptcy filing.</b> 12 Q. Who authored the press release? 13 <b>A. These are prepared primarily by the public</b> 14 <b>information officer, with input from the hospital staff</b> 15 <b>and from board members.</b> 16 Q. Who is this press release disseminated to? 17 <b>A. This was -- looks like it was sent out to</b> 18 <b>elected officials.</b> 19 Q. And you're looking at the recipients at the 20 top of the page? 21 <b>A. Yeah, the cc copies to different House of</b> 22 <b>Representatives. The ones I recognize, House</b> 23 <b>Representative Joe Moody, Joe Pickett, State Senator</b> 24 <b>Jose Rodriguez, State Rep Marisa Marquez, Gonzalez.</b> 25 Q. And on the second page, there's a quote that</p>	<p>1 you would like to take a moment and look at it, we'll 2 talk about it. 3 Have you had a chance to skim this 4 letter? 5 <b>A. Not yet.</b> 6 Q. Mr. DeGroat, I think you testified you 7 remember seeing this letter before. Is that right? 8 <b>A. Yes.</b> 9 Q. What was the context in which it was sent? 10 <b>A. I think Mr. Valenti was trying to recap for</b> 11 <b>the board of directors and for two of us at El Paso</b> 12 <b>First that -- what some of the events that transpired</b> 13 <b>in preparation to opening of the Children's Hospital,</b> 14 <b>and I think it was expressing his concern that they</b> 15 <b>were already in a position that they were struggling</b> 16 <b>financially.</b> 17 But it makes the point that they had 18 changed their focus and were creating separate 19 functions to provide their own billing, accounting, HR 20 compliance, public relations, kind of got away from 21 trying to take advantage of some of the shared 22 organizational services. 23 So I think it just kind of -- to recap 24 what had transpired and to focus that he was very 25 concerned about the future of the hospital, but that he</p>

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<p>1 was committed to doing everything he could to help.</p> <p>2 Q. Do you know anything about the Children's</p> <p>3 Hospital's level of satisfaction with the various</p> <p>4 services that had been provided by UMC?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of whether the Children's</p> <p>7 Hospital undertook to provide its own services for</p> <p>8 various functions because it was dissatisfied with the</p> <p>9 services being provided by UMC?</p> <p>10 A. I don't have that knowledge.</p> <p>11 Q. Have you ever heard that before?</p> <p>12 A. No.</p> <p>13 Q. Why would Mr. Valenti want to inform El Paso</p> <p>14 First of these circumstances in March of 2014?</p> <p>15 A. That would be a question for him.</p> <p>16 Q. As a recipient, did you look at this letter</p> <p>17 and wonder why you had received it?</p> <p>18 A. I accepted it on the basis that he was trying</p> <p>19 to keep some of his constituents informed of what was</p> <p>20 going on.</p> <p>21 Q. What happened after you received this letter</p> <p>22 in the relationship between the Children's Hospital and</p> <p>23 UMC?</p> <p>24 A. I don't know specifically, but it is pretty</p> <p>25 obvious that the timing of this coincided with the</p>	<p>1 of the investment vendor, and years of experience. So</p> <p>2 it's just kind of general. Here's some things to focus</p> <p>3 on in the selection process.</p> <p>4 Q. At the top of your e-mail, it states "I will</p> <p>5 miss the compensation meeting so I will encourage you</p> <p>6 to look at the following in the investment advisor</p> <p>7 RFP." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. What investment advisor RFP are you referring</p> <p>10 to?</p> <p>11 A. My recollection is that this was a response to</p> <p>12 the process to select a 401(k) provider. So it's</p> <p>13 really -- it really has to do with a vendor that</p> <p>14 provides the funds, a third-party administrator that</p> <p>15 does the accounting for the plan and the investment</p> <p>16 advisor that installs and oversights. So just typical</p> <p>17 kind of boilerplate suggestions.</p> <p>18 Q. Are these the type of services that your</p> <p>19 company provides?</p> <p>20 A. We -- we provide -- we install and service</p> <p>21 401(k)s, simple IRAs, yes.</p> <p>22 Q. Did Lincoln Financial Advisors make a proposal</p> <p>23 to the Children's Hospital to perform these services</p> <p>24 for the Children's Hospital?</p> <p>25 A. No, because in a discussion about my being</p>
<p>Page 138</p> <p>1 termination of this CEO, and then the forbearance</p> <p>2 agreement because I think they terminated the CEO</p> <p>3 between March and April of '14, and then the</p> <p>4 forbearance agreement obviously took place in May. So</p> <p>5 to me this is kind of like we -- you know, here's the</p> <p>6 issues. You know, we got to work on them.</p> <p>7 (Exhibit Number 9 was marked.)</p> <p>8 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been</p> <p>9 handed a document that's been marked as Exhibit</p> <p>10 Number 9. And this appears to be an e-mail string from</p> <p>11 2011. And at the top of the page, I note it's from you</p> <p>12 to various persons.</p> <p>13 Do you recognize this e-mail?</p> <p>14 A. It is an e-mail that I sent with suggestions</p> <p>15 about their selection of a vendor for the 401(k).</p> <p>16 Q. The Children's Hospital's selection of a</p> <p>17 vendor?</p> <p>18 A. Yes.</p> <p>19 Q. What were your suggestions?</p> <p>20 A. It's pretty straightforward, take a look at</p> <p>21 investment offerings, the fees charged, including</p> <p>22 mortality expense, credentials of the offering</p> <p>23 investment vendor, credentials of the offering advisor</p> <p>24 or advisor firm, historical performance of the funds,</p> <p>25 ancillary services to be provided, financial stability</p>	<p>Page 140</p> <p>1 able to encourage my independent financial advisors</p> <p>2 that I'm associated with that, again, are not statutory</p> <p>3 employees but are contractors, if they could provide a</p> <p>4 proposal for the 401(k), and I was told that they</p> <p>5 couldn't because of perceived conflict of interest.</p> <p>6 Q. So as far as you know, Lincoln never made an</p> <p>7 RFP to the Children's Hospital?</p> <p>8 A. No.</p> <p>9 Q. Do you agree with that assessment that that</p> <p>10 would have represented a conflict?</p> <p>11 A. I accepted it at face value that I didn't want</p> <p>12 any appearance of conflicts of interest if they</p> <p>13 thought. Again, I have independent advisors that are</p> <p>14 not employees that have to make a living. And whenever</p> <p>15 possible we don't want to shrink the number of</p> <p>16 opportunities available in the community, but in this</p> <p>17 case the consensus was that it would be a perceived</p> <p>18 conflict of interest so we accepted it at face value.</p> <p>19 Q. The consensus was on which side?</p> <p>20 A. In discussion with other board members.</p> <p>21 Q. Did you agree with that consensus?</p> <p>22 A. Yes.</p> <p>23 MR. SPROUSE: Bear with me. I'm trying</p> <p>24 to streamline it.</p> <p>25 MR. STRUBECK: We're applauding the</p>

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<p>1 effort quietly.</p> <p>2 <b>A. We only have about an hour of juice left.</b></p> <p>3 Q. (BY MR. SPROUSE) Who is Mr. Acton?</p> <p>4 <b>A. He's a fellow board member of El Paso First</b></p> <p>5 <b>and was previously a board member and chairman of the</b></p> <p>6 <b>board of UMC a handful of years ago.</b></p> <p>7 Q. What is his profession?</p> <p>8 <b>A. He works for Stewart Holdings, which is a --</b></p> <p>9 <b>private investments for an individual.</b></p> <p>10 Q. Is he still active with any of the boards</p> <p>11 today?</p> <p>12 <b>A. He is active with El Paso First as a board</b></p> <p>13 <b>member.</b></p> <p>14 Q. And he had previously been on the UMC board?</p> <p>15 <b>A. Yes. He served six years and was again -- he</b></p> <p>16 <b>was the chairman of the board at one time.</b></p> <p>17 Q. Do you know if he had ever served on the</p> <p>18 Children's Hospital board?</p> <p>19 <b>A. No, not to my knowledge.</b></p> <p>20 Q. Was he involved in the efforts to renegotiate</p> <p>21 the relationship between the Children's Hospital and</p> <p>22 UMC?</p> <p>23 <b>A. He -- he sat in a position on that task force</b></p> <p>24 <b>that I told you about that had three or four meetings</b></p> <p>25 <b>that were trying to share ideas on how to help the</b></p>	<p>1 <b>A. Yes.</b></p> <p>2 Q. What does that mean, ex officio?</p> <p>3 <b>A. It means he's nonvoting.</b></p> <p>4 Q. And Mr. Sosa is identified as the assistant</p> <p>5 county attorney. Is that right?</p> <p>6 <b>A. Yes. Yes.</b></p> <p>7 Q. I think you had testified, also, that Mr. Sosa</p> <p>8 was or is UMC's attorney. Is that right?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Does he do double duty?</p> <p>11 <b>A. I think, in the early formation process, many</b></p> <p>12 <b>people at UMC offered help and support in preparation</b></p> <p>13 <b>of the opening, including Mr. Sosa.</b></p> <p>14 Q. Mr. DeGroat, you testified earlier about the</p> <p>15 search for the initial CEO of the Children's Hospital,</p> <p>16 which resulted in the hiring of Mr. Duncan. Is that</p> <p>17 right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Did you participate in the negotiation of his</p> <p>20 contract as CEO of the Children's Hospital?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. What was your role in that effort?</p> <p>23 <b>A. I think I was on a committee that helped kind</b></p> <p>24 <b>of put together the facts and figures to make him an</b></p> <p>25 <b>offer because I was also on the selection committee.</b></p>
<p>1 <b>Children's Hospital, but he was also the one that</b></p> <p>2 <b>figured out that Sam Legate had told Ray Dzieszinski not</b></p> <p>3 <b>to share any financial information with anyone from</b></p> <p>4 <b>UMC. So the task force dissolved on that basis.</b></p> <p>5 (Exhibit Number 10 was marked.)</p> <p>6 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been</p> <p>7 handed a document that's been marked as Exhibit</p> <p>8 Number 10, and it appears to be minutes from El Paso</p> <p>9 Children's from June of 2009. Do you see that?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And at that time were you on the Children's</p> <p>12 Hospital board?</p> <p>13 <b>A. I think -- as I testified earlier, I think I</b></p> <p>14 <b>was appointed about this time in the month of May or</b></p> <p>15 <b>June.</b></p> <p>16 Q. And so this was approximately the time that</p> <p>17 you went onto that board?</p> <p>18 <b>A. Yeah. This discusses that the selection</b></p> <p>19 <b>committee had met to discuss new board member</b></p> <p>20 <b>candidates.</b></p> <p>21 Q. And this is a Children's Hospital board</p> <p>22 meeting. Do you see that?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And it appears that Mr. Valenti was there as</p> <p>25 an ex officio member. Do you see that?</p>	<p>1 Q. Was that a different committee or was it the</p> <p>2 same committee that kind of just continued?</p> <p>3 <b>A. I don't recall.</b></p> <p>4 (Exhibit Number 11 was marked.)</p> <p>5 Q. (BY MR. SPROUSE) You've been handed a</p> <p>6 document that's been marked as Exhibit Number 11,</p> <p>7 Mr. DeGroat. And these are agenda items from an</p> <p>8 El Paso Children's Hospital board meeting, dated</p> <p>9 August the 18th, 2010. Do you see that?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And in the left-hand row, there's a Roman IX</p> <p>12 that says: "Appointment of Mr. Legate and Mr. DeGroat</p> <p>13 as members of the EPCH/UMC methodology committee."</p> <p>14 Do you see that?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. What is the methodology committee?</p> <p>17 <b>A. I don't remember the specifics. I think the</b></p> <p>18 <b>implication is that monies that were going to be</b></p> <p>19 <b>advanced by UMC to Children's Hospital -- that we were</b></p> <p>20 <b>going to put together some kind of repayment terms, but</b></p> <p>21 <b>I don't remember dealing with it specifically.</b></p> <p>22 Q. Would it be fair to say this relates to the</p> <p>23 financial planning for the Children's Hospital before</p> <p>24 it opened?</p> <p>25 <b>A. The -- yeah, how to finance the -- the</b></p>

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<p>1 <b>organizational expenses and the advance of working</b>  2 <b>capital to get the hospital opened.</b>  3 Q. Do you remember any meetings or functioning of  4 that committee in particular?  5 <b>A. Sorry. Memory doesn't go back that far.</b>  6 (Exhibit Number 12 was marked.)  7 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been  8 handed a document that's been marked as Exhibit  9 Number 12. This appears to be an e-mail from  10 Mr. Valenti to a number of people.  11 Do you see your name on here?  12 <b>A. I do.</b>  13 Q. Do you remember this e-mail?  14 <b>A. Not really.</b>  15 Q. If you'll look at it and read it, I'll ask you  16 some questions about it.  17 <b>A. I'm ready.</b>  18 Q. What is the Acton Group?  19 <b>A. That was the task force that was formed to</b>  20 <b>share ideas about helping the Children's Hospital. So</b>  21 <b>these participants were the people that participated as</b>  22 <b>members of that task force, for the most part. So it</b>  23 <b>included Sam Legate, Mary Lou Camarena, myself, Ron</b>  24 <b>Acton. He calls it the Acton Group because Ron Acton</b>  25 <b>informally chaired the task force meetings.</b></p>	<p>1 Q. Do you know if UMC sponsors IGT for the  2 Children's Hospital today?  3 <b>A. They have very recently, yes.</b>  4 Q. In 2015?  5 <b>A. I've testified to that, that they received --</b>  6 <b>Children's Hospital received 4 or \$5 million very</b>  7 <b>recently.</b>  8 Q. Is UMC an IGT sponsor of the Children's  9 Hospital today?  10 <b>A. Not since the last payment that happened, I</b>  11 <b>believe, shortly before the bankruptcy filing.</b>  12 Q. Who made the decision to cease that  13 sponsorship?  14 <b>A. The management because of all the things that</b>  15 <b>were involved in the bankruptcy.</b>  16 Q. Management of UMC made that decision?  17 <b>A. Yes.</b>  18 Q. Did you testify there's a benefit to UMC in  19 participating in that program?  20 <b>A. There's a benefit to the community in terms of</b>  21 <b>paying for health care that benefits everybody so it</b>  22 <b>benefits the community at large. It can benefit</b>  23 <b>El Paso Children's Hospital. It can benefit UMC. It's</b>  24 <b>historically benefited HCA hospitals and Tenent</b>  25 <b>hospitals.</b></p>
<p>1 Q. Was it the function of the Acton Group to have  2 members of both boards meet to discuss how the  3 Children's Hospital would work?  4 <b>A. Yeah, to -- it was an attempt to garner as</b>  5 <b>many resources as we could to come up with ideas and</b>  6 <b>suggestions to help the Children's Hospital.</b>  7 Q. There's a reference in here to Lance Ramsey  8 and it says Gjerest. Do you see that?  9 <b>A. Gjerest.</b>  10 Q. Gjerest.  11 <b>A. That's the -- Lance Ramsey and Mr. Gjerest are</b>  12 <b>the two resources that UMC uses that are experts on</b>  13 <b>intergovernmental transfers, all the things that</b>  14 <b>transpire to try to create additional health care</b>  15 <b>funding sources for our community.</b>  16 Q. Would it be fair to say that Gjerest or one of  17 their specialties is the IGT?  18 <b>A. Yes.</b>  19 Q. Did Gjerest make presentations to the Acton  20 Group on that subject?  21 <b>A. Yes. But now that I look at this, I mean this</b>  22 <b>was in -- you know, prior to the opening of the</b>  23 <b>hospital. So I think this was more like just a think</b>  24 <b>tank of things to discuss prior to the opening of</b>  25 <b>Children's Hospital.</b></p>	<p>1 Q. How did the bankruptcy cause UMC to decide to  2 cease its participation with the Children's Hospital  3 and the IGT?  4 <b>A. I think just because of the technicalities of</b>  5 <b>trying to deal with a bankrupt party, and lacking the</b>  6 <b>assurances that if I spend a dollar, will I get a</b>  7 <b>dollar plus in health care services or if I do an IGT</b>  8 <b>will it get sucked away in consulting and attorney</b>  9 <b>fees. So that was the concern.</b>  10 And we tried. We discussed it at length,  11 you know, could we -- could we do this, you know, right  12 up to and after the bankruptcy, and it was just too  13 problematic.  14 Q. Is UMC's money put at risk in the IGT program?  15 <b>A. To the extent that if they fund an IGT and it</b>  16 <b>doesn't come back to the community for health care</b>  17 <b>dollars, yes, they are at risk because, you know, we're</b>  18 <b>kind of the recipient of all the -- of the majority of</b>  19 <b>uncompensated or undercompensated people in the</b>  20 <b>community. So if those dollars aren't effectively</b>  21 <b>spent when an IGT is performed, then everybody suffers,</b>  22 <b>UMC included.</b>  23 Q. What would cause the dollars not to come back?  24 <b>A. If they were -- if they were stalled by the</b>  25 <b>bankruptcy process.</b></p>

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1 Q. Would that be done by HHSC?	1 <b>A. No.</b>
2 <b>A. No. It would be done by Children's Hospital.</b>	(Exhibit Number 14 was marked.)
3 Q. What would the Children's Hospital do to stall 4 the funds?	3 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been 4 handed a document that's been marked as Exhibit
5 <b>A. They are under bankruptcy protection so they 6 could do whatever they want to do with the money with 7 the consent of the bankruptcy judge, including pay 8 attorneys and consulting fees. That's not health care.</b>	5 Number 14. It appears to be an e-mail from Mr. Acton 6 to a number of people.
9 Q. You regard that as a risk to UMC and its own 10 revenue?	7 Do you see your name on the recipient 8 list?
11 <b>A. A risk to everybody.</b>	9 <b>A. Yes.</b>
12 (Exhibit Number 13 was marked.)	10 Q. Do you remember receiving this e-mail?
13 Q. (BY MR. SPROUSE) Mr. DeGroat, you've been 14 handed a document that's been marked as Exhibit 13. 15 This appears to be agenda items for an El Paso 16 Children's Hospital board meeting dated October 20th, 17 2010. Do you see that?	11 <b>A. Not really.</b>
18 <b>A. Yes.</b>	12 Q. Do you see a reference to an ad hoc committee 13 in the e-mail?
19 Q. It states here that you reported on several 20 items with some bullet points. Do you see that cell?	14 <b>A. Yes, I did.</b>
21 <b>A. Yes.</b>	15 Q. What was that committee?
22 Q. Including Mr. Legate asking the outlook of the 23 projections related to new numbers that Mr. Westfall is 24 assessing. Do you see that?	16 <b>A. I don't remember specifically, but it's 17 obvious that this was a committee that Mr. Acton wanted 18 to participate in to validate some of the pro forma 19 numbers before the Children's Hospital opened.</b>
25 <b>A. Yes. Mr. Westfall was one of the parties that</b>	20 Q. If you'll look on the page that's numbered 21 7531 at the bottom right-hand corner.
1 <b>worked on the pro formas.</b>	22 <b>A. Yes.</b>
2 Q. Is he an accountant?	23 Q. The paragraph at the top of the page in the 24 middle starts with the statement: "If the forecast 25 that was presented..." Do you see that?
3 <b>A. I think he's more of a consultant.</b>	Page 152
4 Q. Do you know what the interface required with 5 Mr. Gjerest and Mr. Ramsey referred to?	1 <b>A. Yes.</b>
6 <b>A. Not specifically, but probably a reference to 7 the potential of doing intergovernmental transfers that 8 would benefit El Paso Children's Hospital and the 9 community at large.</b>	2 Q. It says: "If the forecast that was presented 3 to us on Friday tells the most likely outcome for the 4 next five years, then from a strictly financial 5 position, UMC may not be able to make all the needed 6 advances to CH. Of course, that is not the answer 7 unless, as Steve DeGroat suggested, maybe there's a 8 secondary source to fund CH's working capital needs."
10 Q. Do you believe that UMC would have been able 11 to navigate the IGT program without the assistance of 12 Mr. Gjerest and Mr. Ramsey?	9 Do you see that?
13 <b>A. Mr. Gjerest and Mr. Ramsey are the experts and 14 there's a high reliance placed on their advice and 15 support.</b>	10 <b>A. Yes.</b>
16 Q. It states, on the right-hand side of the page, 17 that all contracts will be presented for this entity's 18 approval process prior to going through the UMC 19 process, and all contacts will be included in the 20 packets. Do you see that?	11 Q. Do you remember making such a statement?
21 <b>A. Yes.</b>	12 <b>A. It's a brilliant statement. I'm sure I was 13 making reference to other forms of acquiring working 14 capital for Children's, as an example, setting up a 15 line of credit with the bank. But, no, I don't 16 remember specifically, other than that, what I was 17 referring to.</b>
22 Q. Do you know what that refers to?	18 Q. And do you remember if that idea was pursued 19 by anyone?
23 <b>A. No.</b>	20 <b>A. I do not remember.</b>
24 Q. Do you know what the approval process refers 25 to?	21 Q. Mr. Acton goes on to say: "And let's not 22 forget that CH is not the primary cause of the 23 projected losses for UMC." Do you see that?
	24 <b>A. Yes.</b>
	25 Q. Do you know what he meant by that statement?

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<p>1       <b>A. Not specifically, but the reference is that</b>  2 <b>they were looking at cash flow analysis of UMC, and</b>  3 <b>what the effect of advancing money to Children's</b>  4 <b>Hospital, and kind of doing a strength testing. And</b>  5 <b>obviously it didn't look as bright as they might have</b>  6 <b>expected it originally.</b></p> <p>7       Q. And here at the same page, it says EPCH, and  8 there's a bullet point for charity definition  9 \$3.9 million. Do you see that?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q. Do you know what that relates to?</p> <p>12       <b>A. Yeah. In the original pro formas, one of the</b>  13 <b>line items that the consultant put in was an estimate</b>  14 <b>of how much charity care they thought that the</b>  15 <b>Children's Hospital might provide. And that the</b>  16 <b>concept was that if that was the right amount that UMC</b>  17 <b>would transfer up to, you know, that amount in its tax</b>  18 <b>revenues to pay for charity care provided by the</b>  19 <b>Children's Hospital.</b></p> <p>20       Q. What became of that notion?</p> <p>21       <b>A. They accommodated it with other transfers that</b>  22 <b>you would have to ask Mr. Valenti, but in the last</b>  23 <b>fiscal year of Children's Hospital operation, in</b>  24 <b>reviewing their minutes, a quote was made by their</b>  25 <b>public relations officer that they had tracked that,</b></p>	<p>1 the annual lease payment to be charged to CH based upon  2 the true construction cost of the CH."</p> <p>3                   Do you see that?</p> <p>4       <b>A. Yes.</b></p> <p>5       Q. What does that mean?</p> <p>6       <b>A. I'm assuming that it means that they were</b>  7 <b>going to determine the annual lease cost based on the</b>  8 <b>actual construction cost spent on creating the</b>  9 <b>Children's Hospital, which is really the proceeds of</b>  10 <b>the bond issue.</b></p> <p>11       Q. All right. So that's different from what  12 happened with respect to the facility lease?</p> <p>13       <b>A. Well, because the facility lease -- in</b>  14 <b>finality, the discussion was that they needed to charge</b>  15 <b>based on fair market value, and that's when they went</b>  16 <b>and got two different fair market value appraisals.</b></p> <p>17       Q. You used the word need. What was the need  18 that drove the conclusion that it needed to be based  19 upon fair market value?</p> <p>20       <b>A. Well, I think general -- generally accepted</b>  21 <b>accounting principles. You have to document things</b>  22 <b>like leases. You know, why did you charge this</b>  23 <b>particular amount.</b></p> <p>24       Q. Document to whom?</p> <p>25       <b>A. You have to document your own files for audit</b></p>
<p>1 and El Paso Children's Hospital provided \$2.5 million  2 of charity care.</p> <p>3                   And my assumption is that is at bill  4 charges, and they were collecting about 20 to 25 cents  5 on the dollar. So actual charity care that was  6 provided without reimbursement is in the six to  7 \$700,000 range based on their own report. What UMC did  8 was fund other things that more than offset that  9 charity care. And again you would have to ask  10 Mr. Valenti, but one of the things was some kind of  11 continuing education that benefited the Children's  12 Hospital, maybe some internship.</p> <p>13       Q. Are you aware of that funding of other things  14 being documented in any way?</p> <p>15       <b>A. I haven't formally seen the documentation.</b>  16 <b>I've just heard conversation that the charity care --</b>  17 <b>actual charity care was less than a million dollars,</b>  18 <b>and that transfers to El Paso Children's for other</b>  19 <b>services were made in excess of that.</b></p> <p>20       Q. Who is tracking that?</p> <p>21       <b>A. The CFO.</b></p> <p>22       Q. Mr. Nunez?</p> <p>23       <b>A. Yes.</b></p> <p>24       Q. On the last page of this e-mail, second  25 sentence, it says: "We have also been asked to discuss</p>	<p>1 <b>purposes.</b></p> <p>2       Q. Are you aware of Mr. Acton ever expressing the  3 idea that lease payments for the facility would be  4 improper because the facility had already been paid for  5 by the bonds?</p> <p>6       <b>A. Not specifically comments from him, but I've</b>  7 <b>heard that comment before, even by individuals in the</b>  8 <b>community, and questioning why would you charge a lease</b>  9 <b>if the bond -- if the bond's money was used to finance</b>  10 <b>the construction on the Children's Hospital?</b></p> <p>11                   And the answer is the principal and  12 interest payments are not the only components of the  13 lease payment. They are one part of it.</p> <p>14       Q. And this goes back to our discussion earlier  15 today about depreciation?</p> <p>16       <b>A. Yes.</b></p> <p>17                   (Exhibit Number 15 was marked.)</p> <p>18       Q. (BY MR. SPROUSE) Mr. DeGroat, you've been  19 handed a document that's been marked as Exhibit  20 Number 15. It appears to be a letter from Mr. Valenti  21 dated October 10th, 2013.</p> <p>22                   Do you see that?</p> <p>23       <b>A. Yes.</b></p> <p>24       Q. And in this he references his request for a  25 leave of absence from the board of the Children's</p>

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<p>1 Hospital. Do you see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Have you seen this letter before?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Do you know why Mr. Valenti felt that he</p> <p>6 needed to take a leave of absence from the Children's</p> <p>7 Hospital board?</p> <p>8 <b>A. That would be a question for him.</b></p> <p>9 Q. But do you know?</p> <p>10 <b>A. No.</b></p> <p>11 Q. He suggests in here that UMC representation on</p> <p>12 the board be filled by Bill Hanson. Do you see that?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Did Mr. Hanson go on the board?</p> <p>15 <b>A. It's my understanding for a short period of</b></p> <p>16 <b>time, yes.</b></p> <p>17 Q. Who is Mr. Hanson?</p> <p>18 <b>A. He was a previous board member of UMC, and was</b></p> <p>19 <b>the most previous board chair of UMC, but he is off the</b></p> <p>20 <b>board effective this spring.</b></p> <p>21 Q. Why do you believe Mr. Valenti stated that it</p> <p>22 was in the best interest of El Paso County -- or County</p> <p>23 Hospital District to continue UMC representation on the</p> <p>24 board?</p> <p>25 <b>A. Because UMC was an active participant in the</b></p>	<p>1 Do you see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. So is El Paso First included in their overall</p> <p>4 budget?</p> <p>5 <b>A. Yes, as a wholly owned subsidiary of UMC that</b></p> <p>6 <b>the profit or loss is consolidated with UMC's</b></p> <p>7 <b>financials, as well as COC foundation.</b></p> <p>8 Q. Do you remember discussing this budget with</p> <p>9 anyone?</p> <p>10 <b>A. No.</b></p> <p>11 Q. You don't remember seeing --</p> <p>12 <b>A. I may have but I don't remember. But again my</b></p> <p>13 <b>board participation was kind of just starting during</b></p> <p>14 <b>the budgeting process.</b></p> <p>15 Q. If you look on page 3 under the heading "2015</p> <p>16 Budget Uncertainties," it says in the first line:</p> <p>17 "Service and lease-type agreements with the El Paso</p> <p>18 Children's approximate 28 million; however, no cash</p> <p>19 receipts from El Paso children's are anticipated in</p> <p>20 2015." Do you see that?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Have you seen that statement before?</p> <p>23 <b>A. I mean I've heard this in conversation that</b></p> <p>24 <b>during parts of 2014 and end of 2015 there were periods</b></p> <p>25 <b>where there were no payments by Children's Hospital to</b></p>
<p>Page 158</p> <p>1 <b>El Paso Children's Hospital in its position as landlord</b></p> <p>2 <b>and was very interested in the long-term success of</b></p> <p>3 <b>Children's Hospital. So I'm sure he was thinking that</b></p> <p>4 <b>any resource that would help the Children's Hospital</b></p> <p>5 <b>was important.</b></p> <p>6 Q. Including participation in its board?</p> <p>7 <b>A. In having a board member.</b></p> <p>8 (Exhibit Number 16 was marked.)</p> <p>9 Q. (BY MR. SPROUSE) Are you familiar with the</p> <p>10 fiscal '15 budget for UMC?</p> <p>11 <b>A. Yes. Well, fiscal year '15/'16 or fiscal year</b></p> <p>12 <b>'14/'15.</b></p> <p>13 Q. '14/'15.</p> <p>14 <b>A. I didn't participate in the budgeting process.</b></p> <p>15 <b>That was before my reappointment.</b></p> <p>16 Q. Mr. DeGroat, you've been handed a document</p> <p>17 that's been marked as Exhibit 16. And it says at the</p> <p>18 top "Fiscal 2015 Proposed Operating and Capital</p> <p>19 Budget."</p> <p>20 Do you see that?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Have you seen this document before?</p> <p>23 <b>A. Possibly but I don't remember it specifically.</b></p> <p>24 Q. And I'll note, in the middle of the page,</p> <p>25 there's a cell with a reference to El Paso First.</p>	<p>Page 160</p> <p>1 <b>UMC.</b></p> <p>2 Q. Is it fair to say that for budgeting purposes</p> <p>3 UMC anticipated not receiving any money --</p> <p>4 <b>A. That's correct.</b></p> <p>5 Q. -- in fiscal '15 --</p> <p>6 <b>A. That's correct.</b></p> <p>7 Q. -- from the Children's Hospital?</p> <p>8 <b>A. That's correct.</b></p> <p>9 Q. What's an unrestricted cash reserve?</p> <p>10 <b>A. What page?</b></p> <p>11 Q. Page 2.</p> <p>12 <b>A. That is the amount of cash on hand anticipated</b></p> <p>13 <b>during this accounting period.</b></p> <p>14 Q. And there's two rows there. One says "With</p> <p>15 EPCH Reserve" and the other says "No EPCH Reserve."</p> <p>16 Do you see that?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. It appears that one of those rows assumes no</p> <p>19 payments from the Children's Hospital and the other one</p> <p>20 assumes payments of \$28 million. Is that fair?</p> <p>21 <b>A. I would agree with that.</b></p> <p>22 Q. And it appears that the unrestricted cash</p> <p>23 reserves with no payments from the Children's Hospital</p> <p>24 were estimated to be in excess of \$34 million. Do you</p> <p>25 see that?</p>



<p style="text-align: right;">Page 161</p> <p>1       <b>A. That's correct.</b></p> <p>2       Q. So would it also be fair to say that any</p> <p>3 payments made by Children's Hospital in fiscal '15</p> <p>4 would be added to that \$34 million?</p> <p>5       <b>A. Yes.</b></p> <p>6       Q. And you're aware that payments have been made</p> <p>7 by the Children's Hospital before the bankruptcy and</p> <p>8 after the bankruptcy?</p> <p>9       <b>A. Yes.</b></p> <p>10      Q. Okay.</p> <p>11      <b>A. After -- after the bankruptcy, not before the</b></p> <p>12 <b>bankruptcy.</b></p> <p>13      Q. During fiscal '14, prior -- no. Fiscal '15,</p> <p>14 prior to the bankruptcy, did the Children's Hospital</p> <p>15 make any payments at all to UMC?</p> <p>16      <b>A. My understanding is payments ceased around</b></p> <p>17 <b>March, April or May of 2014. So, yes, they could have</b></p> <p>18 <b>made payments prior to that, but no payments have been</b></p> <p>19 <b>made since that time until after the bankruptcy.</b></p> <p>20      Q. Did you testify today, Mr. DeGroat, that you</p> <p>21 have not seen the actual facility lease agreement</p> <p>22 between the parties?</p> <p>23      <b>A. That is correct.</b></p> <p>24                   MR. SPROUSE: All right. Let's go off</p> <p>25 the record.</p>	<p style="text-align: right;">Page 163</p> <p>1 <b>remember if he certified or not, but I believe that</b></p> <p>2 <b>after that discussion that IGT was not done and they</b></p> <p>3 <b>missed the deadline.</b></p> <p>4                   I think UMC went as far as got a legal</p> <p>5 opinion from the Attorney General making sure that</p> <p>6 everything they were doing was -- was fine, approved,</p> <p>7 legal, but I don't believe that IGT got done because of</p> <p>8 the delay caused by Ray Dzieszinski not certifying.</p> <p>9      Q. Do you believe he should have certified?</p> <p>10     <b>A. For the good of the community and the good of</b></p> <p>11 <b>El Paso Children's Hospital, absolutely because it --</b></p> <p>12 <b>the way we look at IGT, we look at it globally that</b></p> <p>13 <b>it's a benefit for the community of El Paso. It helps</b></p> <p>14 <b>pay for health care. Regardless of who specifically</b></p> <p>15 <b>funds it and who specifically provides the service,</b></p> <p>16 <b>it's -- it's new found money in the community.</b></p> <p>17      Q. Do you know specifically why he would not have</p> <p>18 signed?</p> <p>19      <b>A. I do not, other than my assumption is he</b></p> <p>20 <b>didn't understand IGT and how it worked and may have</b></p> <p>21 <b>gotten concerned about that, but that's strictly my</b></p> <p>22 <b>assumption.</b></p> <p>23      Q. If he reached the conclusion that it would</p> <p>24 have been unethical for him to do so, it's not your</p> <p>25 testimony to presume that he should have signed it</p>
<p style="text-align: right;">Page 162</p> <p>1                   (A recess was taken.)</p> <p>2      Q. (BY MR. SPROUSE) Mr. DeGroat, we're back on</p> <p>3 the record.</p> <p>4                   Do you have any knowledge of an incident</p> <p>5 where Mr. Dzieszinski was asked to sign a document or a</p> <p>6 statement associated with the IGT process?</p> <p>7      <b>A. I vaguely remember that in our task force</b></p> <p>8 <b>meeting environment that there's a certification</b></p> <p>9 <b>process that all the parties to IGT have to sign a --</b></p> <p>10 <b>have to sign a certification, and -- certifying that</b></p> <p>11 <b>they're a participant and that they follow the rules.</b></p> <p>12 <b>And I think there was some discussion that Ray was</b></p> <p>13 <b>either individually or encouraged by Sam Legate not to</b></p> <p>14 <b>execute that certification. That's all I remember.</b></p> <p>15      Q. Do you know if he, in fact, did or did not</p> <p>16 sign?</p> <p>17      <b>A. I don't remember.</b></p> <p>18      Q. Are you aware of any leaked documents from a</p> <p>19 board meeting that affected the IGT in any way?</p> <p>20      <b>A. Somebody sent an anonymous document to a</b></p> <p>21 <b>newspaper and kind of implied that there were issues</b></p> <p>22 <b>with doing intergovernmental transfers. I don't know</b></p> <p>23 <b>who it was from. I don't remember who it went to, but</b></p> <p>24 <b>I think that may have been a source of Ray's concern</b></p> <p>25 <b>for initially not certifying. And, again, I don't</b></p>	<p style="text-align: right;">Page 164</p> <p>1 anyway?</p> <p>2      <b>A. I would say that if he was properly educated</b></p> <p>3 <b>and informed and with legal counsel that he could have</b></p> <p>4 <b>gotten past his concerns.</b></p> <p>5                   (Exhibit Number 17 was marked.)</p> <p>6      Q. (BY MR. SPROUSE) Mr. DeGroat, you've been</p> <p>7 handed a document that's been marked as Exhibit 17. I</p> <p>8 apologize for the quality of this copy. On the second</p> <p>9 page it says "Provider Agreement."</p> <p>10                  Do you see that?</p> <p>11      <b>A. Yes.</b></p> <p>12      Q. Do you recognize this document?</p> <p>13      <b>A. No. I've never seen it before.</b></p> <p>14      Q. The top paragraph purports to state that it's</p> <p>15 an agreement or Provider Agreement between El Paso</p> <p>16 First and the Children's Hospital. Do you see that?</p> <p>17      <b>A. Yes.</b></p> <p>18      Q. Are you familiar with provider agreements of</p> <p>19 this type?</p> <p>20      <b>A. No. As I told you earlier in my testimony, as</b></p> <p>21 <b>an El Paso First board member, we -- we do not get</b></p> <p>22 <b>involved in contract negotiation or setting of any</b></p> <p>23 <b>reimbursement rates outside of our scope as board</b></p> <p>24 <b>members.</b></p> <p>25      Q. Mr. DeGroat, what do you think should happen</p>

