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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

IN RE:)
) CHAPTER 11
EL PASO CHILDREN'S HOSPITAL)
CORPORATION,) CASE NO. No. 15-30784
)
Debtor.)

The Oral Deposition of JAMES NICHOLAS VALENTI,
taken at the request of El Paso Children's Hospital,
pursuant to Federal Rules of Civil Procedure, on
Tuesday, July 21, 2015, from 9:03 a.m. to 4:29 p.m., at
420 E. San Antonio, Second Floor, El Paso, Texas 79901.

Reported by:
Teri C. Finnegan, TX & NM CSR, RPR

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A P P E A R A N C E S

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Also present: Todd Patnode
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JAMES NICHOLAS VALENTI,

sworn by the Certified Court Reporter, testified as
 follows:

EXAMINATION

BY MR. SPROUSE:

Q. Mr. Valenti, my name is Marvin Sprouse. I'm
 an attorney with Jackson Walker, proposed counsel for
 El Paso Children's' Hospital Corporation, which I will
 refer to today as the debtor or the Children's
 Hospital, if we can have that understanding.

A. Yes.

Q. Will you state your full name for the record,
 please.

A. James Nicholas Valenti.

Q. Do you go by any other names?

A. Jim.

Q. Jim.

Where do you live, Mr. Valenti?

A. El Paso.

Q. And you understand we're here today to take
 your deposition?

A. Yes.

Q. Have you been deposed before?

A. Yes.

Q. On what occasions?

5

A. One other occasion.

Q. What did that pertain to?

A. It was a physician credentialing topic.

Q. When was that?

A. I don't recall the specific date, but it would
 have been two or three years ago.

Q. Have you given testimony in court or any other
 matters?

A. No.

Q. Have you been a party to any other civil
 lawsuits?

A. No.

Q. Any criminal lawsuits?

A. No.

Q. Okay. You understand, Mr. Valenti, today you
 are under oath.

A. Yes.

Q. And you're sworn to tell the truth?

A. Yes.

Q. And your testimony today as taken down by the
 court reporter can be used at trial before the
 bankruptcy court at a hearing. Do you understand that?

A. Yes.

Q. And you're doing fine so far, but I'd like for
 you to continue to answer my questions verbally so we

6

1 can get your responses on the record.

2 **A. Yes.**

3 Q. Okay. We'll try to speak only one at a time.

4 If I interrupt you, please let me know that you have to

5 finish an answer. Can we also agree that if you don't

6 understand my question, you'll ask for a clarification?

7 **A. Yes.**

8 Q. Is there any reason why you can't answer my

9 questions today?

10 **A. No reason.**

11 Q. Have you spoken to anyone about today's

12 deposition?

13 **A. Yes.**

14 Q. Who have you talked to?

15 **A. Legal counsel.**

16 Q. Who else?

17 **A. My assistant.**

18 Q. What's your assistant's name?

19 **A. Betsy Castillo.**

20 Q. What did you discuss with Ms. Castillo?

21 **A. It was just on my schedule. She takes care of**

22 **my appointments.**

23 Q. And you understand that I deposed Mr. Nunez

24 yesterday.

25 **A. Yes.**

7

1 Q. He's the CFO of UMC.

2 **A. Yes.**

3 Q. Did you talk to Mr. Nunez about his

4 deposition?

5 **A. No.**

6 Q. Do you know anything else about Mr. Nunez's

7 deposition other than what may have been told to you by

8 counsel?

9 **A. I'm sorry. Repeat that.**

10 Q. Do you know anything about Mr. Nunez's

11 deposition other than what was told to you by counsel?

12 **A. No.**

13 Q. Did you review any documents in preparation

14 for today's deposition?

15 **A. Yes.**

16 Q. What did you review?

17 **A. I reviewed -- legal counsel prepared a**

18 **mediation summary and that's the document I read.**

19 Q. What else?

20 **A. I glanced at some of the pleadings. That's**

21 **about it.**

22 Q. You referenced a mediation. And I understand

23 there's been more than one mediation. Isn't that

24 right?

25 **A. That's correct.**

8

1 Q. So you looked at a summary in preparation for

2 mediation.

3 **A. Yes.**

4 Q. Which mediation was it?

5 **A. The third mediation.**

6 Q. The most recent one?

7 **A. The most recent one.**

8 (Exhibit marked, No. 1.)

9 Q. (By Mr. Sprouse) Mr. Valenti, I've handed you

10 a document that's been marked as Exhibit Number 1 and

11 I'll represent to you that this is our notice of

12 today's deposition. It's a paper in this bankruptcy

13 case titled Debtor's Amended Notice of Rule 2004

14 Examination of James Valenti. Do you see that?

15 **A. Yes.**

16 Q. Have you seen this document before?

17 **A. Yes.**

18 Q. And you have the understanding, Mr. Valenti,

19 that you're here to testify based upon the notice that

20 I've just handed you as Exhibit 1?

21 **A. Yes.**

22 Q. Mr. Valenti, I understand that you are the CEO

23 of El Paso Hospital District d/b/a University Medical

24 Center of El Paso. Is that right?

25 **A. Yes.**

9

1 Q. And if I just say UMC, can we have the

2 understanding that that refers to the El Paso Hospital

3 District d/b/a University Medical Center of El Paso?

4 **A. Yes.**

5 Q. Okay.

6 MR. STRUBECK: Hey, Marvin, just a

7 housekeeping matter. I understand that in connection

8 with the other 2004 exams everyone's reserved

9 objections to relevance until later on. Is that the

10 same agreement you assume we have today?

11 MR. SPROUSE: I'm happy to carry that

12 forward today.

13 MR. STRUBECK: Let's just do that to keep

14 it simple.

15 MR. SPROUSE: Thank you.

16 MR. STRUBECK: Sorry.

17 Q. (By Mr. Sprouse) Mr. Valenti, what title do

18 you hold at UMC today?

19 **A. President and CEO.**

20 Q. Are those separate positions?

21 **A. The same position.**

22 Q. Same position.

23 Do you have any other titles at UMC?

24 **A. No, sir.**

25 Q. Do you have any other roles at UMC?

10

1 **A. No, sir.**

2 Q. And you are familiar with the Children's

3 Hospital litigation in this bankruptcy case?

4 **A. Yes.**

5 Q. Mr. Valenti, did you graduate from high

6 school.

7 **A. Yes.**

8 Q. Where did you go to high school?

9 **A. Rosary High School.**

10 Q. Where is that?

11 **A. St. Louis, Missouri.**

12 Q. Did you go to college?

13 **A. Yes, sir.**

14 Q. Where did you go to college?

15 **A. St. Louis University, St. Louis.**

16 Q. Did you get a degree?

17 **A. Yes.**

18 Q. What was your degree in?

19 **A. Bachelor of science.**

20 Q. What subject?

21 **A. Radiologic sciences and a minor in business.**

22 Q. Any other degrees?

23 **A. A master's degree.**

24 Q. Also from St. Louis?

25 **A. Washington University, St. Louis.**

11

1 Q. What's your master's in?

2 **A. Hospital administration.**

3 Q. When did you get your master's?

4 **A. 1982.**

5 Q. Do you hold any professional certifications

6 today?

7 **A. No, sir.**

8 Q. Where have you worked since getting your

9 master's degree?

10 **A. I would like to answer that -- the last**

11 **question. When you say "professional certifications,"**

12 **I'm a fellow in the College of Healthcare Executives.**

13 Q. Does that require any kind of testing or

14 accreditation?

15 **A. Yes.**

16 Q. What is involved in that?

17 **A. That was a -- it's a progression, a**

18 **professional society progression. You start out as a**

19 **student associate and then advance all the way to**

20 **fellow status. There's a variety of continuing**

21 **education and there's testing for membership, both a**

22 **written and oral exam.**

23 Q. And that continuing education and testing

24 attributes of that status, are they kind of ongoing?

25 **A. Yes.**

12

1 Q. So my question is where have you worked since

2 getting a master's degree?

3 **A. A variety of hospitals.**

4 Q. We can go quickly, but if you'll tell me what

5 your position was, where it was and what your tenure

6 was at the time, I'd like to put that on the record.

7 **A. Okay. This would be approximate. I did my**

8 **residency at Hillcrest Medical Center in Tulsa,**

9 **Oklahoma, that was a period of two years, '83 to '84.**

10 **I was recruited to Saint Francis Hospital in Tulsa,**

11 **Oklahoma, served as assistant administrator. I was at**

12 **that position and promoted with additional assignments**

13 **throughout that tenure of about nine and a half years**

14 **through about 1993-ish.**

15 **Then I was recruited to Tulsa Regional**

16 **Medical Center in Tulsa, Oklahoma, and I served as**

17 **executive vice president, chief operating officer. Let**

18 **me correct that last statement. Vice president and**

19 **chief operating officer at Tulsa Regional Medical**

20 **Center for approximately five years from '93 to about**

21 **'98.**

22 **I was recruited and took an**

23 **administrative assignment at Good Shepherd Medical**

24 **Center in Longview, Texas. I served as executive vice**

25 **president, COO and also interim CEO. That was for a**

13

1 **period of about five years.**

2 **I was recruited back to St. Louis to**

3 **St. Anthony's Medical Center in St. Louis, served as**

4 **executive vice president and then also a period of time**

5 **for interim CEO. The St. Anthony's appointment was**

6 **three years.**

7 **Then I was recruited away to come to**

8 **El Paso, University Medical Center -- at that time it**

9 **was Thomason Hospital -- as CEO. And I've held this**

10 **position for approximately 11 years.**

11 Q. So the first position you had at UMC was CEO?

12 **A. Yes, sir.**

13 Q. And you said approximately 11 years. Just for

14 the record when did that commence? What year did you

15 come to El Paso for that purpose?

16 **A. September of 2004.**

17 Q. I think you said that UMC had a different name

18 at the time. Is that right?

19 **A. Yes, Thomason General Hospital.**

20 Q. When did the name change?

21 **A. Approximately 2009, the summer of 2009.**

22 Q. Why did the name change?

23 **A. The hospital, the campus, was evolving from a**

24 **general hospital to a university environment, hence we**

25 **selected the name of University Medical Center of**

14

1 **El Paso.**

2 Q. And when you began working at UMC in 2004 as

3 CEO, what were your duties then?

4 A. **As CEO?**

5 Q. Yes.

6 A. **My responsibilities were to manage and oversee**

7 **the operations of the hospital.**

8 Q. Are those your duties today?

9 A. **Yes, sir.**

10 Q. As the CEO of UMC, who do you answer to, Mr.

11 Valenti?

12 A. **A board of managers.**

13 Q. Where is UMC?

14 A. **UMC is in El Paso on Alameda Street.**

15 Q. Can you give me the street address, please.

16 A. **4815 Alameda Street -- I think it's Alameda**

17 **Avenue.**

18 Q. Does UMC have any other locations?

19 A. **We have a variety of clinics throughout**

20 **El Paso?**

21 Q. How many?

22 A. **This is approximate. Nine.**

23 Q. Are more clinics planned?

24 A. **Yes, sir.**

25 Q. How many?

15

1 A. **Three.**

2 Q. Do you have an anticipated date when the three

3 new clinics will open?

4 A. **Anticipated date of two of the three clinics**

5 **will be the spring of 2017 and the final clinic nine**

6 **months later towards the end of 2017.**

7 Q. So what is the purpose behind having the

8 clinics in El Paso?

9 A. **To promote access to care for our El Paso**

10 **citizens.**

11 Q. What is the County Commissioners Court?

12 A. **It's a governing body of the El Paso County.**

13 Q. What is the function of the court?

14 A. **They oversee the County. They're elected**

15 **positions.**

16 Q. What is the relationship between UMC and

17 commissioners court?

18 A. **There's several distinct functions. The**

19 **county commissioners approve our operating and capital**

20 **budget, they approve our tax rate, they approve any**

21 **real estate purchases and they appoint board members to**

22 **serve on the board of managers of UMC.**

23 Q. Do you have contact with the commissioners

24 court, Mr. Valenti?

25 A. **Yes, sir.**

16

1 Q. Who do you talk to there?

2 A. **The county judge and the commissioners.**

3 Q. Who's the county judge?

4 A. **The county judge is Veronica Escobar.**

5 Q. Does anybody else at UMC communicate with the

6 commissioners court on behalf of UMC?

7 A. **Yes.**

8 Q. Who else?

9 A. **Occasionally my chief operating officer.**

10 Q. Who is that?

11 A. **Maria Zampini.**

12 Q. Who else?

13 A. **Michael Nunez would communicate with**

14 **commissioners court, he's my CFO.**

15 Q. Are there scheduled periodic meetings with the

16 commissioners court?

17 A. **Yes.**

18 Q. How does that work?

19 A. **I have a quarterly presentation that I present**

20 **on the activities of UMC to the commissioners court. I**

21 **also have informal unscheduled visits and phone calls**

22 **with the commissioners to update the commissioners on**

23 **any activities.**

24 Q. And if you need to communicate informally with

25 the commissioners court, who do you call?

17

1 A. **I call the county judge and the commissioners.**

2 Q. Individually?

3 A. **Yes.**

4 Q. Have you contacted the judge about this

5 bankruptcy case?

6 A. **Yes.**

7 Q. Have you talked to the other commissioners

8 about the bankruptcy case?

9 A. **Yes.**

10 Q. Mr. Valenti, you mentioned a board of

11 managers. Is that how UMC is governed?

12 A. **Yes.**

13 Q. And what are their responsibilities?

14 A. **Their responsibilities are to select a CEO,**

15 **approve a capital and operating budget, approve a**

16 **potential -- a tax rate and approve capital**

17 **acquisitions over a certain threshold -- a certain**

18 **financial threshold. They help establish a strategic**

19 **plan. Those are the general duties of the board of**

20 **managers.**

21 Q. Does UMC have administrators?

22 A. **We call them chiefs.**

23 Q. Who are the chiefs?

24 A. **Chief financial officer, chief operating**

25 **officer, chief legal officer, a chief waiver compliance**

18

1 officer, a chief nursing officer and I also have a
 2 chief of staff -- executive chief of staff position.
 3 **Also we have a --**
 4 Q. Please go ahead.
 5 A. **The last one is president -- the president --**
 6 **I'm sorry -- CEO of El Paso First.**
 7 Q. Who's the CEO of El Paso First?
 8 A. **Frank Dominguez.**
 9 Q. Who's the chief legal officer of UMC?
 10 A. **Eddie Sosa.**
 11 Q. Who's the chief compliance officer?
 12 A. **Cathy Gibson.**
 13 Q. The chief nursing officer?
 14 A. **Joe Garcia.**
 15 Q. The executive chief of staff?
 16 A. **Lorena Navedo.**
 17 Q. And how do the board of managers at UMC and
 18 the administrators relate to each other?
 19 A. **We have scheduled committee meetings and we**
 20 **have special board meetings and regularly scheduled**
 21 **board meetings.**
 22 Q. Are the chiefs employees of UMC?
 23 A. **Yes.**
 24 Q. And are the board of managers employees of
 25 UMC?

19

1 A. **No.**
 2 Q. Are they employed by anyone in that role?
 3 A. **No.**
 4 Q. Are they volunteers?
 5 A. **Yes.**
 6 Q. I think you testified, Mr. Valenti, that the
 7 board of managers selects the CEO. Is that right?
 8 A. **Yes.**
 9 Q. Does the board of managers also select the
 10 chiefs?
 11 A. **No.**
 12 Q. Is that something that the CEO does?
 13 A. **Yes.**
 14 Q. Is it subject to board of manager approval?
 15 A. **No.**
 16 Q. Mr. Valenti, I understand that the Children's
 17 Hospital opened its doors on February 14th of 2012. Do
 18 you agree with that?
 19 A. **Yes.**
 20 Q. Is that Valentine's Day?
 21 A. **Yes.**
 22 Q. Did El Paso have a children's hospital before
 23 that date?
 24 A. **Repeat that.**
 25 Q. Did El Paso have a children's hospital before

20

1 that date?
 2 A. **Well, in our definition, no.**
 3 Q. What is your definition?
 4 A. **A separately licensed freestanding --**
 5 **separately licensed and independent children's**
 6 **hospital.**
 7 Q. El Paso did not have what you just described
 8 before the Children's Hospital in this case opened?
 9 A. **That's correct.**
 10 Q. Did El Paso have the need for a children's
 11 hospital?
 12 A. **Yes.**
 13 Q. Why do you say that?
 14 A. **At the time we were the largest community --**
 15 **the 22nd largest community in the United States without**
 16 **a dedicated independent separately licensed children's**
 17 **hospital.**
 18 Q. You perceived a need for one.
 19 A. **There was a patient care need for a hospital.**
 20 Q. I think you said that the Children's Hospital
 21 is separately licensed. Is that right?
 22 A. **Yes.**
 23 Q. What does that mean?
 24 A. **Separately licensed is a designation,**
 25 **government designation, similar to UMC has a separate**

21

1 **license, a license to provide care separately licensed**
 2 **as an independent board.**
 3 Q. Have you finished your answer?
 4 A. **Yes.**
 5 Q. Is the Children's Hospital nontaxing?
 6 A. **Yes.**
 7 Q. What does that mean?
 8 A. **It does not have the power to levy taxes.**
 9 Q. Does the Children's Hospital receive revenue
 10 from taxes?
 11 A. **No.**
 12 Q. How about indirectly?
 13 A. **No.**
 14 Q. Is the Children's Hospital a nonprofit?
 15 A. **Yes.**
 16 Q. What does that mean?
 17 A. **From the government standpoint, it's a**
 18 **nonprofit similar to UMC is a nonprofit.**
 19 Q. Mr. Valenti, you testified that the Children's
 20 Hospital is separately licensed, nontaxing, independent
 21 and nonprofit. Is that right?
 22 A. **Yes.**
 23 Q. Do you know why the Children's Hospital was
 24 established with those attributes?
 25 A. **Yes.**

22

1 Q. Why is that?

2 **A. The vision was to create a separately licensed**

3 **independent children's hospital to serve our community,**

4 **the pediatric patients and their families.**

5 **Furthermore, it was to help advantage the Children's**

6 **Hospital with regards to reimbursement set aside for**

7 **children's hospitals in the state of Texas.**

8 Q. Since it opened, Mr. Valenti, has the

9 Children's Hospital been able to treat the region's

10 pediatric patients?

11 **A. Yes.**

12 Q. What do you know about the quality of the

13 pediatric services that have been provided by the

14 hospital since it opened?

15 **A. They just completed their Joint Commission**

16 **survey and they are fully accredited.**

17 Q. So as far as patient services go, has the

18 Children's Hospital done what it was intended to do for

19 El Paso?

20 **A. Yes.**

21 Q. Does Children's Hospital provide indigent

22 pediatric care?

23 **A. Yes.**

24 Q. What does "indigent pediatric care" mean?

25 **A. We refer to patients that are charity patients**

23

1 **that do not have the ability to pay.**

2 Q. As indigent?

3 **A. Yes.**

4 Q. Prior to the opening of the Children's

5 Hospital, had UMC been providing indigent pediatric

6 care to patients?

7 **A. Yes.**

8 Q. And has the Children's Hospital relieved UMC

9 of the burden of providing indigent pediatric care?

10 **A. Not entirely.**

11 Q. So is your answer some yes and some no?

12 **A. Yes.**

13 Q. To the extent that the Children's Hospital has

14 relieved UMC of the burden of providing indigent

15 pediatric care, that has saved UMC money, hasn't it?

16 **A. No.**

17 Q. No. Explain your answer, please.

18 **A. We record the cases that are charity cases and**

19 **the arrangement is to -- at the end of a fiscal year,**

20 **to settle up with regards to the actual amount of**

21 **charity care that's been provided.**

22 Q. What do you mean by "settle up"?

23 **A. Well, we would pay -- we would pay for that**

24 **charity care.**

25 Q. Pay whom?

24

1 **A. We would pay Children's Hospital.**

2 Q. So if an indigent pediatric patient receives

3 care at the Children's Hospital, is it your testimony

4 that UMC would pay the Children's Hospital for that?

5 **A. With all the records at the end of the year,**

6 **that's the arrangement.**

7 Q. How does that work?

8 **A. The details of that I would have to defer to**

9 **my CFO.**

10 Q. Mr. Nunez.

11 **A. Yes.**

12 Q. Mr. Valenti, what is your understanding of why

13 the Children's Hospital filed bankruptcy?

14 **A. They filed bankruptcy after a number of years**

15 **of going concern opinions from the auditors that their**

16 **expenses exceeded their revenues.**

17 Q. What else?

18 **A. That's all.**

19 Q. Mr. Valenti, are you aware that there were

20 certain feasibility studies conducted prior to the

21 opening of the Children's Hospital?

22 **A. Yes.**

23 Q. What do you know about the feasibility

24 studies?

25 **A. In general terms I remember that the**

25

1 **feasibility studies defined a patient population need.**

2 Q. When were the studies conducted?

3 **A. 2007.**

4 Q. Were there studies prior to 2007?

5 **A. Yes.**

6 Q. Are you familiar with those?

7 **A. No.**

8 Q. Who's Kurt Salmon Associates?

9 **A. A consulting firm.**

10 Q. Do you know about the Kurt Salmon feasibility

11 study in particular?

12 **A. Yes.**

13 Q. Is that also the 2007 feasibility study?

14 **A. I believe so.**

15 Q. Have you seen that study?

16 **A. Yes.**

17 Q. Have you read it?

18 **A. I've read it but not recently.**

19 Q. What do you remember about the 2007

20 feasibility study?

21 **A. It called for a -- the conclusion was to**

22 **establish an independent separately licensed children's**

23 **hospital serving the patient needs of El Paso and the**

24 **surrounding communities, southern New Mexico, west**

25 **Texas.**

26

1 It put together -- there was a general
 2 pro forma, there was also an identification of location
 3 for the children's hospital. And it looked at the
 4 feasibility of establishing a children's hospital.
 5 Q. What do you mean when you say "pro forma"?
 6 A. A financial pro forma.
 7 Q. So in the context of the feasibility study,
 8 that would have been projections as to how the
 9 Children's Hospital would be funded?
 10 A. Yes.
 11 Q. Both its construction and later operation?
 12 A. No.
 13 Q. Which component?
 14 A. Not the construction.
 15 Q. Just operation?
 16 A. The operations.
 17 Q. I think you testified, Mr. Valenti, that the
 18 feasibility study in 2007 called for the establishment
 19 of an independent children's hospital. Is that right?
 20 A. That was the conclusion, yes.
 21 Q. Did you agree with the conclusion?
 22 A. Yes.
 23 Q. Why so?
 24 A. Based upon the demonstrated need, the support
 25 from physicians in the community.

27

1 Q. What do you remember about the pro formas in
 2 the 2007 feasibility study?
 3 A. As in a start-up, the first year had -- I
 4 can't give you any details, but my recollection is that
 5 from the start-up the first year was a negative pro
 6 forma and then the next three years, I believe, showed
 7 a more positive performance.
 8 Q. And what was the 2007 feasibility study used
 9 for?
 10 A. The feasibility study was utilized for
 11 management and the board to substantiate the actual --
 12 taking that to the actual vote of the El Pasoans in
 13 2007. Prior to that it was the election and the
 14 positive vote of the commissioners court to place that
 15 on the ballot in 2007.
 16 So the feasibility study provided the
 17 support and the supporting documentation to support the
 18 management and the board on creating the children's
 19 hospital.
 20 Q. So the commissioners court supported the
 21 conclusions of the feasibility study. Is that fair to
 22 say?
 23 A. Yes.
 24 Q. And the feasibility study was also made
 25 available to the public?

28

1 A. Yes.
 2 Q. And you mentioned an election. Can you tell
 3 me about that.
 4 A. The general election was in November of 2007,
 5 I believe the date was November 6.
 6 Q. What was on the ballot?
 7 A. I don't recall the specific wording, but the
 8 essence was to levy the tax to build the children's
 9 hospital.
 10 Q. Does that relate to the bonds?
 11 A. The sale -- yes, the bonds.
 12 Q. So the election was the voters approving the
 13 taxes to support the bonds?
 14 A. That's correct.
 15 Q. And the bonds would be used for what?
 16 A. Bonds would be used to construct the
 17 Children's Hospital.
 18 Q. Mr. Valenti, at some point the decision was
 19 made to locate the Children's Hospital on the UMC
 20 campus. Is that right?
 21 A. Yes.
 22 Q. How was that determination made?
 23 A. Through the feasibility study, we looked at
 24 five locations and based upon the economics of those
 25 five and then through the feasibility study, the

29

1 location was selected where it ultimately was built on
 2 the UMC campus.
 3 Q. You said "economics." What were the economics
 4 that supported that decision?
 5 A. Can you restate that.
 6 Q. I think you testified that economics drove the
 7 decision to locate the Children's Hospital on the UMC
 8 campus. Is that right?
 9 A. That's right.
 10 Q. So my question is what do you mean by "the
 11 economics"?
 12 A. Just the financial feasibility of constructing
 13 the hospital.
 14 Q. Would benefits accrue to UMC by having the
 15 Children's Hospital on the UMC campus?
 16 A. Absolutely, yes.
 17 Q. In what way?
 18 A. What was envisioned -- the five locations,
 19 four of those locations were on the campus of UMC, a
 20 fifth location was off the campus. And for the
 21 feasibility of the hospital and for the operations of
 22 the hospital, it envisioned shared services with UMC,
 23 so the best economical decision was selected and that's
 24 the present location that the Children's Hospital sits.
 25 Q. I think you testified the bond funds would be

30

1 used to construct the Children's Hospital. Is that
 2 right?
 3 **A. Yes.**
 4 Q. What was the amount of the bond funds?
 5 **A. 120,100,000.**
 6 Q. And that money was used to pay the bricks and
 7 mortar construction of the Children's Hospital. Is
 8 that right?
 9 **A. Yes.**
 10 Q. It's my understanding that Children's Hospital
 11 is located in a tower on the sixth through the tenth
 12 floors. Is that right?
 13 **A. Yes.**
 14 Q. And the remaining floors are used by UMC for
 15 other medical services. Is that right?
 16 **A. Yes. And there's a few overlapping services**
 17 **of Children's Hospital and other floors of the lower**
 18 **level and first floor and they have an independent --**
 19 **there's really two buildings. The second building**
 20 **is -- that houses the Children's Hospital is a lower**
 21 **level, a first, a second and a third floor.**
 22 Q. By "overlapping," are you referring to the
 23 physical spaces in the building?
 24 **A. No. It's hard to describe this without a**
 25 **picture, but there's a parallelogram building, which is**

31

1 **the first through ten floors, then there's a north**
 2 **building that is a separate building -- but from the**
 3 **outside it looks like all one structure -- but there's**
 4 **a separate building and that's the north building.**
 5 **So that north building holds Children's**
 6 **services from pharmacy and lab in the lower level,**
 7 **administration in the lower level, first floor is**
 8 **registration, radiology, second floor is surgery.**
 9 Q. Just so I'm clear, what does UMC have in that
 10 building?
 11 **A. Which building?**
 12 Q. The north building.
 13 **A. The north building. I don't believe there's**
 14 **any overlapping services. It may be -- one radiology**
 15 **suite might be overlapping.**
 16 Q. By "overlapping," you mean overlapping between
 17 UMC --
 18 **A. UMC and Children's. But I think the radiology**
 19 **suite is owned by UMC, I believe it's owned by UMC and**
 20 **that's what I refer to as overlapping.**
 21 Q. It's owned by UMC but used by both UMC and the
 22 Children's Hospital?
 23 **A. Yes.**
 24 Q. Were the bond funds sufficient to cover the
 25 construction costs for the Children's Hospital?

32

1 **A. Yes.**
 2 Q. Were the construction costs -- strike that.
 3 Have the construction costs of the
 4 Children's Hospital been paid in full?
 5 **A. Yes.**
 6 Q. By the bond funds?
 7 **A. Yes.**
 8 Q. I think you testified, Mr. Valenti, that the
 9 feasibility study in 2007 was used to support the idea
 10 of the Children's Hospital to the public. Is that
 11 right?
 12 **A. Yes.**
 13 Q. You also stated the feasibility study included
 14 pro formas for operational revenues for the Children's
 15 Hospital. Is that right?
 16 **A. Yes.**
 17 Q. So is it fair to say that the public approved
 18 the bonds based in part upon the pro formas that were
 19 in the feasibility study?
 20 **A. I really wouldn't say that.**
 21 Q. What would you say?
 22 **A. I would say the citizens voted for the**
 23 **Children's Hospital, for the bonds to build and**
 24 **construct the Children's Hospital. I think the**
 25 **average -- I think the citizen -- we conducted a lot of**

33

1 **public meetings, we did present pro formas, very**
 2 **general.**
 3 Q. You say, "We presented pro formas." Was that
 4 UMC presenting pro formas?
 5 **A. That was UMC.**
 6 Q. So the pro formas pertained to the operational
 7 revenues for the Children's Hospital?
 8 **A. Projections.**
 9 Q. Projections. And there were also projections
 10 in the 2007 feasibility study?
 11 **A. Yes.**
 12 Q. Were the pro formas prepared by UMC and
 13 presented to the public different from the pro formas
 14 in the 2007 feasibility study?
 15 **A. Well, the pro formas were created by the**
 16 **consultants that we hired. And UMC engaged the**
 17 **consultants to create the pro formas, experts in**
 18 **providing consultation for children's hospitals.**
 19 **Similar to we hired architects and contractors to build**
 20 **a first-class children's hospital.**
 21 Q. Sure. Who were the consultants?
 22 **A. We hired the Jim Diaz Group and Robins &**
 23 **Morton as the contractors. Jim Diaz is the architect.**
 24 Q. Who were the consultants, Mr. Valenti, who
 25 prepared the pro formas for UMC?

34

1 **A.** It was a combination of -- to my recollection
 2 it was a combination of Kurt Salmon, George Westfall.
 3 There may have been -- there may have been another firm
 4 that created the pro formas.
 5 Q. And these are accounting firms?
 6 **A.** Consulting firms.
 7 Q. And were those pro formas presented to the
 8 public?
 9 **A.** Yes, in general -- in general exhibits. I
 10 think there's one general exhibit.
 11 Q. Who prepared the exhibit?
 12 **A.** The consultants.
 13 Q. Was the exhibit used to summarize their
 14 findings and pro formas of the Children's Hospital?
 15 **A.** Yes.
 16 Q. And the exhibit, which was a summary, was
 17 presented to the public?
 18 **A.** Yes.
 19 Q. Was the information in the exhibit different
 20 from the pro formas that were contained in the 2007
 21 feasibility studies?
 22 **A.** No.
 23 Q. It was consistent?
 24 **A.** It was consistent.
 25 Q. Okay. So if the public wanted to know the

35

1 projections for how the Children's Hospital revenue
 2 would work going forward, they could get that
 3 information from the feasibility studies would be one
 4 resource?
 5 **A.** Yes.
 6 Q. And from your consultants would be another
 7 resource?
 8 **A.** Yes.
 9 Q. And there's no difference in the pro formas
 10 and the projections that were contained therein?
 11 **A.** No difference.
 12 Q. I think you testified, Mr. Valenti, that there
 13 was a tax that was approved to pay for the bonds. Is
 14 that right?
 15 **A.** Yes.
 16 Q. How did that work?
 17 **A.** Property owners would be responsible for
 18 paying a tax that's paid annually.
 19 Q. So some taxes were raised to pay for the
 20 Children's Hospital. Is that right?
 21 **A.** To pay for the construction of the Children's
 22 Hospital.
 23 Q. Were any taxes raised to be a component of the
 24 Children's Hospital revenue?
 25 **A.** No.

36

1 Q. Mr. Valenti, how is the Children's Hospital
 2 governed?
 3 **A.** A board of directors.
 4 Q. When was that board created?
 5 **A.** I believe the board was formed in 2008.
 6 Q. Who formed the board?
 7 **A.** Independent citizens.
 8 Q. The board was composed of independent
 9 citizens. Is that your testimony?
 10 **A.** Yes, citizens.
 11 Q. Who decided who would be on the board?
 12 **A.** Well, it started as an interested group of
 13 citizens.
 14 Q. The citizens met and decided who would be on
 15 the board?
 16 **A.** Well, they -- the -- in the early days of the
 17 formation of the board, the proponents of the
 18 Children's Hospital, such as Sam Legate, John
 19 Guggedahl, a physician, Charlie Gutierrez, a physician,
 20 Sadhana Chheda, physician -- that was the early genesis
 21 of the Children's board.
 22 Q. Did the people you just identified, were they
 23 on the board?
 24 **A.** Yes.
 25 Q. What was UMC's role in selecting the initial

37

1 board members?
 2 **A.** No role.
 3 Q. Did UMC consult with these proponents of the
 4 initial Children's Hospital board about who would be on
 5 the initial board?
 6 **A.** No.
 7 Q. Who was the initial CEO of the Children's
 8 Hospital?
 9 **A.** Larry Duncan.
 10 Q. How was he selected?
 11 **A.** He was hired by the board.
 12 Q. Did UMC have any role in the selection of
 13 Mr. Duncan?
 14 **A.** No.
 15 Q. Did UMC have any role in the recruitment
 16 effort to locate a CEO of the Children's Hospital?
 17 **A.** Yes.
 18 Q. What was that role?
 19 **A.** I served on the search committee to identify a
 20 CEO.
 21 Q. Who was on that committee?
 22 **A.** I don't recall all the members, but Sam Legate
 23 was the chairman, Rosemary Castillo, Dr. Gutierrez,
 24 Dr. Guggedahl. If I recall, there was approximately
 25 eight or nine members.

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1 Q. Did you support the selection of Mr. Duncan as
 2 the initial CEO for the Children's Hospital?
 3 **A. I did.**
 4 Q. Who else do you know of, Mr. Valenti, that has
 5 served on the Children's Hospital board?
 6 **A. Just other members that served on the**
 7 **Children's board?**
 8 Q. Yes.
 9 **A. I'm just recalling from memory and I'm trying**
 10 **to go around the room and look at their faces in my**
 11 **mind, but I mentioned already Sadhana Chheda, I**
 12 **mentioned John Guggedahl. Based upon the board's**
 13 **bylaws, there's 11 members -- at that time there was 11**
 14 **members. So Sadhana Chheda, Mary Lou Camerena, John**
 15 **Guggedahl, Charlie Gutierrez, Sam Legate, Rosemary**
 16 **Castillo. Another board member was Memo Ochoa.**
 17 **Kristen Cox. I'm missing some other board members, but**
 18 **that's what I recall at this specific moment.**
 19 Q. Of the people you just named as having served
 20 on the Children's Hospital board, have any of those
 21 people also been on the board of managers for UMC?
 22 **A. Yes.**
 23 Q. Who?
 24 **A. Sam Legate, Charlie Gutierrez.**
 25 Q. Who else?

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1 **A. Is your question throughout the history of**
 2 **that board?**
 3 Q. Yes. And I understand your testimony was that
 4 the initial Children's Hospital board convened in 2008.
 5 Is that right?
 6 **A. Yes.**
 7 Q. So since 2008.
 8 **A. Since 2008. Let's see. Steve DeGroat served**
 9 **on the Children's board. David Osborn served on that**
 10 **board. Chris Kleberg served on that board. That's all**
 11 **I recall at this moment.**
 12 Q. And these individuals you've just named have
 13 also been on the board of managers at UMC?
 14 **A. No. The ones that had served prior to -- on**
 15 **the board of managers of UMC would have been**
 16 **Steve DeGroat, Charlie Gutierrez, Sam Legate and**
 17 **Rosemary Castillo. David Osborn was the reverse, he**
 18 **was on the Children's board and then served on the UMC**
 19 **board.**
 20 Q. What about Mr. Kleberg?
 21 **A. No, he just served on the Children's board.**
 22 Q. So at one time or another Mr. Legate,
 23 Mr. Gutierrez --
 24 **A. Dr. Gutierrez.**
 25 Q. Thank you.

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1 -- Dr. Gutierrez, Mr. DeGroat, Rosemary
 2 Castillo and David Osborn have both been on the board
 3 of managers for UMC and have also served on the board
 4 for the Children's Hospital?
 5 **A. Not at the same time.**
 6 Q. At different times?
 7 **A. At different times.**
 8 Q. So your answer is yes?
 9 **A. Yes.**
 10 Q. Did any of those individuals serve on the
 11 board of managers at UMC and the Children's Hospital
 12 board at the same time?
 13 **A. I don't believe.**
 14 Q. So did you ever serve on the Children's
 15 Hospital board?
 16 **A. Not in the true sense as a voting board**
 17 **member.**
 18 Q. Were you an ex-officio member of the
 19 Children's Hospital board?
 20 **A. Yes, sir.**
 21 Q. What does that mean?
 22 **A. That means I had no vote, no authority or no**
 23 **responsibility. I would observe and provide input.**
 24 Q. Did you attend Children's Hospital board
 25 meetings?

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1 **A. I did.**
 2 Q. And you provided input at those board
 3 meetings?
 4 **A. Yes.**
 5 Q. What was the last Children's Hospital board
 6 meeting that you attended?
 7 **A. The summer of -- the summer of 2013.**
 8 Q. And prior to that had you regularly attended
 9 the Children's Hospital board meetings as an ex-officio
 10 member?
 11 **A. I did.**
 12 Q. Did you receive copies of the minutes of those
 13 board meetings?
 14 **A. I believe so.**
 15 Q. Did you receive copies of the agendas before
 16 the board meetings?
 17 **A. Yes.**
 18 Q. What kind of input would you provide to the
 19 board at those meetings for the Children's Hospital?
 20 **A. Through the deliberations of the board,**
 21 **occasionally the board chair or others would ask**
 22 **questions or ask for my input.**
 23 Q. On what topics?
 24 **A. Physician recruitment, the operations of the**
 25 **hospital.**

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1 Q. Would operations include revenue?

2 A. Yes. In one occasion, yes.

3 Q. What was that occasion?

4 A. I'm sorry?

5 Q. What was that occasion?

6 A. That occasion was when the Children's Hospital

7 was trying to determine the billing for the hospital.

8 Q. Was it prior to it opening?

9 A. Prior to it opening.

10 MR. SPROUSE: Let's go off the record.

11 (A recess was had.)

12 Q. (By Mr. Sprouse) Mr. Valenti, we're back from

13 a break. I just wanted to clarify a couple of things.

14 I think you had testified that Larry Duncan was the

15 first CEO of the Children's Hospital. Is that right?

16 A. Yes.

17 Q. When was he hired?

18 A. The summer of 2010.

19 Q. And the Children's Hospital had actually been

20 incorporated in 2008. Is that right?

21 A. Yes.

22 Q. So who acted as the CEO between 2008 and the

23 beginning of Mr. Larry Duncan's tenure as CEO in 2010?

24 A. There was no one by that title of CEO. I

25 served -- without compensation I served as a -- if you

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1 will a -- kind of a place holder and doing my full-time

2 position as CEO of UMC. But the title of first CEO was

3 Larry Duncan.

4 Q. With the incorporation of the Children's

5 Hospital in 2008, certain documents I presume were

6 filed with the Secretary of State. Is that right?

7 A. Yes.

8 Q. Do you know if a CEO was identified in those

9 documents?

10 A. I don't believe so.

11 Q. You said that you were a place holder for the

12 Children's Hospital prior to the arrival of Mr. Duncan.

13 What did you mean by "place holder"?

14 A. Some duties that I would perform was the

15 recruitment of physicians. Our plan was to, prior to

16 the opening of the Children's Hospital, recruit

17 physicians so that we would be ready for admissions for

18 the Children's Hospital once it was opened in 2014. So

19 predominantly it was assisting with the recruitment of

20 physicians. That was principally my role with the

21 Children's Hospital.

22 Q. What other planning did you do for the

23 Children's Hospital between 2008 and the arrival of

24 Mr. Duncan in 2010?

25 A. Principally it was the physician recruitment.

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1 There is such a required lead time for physician

2 recruitment, in some specialties it could take two to

3 three years to recruit physicians, so we wanted to get

4 a head start on the physician recruitment. So that in

5 itself was a big undertaking.

6 Q. Mr. Valenti, I think you also testified that

7 UMC makes payments to the Children's Hospital for

8 charity or indigent care. Is that right?

9 A. Yes.

10 Q. And when are those payments made?

11 A. I'd have to consult with my CFO.

12 Q. Do you know how frequently they're made?

13 A. I believe the agreement was once a year. It's

14 that settlement that I talked earlier about.

15 Q. Are funds actually transmitted to the

16 Children's Hospital by UMC for that purpose?

17 A. No.

18 Q. How is it booked?

19 A. It was offset by payment of UMC for residents

20 and medical education. So it was an offsetting

21 approximately -- according to Michael, our CFO, that

22 annual amount was approximately a million a year of

23 charity care. That amount was offset by the amount

24 that UMC would pay, which was approximately a million,

25 too. Not T-W-O. T-O-O.

45

1 Q. Was an accounting of the offset provided to

2 the Children's Hospital?

3 A. I'd have to consult with my CFO.

4 Q. Do you have any recollection of that at all?

5 A. I don't.

6 Q. If I were to make a request through counsel

7 for Mr. Nunez to find that information, do you believe

8 he would have it?

9 A. I believe he would have it, yes.

10 MR. STRUBECK: We'll ask -- I'll make it

11 easy. We'll ask.

12 MR. SPROUSE: Thank you.

13 Q. (By Mr. Sprouse) Mr. Valenti, you also

14 testified this morning about the revenue assumptions

15 through pro formas and the feasibility study of 2007.

16 Isn't that right?

17 A. Yes.

18 Q. What were the revenue assumptions in that

19 feasibility study?

20 A. I can't recall.

21 Q. Do you recall anything?

22 A. In general the way pro formas or feasibility

23 studies would be built would be looking at the patient

24 need. The patient need would then be translated to

25 patient volume that would be anticipated or projected.

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1 Then the patient volume would then be projected into
 2 revenues.
 3 Q. What would the source of the revenues be?
 4 A. Source of revenues would be patient revenues.
 5 Patient revenues would encompass principally Medicaid
 6 reimbursement, commercial insurance. Those are two of
 7 the principal areas of payment or patient population.
 8 Q. What else besides Medicaid and insurance?
 9 A. There are smaller percentages of, I'm sure,
 10 some forms of government through military and in some
 11 very small cases Medicare. We think of Medicare as the
 12 reimbursement for senior citizens, but there are some
 13 programs that are -- with disabilities for children
 14 that are covered under Medicaid and Medicare together.
 15 But those are the large areas of -- that comprise the
 16 patients.
 17 Q. Were those categories treated in the 2007
 18 feasibility study?
 19 A. I don't recall.
 20 Q. Do you recall if any of those categories were
 21 treated in the feasibility study?
 22 A. I suspect so, but I can't recall because, you
 23 know, I didn't prepare those; however, when doing a pro
 24 forma, you would look at it, the revenue and the
 25 patient population, by payor class. That was very

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1 standard. I'm sure that was done in this case, but I
 2 just can't recall.
 3 Q. And by "payor class" are you referring to
 4 Medicaid insurance, government and Medicare?
 5 A. Yes.
 6 Q. I believe it was your testimony with regard to
 7 the bond funds that that was \$120 million. Is that
 8 right?
 9 A. 120 million.
 10 Q. Yes. And those funds were used to pay for the
 11 construction costs for the Children's Hospital. Is
 12 that right?
 13 A. That's correct.
 14 Q. Did any portion of the bond funds go to the
 15 Children's Hospital working capital?
 16 A. No, sir.
 17 Q. Was any of it earmarked for that purpose?
 18 A. No.
 19 Q. Did any of the bond funds go to IT or
 20 equipment purchased or leased for the Children's
 21 Hospital?
 22 A. IT, no. Some medical equipment was included
 23 in the 120 million.
 24 Q. What equipment was included?
 25 A. I can't recall.

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1 Q. Was it any significant portion of the
 2 \$120 million?
 3 A. Well, in the -- let's see. Some of the
 4 equipment would be -- in building the Children's
 5 Hospital, it would be like furniture, beds, probably IT
 6 equipment in the closets that would be fixed to the
 7 building, ancillary equipment, that would be ancillary
 8 department equipment, but I can't give you any
 9 specifics really.
 10 Q. Just so I'm clear, Mr. Valenti. Did you say
 11 that the bond funds were or were not used to fund the
 12 acquisition of IT equipment for the Children's
 13 Hospital?
 14 A. Yeah, there's two opponents for IT equipment.
 15 One component was paid out of UMC reserves, the
 16 software, the hardware IT equipment.
 17 The second classification of IT equipment
 18 would be, you know, actually the wiring in the
 19 building, I believe some of the junctions, the IT
 20 junctions that would be in the building.
 21 So those two classes of IT equipment, one
 22 sponsored and paid for by UMC, the one -- the second
 23 example would be -- have been included in the bond
 24 issue.
 25 Q. That's the wiring and junctions?

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1 A. Yes.
 2 Q. Who else has been a CEO of the Children's
 3 Hospital?
 4 A. There's been, I believe, four CEOs at the
 5 Children's Hospital. You asked who?
 6 Q. Yes.
 7 A. We have -- Ray Dzieszinski was CFO, then
 8 CFO/CEO. He was hired originally to be the CFO, then
 9 was promoted a week later after his appointment to
 10 CEO/CFO. He was the second one. The third one would
 11 have been -- the third CEO was Jim Sexton through a
 12 contract management company served as CEO. And then
 13 after Jim Sexton was the current CEO, chief
 14 restructuring officer/CEO, Mark Herbers.
 15 Q. Did UMC have any role in the selection of
 16 Mr. Dzieszinski as the CEO of the Children's Hospital?
 17 A. No.
 18 Q. Did UMC have any role in Mr. Dzieszinski's
 19 departure from the Children's Hospital?
 20 A. No.
 21 Q. Did UMC have any role in the selection of
 22 Mr. Sexton as the CEO of the Children's Hospital?
 23 A. I met Mr. Sexton and -- I just met Mr. Sexton.
 24 Q. Prior to him being hired?
 25 A. I just can't recall.

50

1 Q. Did you interview him?

2 A. I had a meeting with him.

3 Q. Did that --

4 A. But I can't recall if it was -- if he was

5 already hired or if it was before hire status. I just

6 can't recall.

7 Q. What did you talk to Mr. Sexton about?

8 A. I just spoke to him about his -- I talked to

9 him about the community of El Paso. I talked to him

10 about the campus. I talked to him about just in

11 general terms the Children's Hospital. I asked -- I

12 talked to him about his career in just general terms.

13 It was an introductory conversation.

14 Q. Mr. Valenti, we talked about the Children's

15 Hospital opening its doors on February 14th of 2012.

16 Is that right?

17 A. Yes.

18 Q. And you were there, weren't you?

19 A. I was.

20 Q. Was there a ceremony?

21 A. Huge ceremony.

22 Q. I presume the media was present?

23 A. It was quite an event.

24 Q. In the days prior to the opening of the

25 Children's Hospital, the Children's Hospital and UMC

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1 entered into a series of agreements. Isn't that right?

2 A. Yes.

3 Q. What were those agreements?

4 A. There's a multitude of agreements. One was a

5 lease agreement, administrative services agreement,

6 there was a working capital agreement, a preopening

7 cost agreement. There were several small agreements

8 about at the opening time sharing of employees back and

9 forth between Children's and UMC. Those are small,

10 short-term in nature. I may be missing one or another

11 agreement, but I can't recall that.

12 Q. Was there a master agreement?

13 A. The administrative or the master agreement.

14 Q. What did the master agreement pertain to?

15 A. The master agreement covered the services that

16 would be provided by UMC to Children's Hospital.

17 Q. And just so I understand. There were also

18 separate agreements for those services, were there not?

19 A. My understanding it's -- my understanding is

20 that there were -- I would call them chapters and there

21 could be about 15 different chapters which are

22 department specific that would roll up to I think what

23 we're both calling the -- you're calling the master

24 services agreement or I'm calling the administrative

25 services agreement. I think that's one and the same.

52

1 But that would be comprised of -- this is an

2 approximation. I'm saying 15, it's not a definitive.

3 It's approximately 15 services that UMC would provide

4 for Children's.

5 Q. Was there an interim equipment agreement?

6 A. I don't recall.

7 Q. Do you recall a diagnostic image services

8 agreement?

9 A. I think that was part of the master or the

10 administrative services agreement.

11 Q. Do you recall a laboratory services

12 independent contractor agreement?

13 A. That would have been what I'm referring to as

14 one of the chapters.

15 Q. There are several agreements between UMC and

16 the Children's Hospital that were executed prior to the

17 Children's Hospital opening. Isn't that right?

18 A. That's correct.

19 Q. Who signed those agreements on behalf of UMC?

20 A. I did.

21 Q. Who signed the agreements on behalf of the

22 Children's Hospital?

23 A. Larry Duncan.

24 Q. Mr. Valenti, how were the agreements

25 negotiated?

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1 A. Both management teams had independent advisors

2 and consultants and their own management evaluating

3 their individual needs at the Children's Hospital and

4 then our team would evaluate what services we could

5 provide. So it was both teams defining what services

6 were needed and then the scope of those services.

7 But the needs were defined by the

8 Children's management team. I suspect in some cases

9 they consulted with their employees at Children's

10 Hospital and their physicians as to what scope of

11 services would be needed.

12 I know they were being advised by their

13 own legal counsel, separate counsel. Also they were

14 being advised by their separate independent

15 reimbursement person or company. It was a large

16 undertaking.

17 Q. Were you involved in those negotiations?

18 A. In a very general way. I delegated most of

19 the scope and the terms and the pricing to my

20 management team and my chief financial officer.

21 Q. It was you who ultimately signed these on

22 behalf of UMC?

23 A. Yes.

24 Q. So you were satisfied with their contents?

25 A. Yes.

54

1 Q. You've spoken to this a little bit, but who at
 2 the Children's Hospital was negotiating the agreements
 3 on its behalf?
 4 A. The managers of the -- of Children's Hospital,
 5 the directors of Children's Hospital, chief financial
 6 officer, their legal officer, their reimbursement,
 7 their chief financial officer, those are the
 8 individuals that were negotiating for Children's
 9 Hospital. In addition I'm sure they hired consultants
 10 to help them with that exercise.
 11 Q. And who at UMC was leading the negotiation
 12 efforts?
 13 A. It was my CFO and CEO -- CFO, my chief
 14 operating officer and also our chief legal officer, all
 15 three of those were involved in the negotiations. They
 16 were supported by department managers and department
 17 directors of the specific services that rolled up into
 18 the master services agreement.
 19 Q. And I think you mentioned UMC was represented
 20 by counsel in those negotiations?
 21 A. Our chief legal officer. Eddie Sosa is our
 22 chief legal officer and he's a county attorney,
 23 assistant county attorney.
 24 Q. Did UMC have outside counsel?
 25 A. I don't believe so for the administrative or

55

1 the master services agreement.
 2 Q. I think you testified that the Children's
 3 Hospital was also represented by counsel. Is that
 4 right?
 5 A. Yes.
 6 Q. Who was that?
 7 A. This is going to be a memory jogger. Jill
 8 Vogel and Jim Sorenson were some of the early attorneys
 9 on -- that were contracted with to assist the
 10 Children's in negotiating. The Children's Hospital,
 11 the Children's board contracted with those attorneys to
 12 negotiate and represent the Children's Hospital.
 13 Q. Where did Ms. Vogel work?
 14 A. Kemp Smith. It's a local law firm.
 15 Q. Do you know who hired Kemp Smith?
 16 A. The Children's board and Sam Legate, the
 17 chairman.
 18 Q. Did UMC have any role in the selection of
 19 Kemp Smith?
 20 A. No.
 21 Q. Who did Mr. Sorenson work for?
 22 A. Kemp Smith.
 23 Q. Has Kemp Smith done any work for UMC?
 24 A. Yes.
 25 Q. When was that?

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1 A. This is not going to be a complete listing,
 2 this is just what I recall. Kemp Smith -- a partner in
 3 Kemp Smith represents the board with executive
 4 compensation, executive agreement.
 5 Q. Is that today -- to this day?
 6 A. Yes.
 7 Q. How long has Kemp Smith performed that
 8 function for the UMC board?
 9 A. I'd say approximately 2005 forward.
 10 Q. What else has Kemp Smith done for UMC?
 11 A. I can't recall any other services. It doesn't
 12 mean that there isn't any, I just can't recall.
 13 Q. Do you know the name of the Kemp Smith
 14 attorney that does the executive compensation work for
 15 UMC?
 16 A. Yes, Gene Wolf.
 17 Q. Anybody else?
 18 A. No.
 19 Q. For the agreements we've identified, Mr.
 20 Valenti, do you recall the changes that the Children's
 21 Hospital requested be made for those agreements before
 22 they were executed?
 23 A. Are you referring to the negotiations?
 24 Q. Yes.
 25 A. There were -- we started the process of

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1 negotiations the summer of 2011. Both hospital teams
 2 entered in the processes. It's quite involved with
 3 that many services. It's -- for scope and complexity,
 4 so it was just imperative that we started working on
 5 those. I think conceptually we were looking at those
 6 early in 2011 and then committed to a process in the
 7 summer of 2011 that concluded with the execution of the
 8 agreements.
 9 Q. Were all the differences between the parties
 10 with respect to the agreements resolved by the time
 11 they were executed by the parties?
 12 A. Yes.
 13 Q. Have the agreements been amended?
 14 A. I don't think I can really answer in the
 15 formal sense of amended. Subsequently to that
 16 agreement, there's the foreclosure -- foreclosure --
 17 forbearance agreements -- I'm sorry -- forbearance
 18 agreements. And then there also was an exercise of the
 19 two management teams in 2013 and to 2014 to reduce the
 20 scope when Children's Hospital was in financial
 21 difficulties. I know both management teams relooked at
 22 the scope of the services and sought to see any
 23 reductions of scope or services in order to save
 24 dollars, save expenses, for Children's Hospital -- for
 25 the benefit of Children's.

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1 So amendment, I can't really answer that.
 2 I can't answer that definitively if there was an
 3 amendment to an agreement.
 4 Q. I think you testified there were negotiations
 5 to reduce the scope of the services under the
 6 agreements in 2013. Is that right?
 7 A. 2013, we looked at -- this was at the --
 8 towards the end of 2013. At that time Larry Duncan and
 9 the board of Children's Hospital was putting in a
 10 restructuring plan to address their expenses and their
 11 revenue shortfalls and in that restructuring plan, we
 12 were assisting -- UMC was assisting -- in fact we
 13 initiated that process with Children's to assist with
 14 what services or scope of services we could reduce to
 15 assist Children's in reduction of expenses.
 16 Q. Were you involved in that effort?
 17 A. Very superficially.
 18 Q. Who was taking the lead on behalf of the
 19 UMC --
 20 A. My CFO and my chief operating officer and
 21 chief legal officer.
 22 Q. Mr. Valenti, it's my understanding that
 23 pursuant to the agreements, UMC provides certain
 24 services to the Children's Hospital. Is that true?
 25 A. Yes, sir.

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1 Q. And UMC charges the Children's Hospital for
 2 those services?
 3 A. Yes, sir.
 4 Q. It's also my understanding that the charges
 5 are based upon actual cost to UMC plus an
 6 administrative fee. Is that right?
 7 A. That's correct.
 8 Q. And the administrative fee can be up to five
 9 percent?
 10 A. That's my understanding.
 11 Q. Just so we're clear, what do you mean when
 12 we're saying "actual costs"?
 13 A. It would be the costs -- the direct costs,
 14 indirect costs, any appropriate overhead that's
 15 associated with providing that service. That's what I
 16 would refer to as costs.
 17 Q. What is the administrative fee designed to
 18 address?
 19 A. Up to the five percent, at any -- there are so
 20 many other aspects of services provided in addition to
 21 that direct department overhead cost, such as the
 22 management over that entire area, the legal officer,
 23 other overhead that would be just a small nominal
 24 figure of a percentage.
 25 The IT. You know, there's a little

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1 piece -- there's a lot of overhead in hospitals, so a
 2 little portion of all those costs or those services
 3 provided, we approximated that and it was agreed upon
 4 by the Children's Hospital and UMC as an appropriate
 5 amount.
 6 Q. Did you testify that the actual costs includes
 7 overhead?
 8 A. Yes.
 9 Q. And the administrative fee addresses other
 10 overhead?
 11 A. Yes. I would determine the direct and
 12 indirect and overhead costs are department specific as
 13 in -- as in ABC department. So those are specifically
 14 contained in that department. Then there's overhead
 15 above that which would entail management, legal, all
 16 other services. And those -- that entire relationship
 17 was -- was approved by both management teams as being
 18 appropriate. In the industry you could see that figure
 19 25 to 40 percent.
 20 Q. Instead of five percent?
 21 A. Instead of five percent, as an example.
 22 Q. Who determines the actual costs for these
 23 agreements?
 24 A. The costs would be a factor of the scope of
 25 services requested by Children's management, their

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1 physicians, their associates, and that would be related
 2 into what UMC could provide. So the costs were
 3 determined by both management teams, you know, working
 4 together, what Children's would want for services,
 5 would request for services, and then we provided those
 6 services and at a cost.
 7 Children's at every time had the ability
 8 to go on the open market for some of these services.
 9 We -- our mission was to give them a very fair -- give
 10 them a very negotiated fair pricing for the services.
 11 Q. Mr. Valenti, I understand that Children's
 12 Hospital would request the services and UMC would
 13 provide the services, so I understand that, but I'm
 14 trying to understand exactly who determines what the
 15 actual costs are for those services.
 16 A. The department managers. I gave the example
 17 of approximately 15 departments. So that department
 18 manager would be working with their chief, whether it's
 19 our CFO or chief operating officer, and they would work
 20 as a team to arrive at, "These are the services that
 21 are being requested from Children's and then these
 22 would be the corresponding costs or prices for those
 23 services."
 24 They would bill those services based upon
 25 what supplies or what labor would be comprised of the

<p style="text-align: right;">62</p> <p>1 total price. That's how it was put together in general 2 terms. 3 Q. Sure. So UMC personnel calculated the actual 4 costs for the services provided. 5 A. Yes. 6 Q. Were the actual costs ever reviewed and 7 adjusted by UMC? 8 A. I think it was a -- I believe it was a very 9 dynamic process of -- by department. If you can 10 imagine given a nine-month process before the 11 Children's opened up and so many different departments 12 of joint services, there was a lot of dynamic 13 discussions and deliberations between both management 14 teams. 15 Q. After the agreements were executed, were the 16 actual costs reviewed and adjusted by UMC? 17 A. Yes. The answer is yes. 18 Q. When did that take place? 19 A. The summer of -- the summer of 2014. Both 20 management teams -- there were two episodes of that. 21 The one I just referred to is the summer of 2014, that 22 was initiated by Ray Dziesinski with both management 23 teams. On my side would be my chief operating officer 24 and my chief financial officer. So both teams. 25 The charge from both boards was to look</p>	<p style="text-align: right;">64</p> <p>1 Children's and doing without services. 2 It's almost a zero-based budgeting 3 process where the Children's team absolutely tried to 4 identify what was the barebones of needs for the 5 Children's Hospital. 6 Q. You've testified, Mr. Valenti, as to the 7 calculation of actual costs being related to what it 8 cost UMC to provide the services for the various 9 components of the agreements. Is that right? 10 A. Yes. 11 Q. And there's also a facility lease. Isn't that 12 right? 13 A. That's correct. 14 Q. Does UMC have actual costs related to the 15 property that's subject to the facility lease? 16 A. Yes. 17 Q. What are those? 18 A. We have a building. The building requires, 19 you know, utilities and maintenance and upkeep. 20 Q. It's my understanding that Children's Hospital 21 pays UMC for the utilities. Is that correct? 22 A. That's correct. Well, they don't pay -- I 23 mean there's been very little payment to UMC. So I 24 would have to ask Michael Nunez, my CFO, on actually 25 what they have paid, because there just hasn't been a</p>
<p style="text-align: right;">63</p> <p>1 at the inventory of services that are provided from UMC 2 to Children's and to look at every absolute way of 3 either reducing scope of services or reducing expenses. 4 So that process took place the summer of '14. 5 During -- the other episode was during 6 December and January, December of 2013 and January of 7 2014, Children's had initiated a restructuring plan and 8 out of our own initiative, we came to Children's and 9 tried to reduce services. They were having -- at that 10 point in time struggling to make payments to UMC and so 11 we were doing everything on our part to try to reduce 12 services and reduce their flow of expenses. 13 So there was two episodes or two 14 instances where that process took a formal process. 15 Q. Mr. Valenti, I understand the notion of 16 reducing services, so if I'm receiving fewer services, 17 I don't pay as much. 18 A. Absolutely. 19 Q. So was there a component of those negotiations 20 also that had to do with what UMC was charging the 21 Children's Hospital irrespective of the volume of 22 services? 23 A. They're all interlinked, the price, the scope. 24 The management teams looked at every possibility of 25 reducing the expenses or in that case the price to</p>	<p style="text-align: right;">65</p> <p>1 lot of payment to UMC. 2 Q. It's the position of UMC that the Children's 3 Hospital owes UMC an amount for an allocation of 4 utilities? 5 A. That's correct. 6 Q. So that amount, is that a component of the 7 lease? 8 A. I believe it's considered an add-on to the 9 lease. 10 Q. And you mentioned maintenance of the physical 11 building. What are the UMC actual costs for that 12 maintenance? 13 A. I'd have to -- I can't -- I don't know that 14 answer. I'd have to consult with my CFO or my 15 operations or my engineer. 16 Q. Has that been calculated? 17 A. I would expect so, yes. 18 Q. Is that actual cost for maintenance a 19 component of what's being charged under the lease? 20 A. I believe that's part of the lease. I believe 21 the add-on services are the utilities and the guest 22 services, which is like security. A definitive answer 23 I would have to consult with my CFO and my COO. 24 Q. Mr. Valenti, were the payment obligations of 25 the Children's Hospital under the facility lease</p>

<p style="text-align: right;">66</p> <p>1 related to the fair market value of that space?</p> <p>2 A. That sounded to me like a statement. Was that</p> <p>3 your statement?</p> <p>4 MR. SPROUSE: Reporter, can you ask that</p> <p>5 question again, please.</p> <p>6 (The Court Reporter read back.)</p> <p>7 A. Yes.</p> <p>8 Q. (By Mr. Sprouse) What is the relationship</p> <p>9 between the fair market value of that space and the</p> <p>10 actual costs to UMC for that space?</p> <p>11 A. The Children's Hospital and Children's</p> <p>12 management team and the UMC management team both -- to</p> <p>13 obtain fair market value, both obtained independent</p> <p>14 appraisals. Those appraisals were received. They were</p> <p>15 separate independent appraisals and within that range</p> <p>16 of appraisal value, a price that was arrived at within</p> <p>17 those values of the appraisals. That's how we achieved</p> <p>18 the fair market value for the price per square foot for</p> <p>19 the building for Children's to pay UMC.</p> <p>20 MR. SPROUSE: I'm going to object to that</p> <p>21 answer as being nonresponsive.</p> <p>22 Q. (By Mr. Sprouse) Mr. Valenti, my question is</p> <p>23 this. How does the fair market value of the space</p> <p>24 under the facility lease relate to the actual costs to</p> <p>25 UMC for that space?</p>	<p style="text-align: right;">68</p> <p>1 tied to fair market value. Is that true?</p> <p>2 A. Repeat that again.</p> <p>3 Q. For the services that are billed pursuant to</p> <p>4 the agreements to the Children's Hospital, those</p> <p>5 charges may or may not be related to fair market value?</p> <p>6 A. In some cases it would be -- I think in many</p> <p>7 cases it would be a very comparable or even below</p> <p>8 market. We always encouraged the Children's Hospital</p> <p>9 to seek other bids from other outside companies if they</p> <p>10 could advantage themselves to either more services for</p> <p>11 less price. And so from our understanding that always</p> <p>12 concluded that the prices we provided were very low and</p> <p>13 below from what you could get an outside vendor to give</p> <p>14 or to provide. So it was economical for the</p> <p>15 administrative services.</p> <p>16 Q. Economical to the Children's Hospital?</p> <p>17 A. To the Children's Hospital -- to benefit the</p> <p>18 Children's Hospital.</p> <p>19 Q. So with respect to those services, UMC</p> <p>20 calculated the actual values of those services instead</p> <p>21 of going and determining what the fair market value of</p> <p>22 those services might be. Is that right?</p> <p>23 A. Yes. We built the costs -- we built the costs</p> <p>24 from the direct, indirect and overhead. We -- my chief</p> <p>25 operating officer through conversations in some</p>
<p style="text-align: right;">67</p> <p>1 A. Well, the fair market value would be</p> <p>2 reflective under the services that are provided. The</p> <p>3 fair market value would be reflective of the market for</p> <p>4 providing lease space in our -- on our premises.</p> <p>5 Q. Do you believe that fair market value and</p> <p>6 actual costs for the space subject to the facility</p> <p>7 lease are the same?</p> <p>8 A. I don't know.</p> <p>9 Q. Who would know?</p> <p>10 A. I guess in the fair market value -- from a</p> <p>11 fair market value perspective, as an example of a fair</p> <p>12 market value of a house, that's the market conditions,</p> <p>13 what the market conditions would, you know, approximate</p> <p>14 what would be the value of that property, similar to</p> <p>15 the hospital.</p> <p>16 Q. Mr. Valenti, I think you've testified as to</p> <p>17 the other services provided by UMC to the Children's</p> <p>18 Hospital, the Children's Hospital was billed for a</p> <p>19 combination of actual costs plus an administrative fee.</p> <p>20 Is that right?</p> <p>21 A. On the master services agreement, it was the</p> <p>22 actual costs plus the administrative -- the five</p> <p>23 percent, yes.</p> <p>24 Q. So for those services the amount that is</p> <p>25 billed to the Children's Hospital may or may not be</p>	<p style="text-align: right;">69</p> <p>1 respects it would be hard for the Children's</p> <p>2 Hospital -- it would be difficult for the Children's</p> <p>3 Hospital to get a better economical deal on some of</p> <p>4 these services.</p> <p>5 Q. So with respect to the lease, why was fair</p> <p>6 market value used instead of the actual costs to UMC</p> <p>7 for that space?</p> <p>8 A. Well, that goes back to the original</p> <p>9 arrangement is that it's a separately licensed</p> <p>10 independent children's hospital. We are a separate</p> <p>11 organization, a public institution, nonprofit and so in</p> <p>12 order to provide space to a nonprofit, it would be</p> <p>13 expected to have a lease and a lease payment that's</p> <p>14 substantiated and based upon a fair market appraisal.</p> <p>15 Those two appraisals were independently</p> <p>16 arrived at by separate firms initiated by the two</p> <p>17 separate teams, Children's receiving and contracting</p> <p>18 for one appraisal, UMC the same. This was the</p> <p>19 arrangement that was approved at the commissioners</p> <p>20 court that there would be an appraisal, there would be</p> <p>21 a lease and that was the concept.</p> <p>22 And that was the concept from inception</p> <p>23 because an entity such -- all entities in business, you</p> <p>24 would expect to have a lease. We know we can't just</p> <p>25 lease. You know, we would be expecting to have any of</p>

<p style="text-align: right;">70</p> <p>1 our property be leased. If it's leased, it would be 2 paid and represented and substantiated by fair market 3 value. I remember precisely the county judge at that 4 time asking me that question.</p> <p>5 Q. Is your understanding of fair market value for 6 a lease, would that include a component of profit for 7 the landlord?</p> <p>8 A. Not to my understanding. I think the lease 9 would be a portion of the -- of course the 10 depreciation, the repairs, the upkeep, then the add-on 11 services.</p> <p>12 Q. So your understanding of a fair market value 13 of a lease would be what it would take for the landlord 14 to break even on all the components you just mentioned?</p> <p>15 MR. STRUBECK: Object to that question 16 because I think it misstates his prior testimony.</p> <p>17 Q. (By Mr. Sprouse) You can answer.</p> <p>18 A. State it again.</p> <p>19 Q. Your understanding of the fair market value of 20 the lease would be the amount of money it would take in 21 essence for the landlord to break even for the 22 categories you just testified to?</p> <p>23 A. It would cover the depreciation, it would 24 cover the repairs, the upkeep and that would compensate 25 the -- Children's would compensate the -- Children's is</p>	<p style="text-align: right;">72</p> <p>1 A. It's a shell floor for expansion. For 2 Children's Hospital expansion.</p> <p>3 Q. Is the Children's Hospital using the eighth 4 floor now?</p> <p>5 A. They may be for storage of items, but I'm not 6 certain, like supplies or maintenance items. I'm not 7 certain.</p> <p>8 Q. Is the Children's Hospital paying for the 9 eighth floor under the current version of the facility 10 lease?</p> <p>11 A. When you say "the current version," I'm not 12 certain. I know what you're asking, but I'm not 13 certain.</p> <p>14 Q. Who would know?</p> <p>15 A. Michael Nunez and our chief operating officer.</p> <p>16 Q. Mr. Valenti, prior to the Children's Hospital 17 opening in 2012, there were years of planning that led 18 up to the opening of the Children's Hospital. Isn't 19 that right?</p> <p>20 A. Yes.</p> <p>21 Q. And you were involved in that planning?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Did UMC want the Children's Hospital to 24 succeed?</p> <p>25 A. Absolutely.</p>
<p style="text-align: right;">71</p> <p>1 paying that lease amount and in turn that lease amount 2 would help cover those components.</p> <p>3 Q. Is the amount charged to Children's Hospital 4 under the facility lease sufficient to cover the 5 components you just testified to?</p> <p>6 A. Yes.</p> <p>7 Q. Is it more than enough to cover the components 8 you just testified to?</p> <p>9 A. No.</p> <p>10 Q. So that's a break-even lease then, isn't it?</p> <p>11 A. I can't -- I don't know if it's called a 12 break-even lease. I don't have that ability to answer 13 that. I know it's a fair market lease.</p> <p>14 (A recess was had.)</p> <p>15 Q. (By Mr. Sprouse) Mr. Valenti, we're back from 16 a break. On the lease I think we've talked about it 17 encompassing space that includes the sixth through the 18 tenth floors. Is that right?</p> <p>19 A. It's more than the sixth through the tenth 20 floors. It's the north building, lower level, first, 21 second floors. It's about 225,000 square foot 22 approximately.</p> <p>23 Q. Is the eighth floor included in the lease?</p> <p>24 A. I don't know for certain.</p> <p>25 Q. What's on the eighth floor?</p>	<p style="text-align: right;">73</p> <p>1 Q. What steps did UMC take to make sure the 2 Children's Hospital succeeded?</p> <p>3 A. We -- one of the first items is that we have a 4 very caring and knowledgeable and compassionate 5 workforce. Out of the 300 associates that started the 6 Children's Hospital, 200 of the 300 of the associates 7 were UMC associates that we transferred to the 8 Children's. That was one component of the planning.</p> <p>9 In addition, to build a hospital -- or to 10 open a hospital, there's many policies and procedures 11 and those items were shared with the Children's 12 Hospital, as well as many of the management of the 13 Children's Hospital helped with the policies and 14 procedures of the Children's Hospital to get it started 15 and to get the departments rolling.</p> <p>16 So it was a very involved effort by my 17 management team. In essence my management team and 18 myself did double duty of helping with the planning for 19 the opening of the Children's Hospital.</p> <p>20 At the middle of 2010, when Mr. Duncan 21 was hired, he began building his own team, his own 22 management, his own separate management team and along 23 with their separate independent board and creating the 24 plans, department by department, for the hospital to 25 open on February 14th of 2012. It was a quite exciting</p>

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1 time, a lot of activity, a lot of long days.

2 Q. I presume also that UMC wanted the Children's

3 Hospital to succeed financially. Is that right?

4 A. Absolutely.

5 Q. What steps did UMC make to make sure that the

6 Children's Hospital succeeded financially?

7 A. Well, number one, we had very successful

8 pediatric units. Those successful units we transferred

9 to the Children's Hospital. That provided a core

10 business department from the various pediatric service

11 lines from pediatric intensive care to neonatology to

12 pediatric general nursing units, then all the

13 ancillaries. So we were able to transfer it.

14 Quite frankly, it was a very successful

15 and it was a very important division of UMC that we

16 transferred to the Children's to ensure that they

17 started out with a running start in their opening and

18 existence.

19 So we did a huge effort to get the

20 Children's Hospital on a good track, a good track of

21 their beginning existence.

22 Q. Did the transfer of those pediatric units

23 relate to anticipated finances for the Children's

24 Hospital?

25 A. What do you mean by "anticipated finances"?

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1 Q. Well, topically what we're discussing is the

2 financial ability of the Children's Hospital to meet

3 its obligations going forward.

4 A. For revenue and expenses?

5 Q. Yes.

6 A. Yes, we transferred those service lines, those

7 departments, to Children's.

8 Q. How does that relate to revenue?

9 A. Each of those departments would have patient

10 revenues. Those patient revenues were transferred

11 essentially to Children's Hospital. Children's

12 Hospital would then continue to grow those services.

13 Q. Mr. Valenti, does UMC have access to the

14 Children's Hospital financial information?

15 A. No.

16 Q. Has it had access to that information in the

17 past?

18 A. Well, when you say -- let's define that

19 "access." We rely on their financial statements.

20 Their monthly statements were very spotty. There were

21 many times monthly statements were not available. I

22 know my CFO commented that the last monthly statements

23 he had was, I think, August or September of 2013. I

24 know that the finance committee of Children's met

25 sporadically so -- and in fact I don't believe the

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1 finance committee has met in the last year, in excess

2 of a year.

3 So I do know from my CFO there would be

4 times when the finance committee of Children's met and

5 only my CFO and an ex-officio board member of UMC was

6 at the finance committee.

7 Q. Who's on the finance committee?

8 A. This is just a recollection of what I can

9 recall. The CEO and CFO of the Children's Hospital,

10 John Guggedahl was the chair of the -- is the chair of

11 the finance committee. I don't know the other members

12 of that committee. I know Michael Nunez attended. I

13 don't know if he was officially a member of that

14 committee. I know an ex-officio board member of UMC

15 was on the finance committee, but I don't know if they

16 were technically on the committee. They attended the

17 committee.

18 Q. Who is that?

19 A. That would have been Mr. Bill Hanson.

20 Q. And we're talking about the finance committee

21 for the Children's Hospital?

22 A. Yes, sir.

23 Q. It's my understanding that UMC and the

24 Children's Hospital share certain computer servers.

25 Are you aware of that?

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1 A. That's correct.

2 Q. Has UMC ever sought or looked at financial

3 information at the Children's Hospital by virtue of its

4 access to the server?

5 A. I don't believe so.

6 Q. Does UMC -- let me strike that.

7 Is there a difference between

8 charitable --

9 A. I have a question. When you say "strike

10 that," what does that mean?

11 Q. It means I got off on the right track and I'm

12 going to start over.

13 A. Okay.

14 Q. I want to ask good questions.

15 A. Okay.

16 MR. STRUBECK: You have been so far.

17 Q. (By Mr. Sprouse) Mr. Valenti, is there a

18 difference between charitable donations and

19 philanthropic donations?

20 A. I'm not a Foundation executive and so I can't

21 really answer that.

22 Q. Well, I'm trying to find a common nomenclature

23 here. If we're going to talk about money that's

24 contributed to UMC, what word do you use?

25 A. We would call it through our Foundation, you

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1 know, Foundation funds, contributions, donations.

2 Q. And how does UMC receive such donations?

3 A. We have a UMC Foundation. It's been

4 successful. It represents various chapters of interest

5 in giving from drowning prevention all the way through

6 UMC nursing scholarships, UMC activities and the

7 Children's Hospital. So the Foundation is 100 percent

8 supported by UMC and it raises funds. Predominantly

9 80 percent of the funds out of the Foundation go to

10 support Children's Hospital, which I might add is that

11 close to 100 percent of the costs of that Foundation is

12 borne by UMC.

13 I think there's perhaps one position out

14 of 11 positions at the Foundation that's supported by

15 the Children's Hospital budgets. I don't know if

16 they're paying for that person, but in essence that's

17 kind of the structure of the Foundation. So we have

18 numerous -- I want to say about a dozen different

19 chapters within the Foundation of which the primary one

20 is the El Paso Children's chapter, all funds can be

21 earmarked and provided to Children's.

22 Q. They're earmarked as they're donated?

23 A. Yes, sir.

24 Q. I think you mentioned 11 people?

25 A. Approximately.

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1 Q. And those -- it's 11 people work at the UMC

2 Foundation. Is that right?

3 A. Approximately, yes, sir.

4 Q. It's your understanding that all of them are

5 paid by UMC?

6 A. All except -- all of them are -- all of them

7 are UMC associates. I believe one associate -- even

8 though they're a UMC associate, one associate is paid

9 for through funds through the Children's Hospital. I

10 don't know if actual funds have been paid or if this is

11 part of the outside balance that's owed to UMC.

12 Q. So if a person or entity wants to donate to

13 the Children's Hospital, they would do so through the

14 UMC Foundation. Is that right?

15 A. Yes, but they -- in fact I'm -- I have

16 provided funds and when I write my check, it's UMC

17 Foundation and then I put on top Children's Hospital,

18 El Paso Children's Hospital. So there's a -- citizens

19 can provide checks that are, you know, UMC

20 Foundation/El Paso Children's Hospital.

21 Q. So that's an example of the earmarking that

22 you testified to?

23 A. Yes, sir.

24 Q. Mr. Valenti, there have been pleadings made in

25 the bankruptcy case that state that UMC has a claim or

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1 will file a claim against the Children's Hospital. Are

2 you aware of that?

3 A. UMC is going to file a claim?

4 Q. Yes.

5 A. Can you be more specific what you mean by

6 "claim"?

7 Q. UMC believes that Children's Hospital owes UMC

8 money.

9 A. Yes. Yes. I'm sorry.

10 Q. And I'll call that the claim, if we can have

11 that understanding.

12 A. Yes, sir. I'm with you.

13 Q. What are the --

14 A. We have a sizable claim.

15 Q. Yes. And I've read that it's approximately

16 \$100 million. Are you familiar with that figure?

17 A. I think it's actually 102 million.

18 Q. What are the constituent parts of the claim?

19 A. That claim would be the agreements that we

20 discussed about an hour ago.

21 Q. Who's calculating that claim today?

22 A. Annually, both CFOs, with their auditing

23 firms, sign off on the amounts that are due. They're

24 certified by both CFOs -- and they have been for the

25 last three years -- and their auditing firms. Those

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1 amounts have been -- the recordkeeping has been

2 provided independently through both hospital financial

3 records and financial teams.

4 Q. Will UMC's claim against the Children's

5 Hospital include amounts for attorneys' fees?

6 A. Attorneys' fees. Our claim?

7 Q. Yes.

8 A. Attorneys' fees. I don't know that the -- the

9 claim that we have are for the amounts that are owed by

10 the contracts.

11 Q. You used the figure earlier of \$102 million.

12 Is that right?

13 A. Yes, sir.

14 Q. Is any portion of that \$102 million attorneys'

15 fees?

16 A. I don't recall.

17 Q. Okay.

18 A. I don't know.

19 Q. Who would know?

20 A. My first inquiry would be our chief legal

21 officer.

22 Q. With respect to the moneys that are owed to

23 UMC by the Children's Hospital, was it expected that

24 that money would help UMC support the Children's

25 Hospital?

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1 A. You're stating that the moneys owed by
 2 Children's Hospital would support UMC to further
 3 support Children's?
 4 Q. Yes.
 5 A. Yes.
 6 Q. Was it --
 7 A. I had to restate that just to make sure I was
 8 following your thought.
 9 Q. That's fine.
 10 Was it the expectation of UMC that
 11 revenues from the Children's Hospital would help UMC to
 12 do other things besides support the Children's
 13 Hospital?
 14 A. No.
 15 Q. Not at all?
 16 A. Not at all.
 17 Q. Who's Deloitte?
 18 A. I think it's a -- it's not a full name of an
 19 accounting firm.
 20 Q. What are they doing in this case?
 21 A. They're providing financial expert advice and
 22 counsel.
 23 Q. To UMC?
 24 A. I believe they're doing it to or through our
 25 legal counsel.

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1 Q. Do you know if Deloitte is working with
 2 Mr. Nunez?
 3 A. Yes.
 4 Q. Who is paying Deloitte's fees?
 5 A. We are paying the fees. UMC is paying the
 6 fees.
 7 Q. What is your understanding of exclusivity in a
 8 bankruptcy case?
 9 A. It's a legal term. Prior to --
 10 MR. STRUBECK: And I'll just object for
 11 the record to the extent -- and I know you're not
 12 asking him this, but to the extent you're asking for a
 13 legal conclusion. He's just a layperson.
 14 THE WITNESS: I'm just a layperson.
 15 MR. SPROUSE: It's not a sin.
 16 A. Prior to this proceeding I didn't understand
 17 the "exclusivity" term, and I'm sure I don't fully
 18 understand the exclusivity, but that is from my
 19 layperson's term perspective, is that in this case
 20 Children's has the exclusive ability to present a plan
 21 to the bankruptcy court.
 22 Q. (By Mr. Sprouse) It's my understanding that
 23 UMC wants to present its own plan.
 24 A. Yes, sir.
 25 Q. What would that plan look like?

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1 A. I guess what was probably a frustrating
 2 portion of this is that for the past two years
 3 Children's had not had a plan and if they've had a
 4 plan, they weren't successful in implementing it as the
 5 results demonstrate.
 6 Our plan is to transfer the operations to
 7 UMC. We would be the -- UMC would be the sole member.
 8 There would be a board that would be developed, new
 9 board members recruited. The board of UMC and the
 10 board of Children's Hospital would select the CEO. We
 11 envision the early board to be five members with the
 12 CFO and CEO as ex-officio of UMC on the Children's
 13 board. We would make arrangements to keep working with
 14 our key partner, Texas Tech, in the provision of
 15 pediatric clinical services to the Children's Hospital.
 16 We would work to -- through the various insurance
 17 policies of the D&O coverage, we would work to help
 18 satisfy a portion of the unsecured claims.
 19 We would also work towards satisfying the
 20 obligations of the amounts of the secured claim,
 21 secured creditors. And we would look at operating the
 22 Children's Hospital close to the -- one of the final
 23 term sheets -- I can't recall specifically the date,
 24 but I think it may have been a May 17th term sheet.
 25 So in essence that would be our plan.

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1 That plan has been the fourth time we've presented a
 2 model of that plan over the course of the last 13, 14
 3 months.
 4 Q. Mr. Valenti, you understand that the
 5 Children's Hospital filed bankruptcy in May of 2015.
 6 A. Yes, and it was very disappointing.
 7 Q. And when we're talking about a bankruptcy
 8 plan, we're talking about a document that would be
 9 filed with the bankruptcy court in the bankruptcy case.
 10 Do you understand that?
 11 A. Yes, sir.
 12 Q. And using that definition of a plan, you
 13 understand that the Children's Hospital cannot have
 14 filed a bankruptcy plan before it filed bankruptcy in
 15 May of this year.
 16 Do you understand that?
 17 A. They have not been able to develop or
 18 construct a plan, much less a plan -- and I do
 19 understand that once bankruptcy is filed, they submit a
 20 plan under the bankruptcy proceeding.
 21 Q. For the benefit of the record, I'm trying to
 22 have some clarity as to what we mean when we say "a
 23 plan." So there's really two concepts. One would be a
 24 bankruptcy plan, which would be filed in the bankruptcy
 25 case. And I believe your testimony as to the

<p style="text-align: right;">86</p> <p>1 Children's Hospital's failure to file or propose a plan 2 the last two years encompasses a time period before the 3 Children's Hospital had filed bankruptcy. Is that 4 right?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. And so when we're talking about the 7 exclusive right to file a plan in the bankruptcy case, 8 we're necessarily talking about a time period 9 subsequent to May of this year. Do you understand 10 that?</p> <p>11 A. Yes, sir.</p> <p>12 Q. With that understanding, would any of your 13 responses change based upon these notions of a plan in 14 the bankruptcy and a broader definition of a plan 15 that's not necessarily in the bankruptcy?</p> <p>16 A. State that again.</p> <p>17 Q. Sure. You testified as to the Children's 18 Hospital's failure to propose a certain plan over the 19 last two years.</p> <p>20 A. Yes.</p> <p>21 Q. So, again, for the benefit of the record, what 22 did you mean when you referred to a plan that 23 encompassed a time period before the bankruptcy?</p> <p>24 A. I was referring to a business plan or a 25 restructuring plan, a turnaround plan. That's what I</p>	<p style="text-align: right;">88</p> <p>1 community for pediatric services and their families. 2 We are very committed as an organization 3 to provide what our community envisioned with the 4 passage of the 2007 vote, which is to continue a 5 separately licensed nonprofit first-class children's 6 hospital. And in the past it has not been able to be a 7 going concern.</p> <p>8 We want to be able to protect the 9 Children's Hospital, grow the Children's Hospital for 10 many, many generations in the future. So that's what 11 we envision by our plan, our transfer of operations.</p> <p>12 Q. Mr. Valenti, if UMC's bankruptcy plan for the 13 Children's Hospital is approved by the court, would the 14 Children's Hospital remain as a separately licensed 15 hospital?</p> <p>16 A. Our intention is yes. Our immediate plans, 17 yes.</p> <p>18 Q. Long term are they different?</p> <p>19 A. No.</p> <p>20 Q. Who would be the final authority to determine 21 whether or not the Children's Hospital could remain as 22 a separately licensed institution under your scenario?</p> <p>23 A. I'm sorry. I said a few words before you 24 finished. Would you please repeat that. I'm sorry.</p> <p>25 Q. Who would make the final determination as to</p>
<p style="text-align: right;">87</p> <p>1 was referring to. I guess we call it prepetition. 2 Q. Earlier today, Mr. Valenti, we talked about 3 some of the attributes of the Children's Hospital, 4 including the Children's Hospital being separately 5 licensed. Do you recall that?</p> <p>6 A. Yes.</p> <p>7 Q. Nontaxing?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Independent?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And nonprofit?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And you've also just testified as to UMC's 14 ideas for a bankruptcy plan that would have -- among 15 other things -- a transfer of operations from the 16 Children's Hospital to UMC. Is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. What impact would such a transfer of 19 operations have upon the Children's Hospital and its 20 status as being separately licensed?</p> <p>21 A. Well, number one, the results of this would be 22 to, you know, end the lawsuits and the bankruptcy, 23 initiate -- continue providing the provision of patient 24 services with the transfer of operations, with a 25 separate board, and we would continue serving the</p>	<p style="text-align: right;">89</p> <p>1 whether the Children's Hospital could remain a 2 separately licensed facility under the UMC plan 3 scenario?</p> <p>4 A. That would be with the board of managers of 5 UMC and the court, the commissioners court. Any 6 change -- we committed to the commissioners court to 7 keep them apprised, as well as approvals, for 8 additional safeguards to protect the vision and the 9 mission of the Children's Hospital.</p> <p>10 Q. Mr. Valenti, who licenses the Children's 11 Hospital today?</p> <p>12 A. The State of Texas licensed the Children's 13 Hospital.</p> <p>14 Q. If UMC takes over operations of the Children's 15 Hospital and has its bankruptcy plan approved, would 16 the State of Texas continue Children's Hospital status 17 as a separately licensed facility?</p> <p>18 MR. STRUBECK: Object to the form of the 19 question.</p> <p>20 A. Can you give me a lifeline? I'm not sure what 21 I'm supposed to do right now.</p> <p>22 Q. (By Mr. Sprouse) You can answer the question.</p> <p>23 A. Okay. So this is -- this is. Repeat the 24 question.</p> <p>25 Q. If UMC takes over operations of the Children's</p>

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1 Hospital pursuant to its proposed bankruptcy plan,
 2 would the State of Texas continue to separately license
 3 the Children's Hospital?
 4 **A. Yes, sir.**
 5 MR. STRUBECK: Same objection. Okay.
 6 Q. (By Mr. Sprouse) What's the basis of your
 7 answer to that question?
 8 **A. My basis is founded by the purpose of what we**
 9 **envisioned back in 2007 in providing a separately**
 10 **licensed children's hospital to our community. Our**
 11 **management team, our board of managers and the court**
 12 **hold that vision.**
 13 Q. Mr. Valenti, if the UMC plan is approved,
 14 would the Children's Hospital remain a nontaxing
 15 entity?
 16 **A. Yes, sir.**
 17 Q. If the UMC bankruptcy plan is approved, would
 18 the Children's Hospital remain an independent hospital?
 19 **A. UMC would be the sole member. A board would**
 20 **be appointed by UMC and it would be operated as an**
 21 **independent hospital underneath the UMC -- within the**
 22 **umbrella of UMC. That's the plan.**
 23 Q. By virtue of the attributes you just testified
 24 to, would it be fair to say that UMC would have control
 25 over the Children's Hospital?

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1 **A. No, not control. Our board would look towards**
 2 **the El Paso Children's Hospital board to make their**
 3 **decisions, just similar as we operate El Paso First.**
 4 **El Paso First is governed by a separate board and the**
 5 **Children's Hospital would be governed by a separate**
 6 **board and ability to develop their operating and**
 7 **capital budgets, their strategic plan, hiring their**
 8 **CEO, and working within the -- if you will -- the**
 9 **parent organization of the hospital district.**
 10 Q. So UMC would look to the Children's Hospital
 11 board to make decisions for the Children's Hospital.
 12 Is that your testimony?
 13 **A. Yes, sir.**
 14 Q. And UMC would also appoint the members of the
 15 Children's Hospital board?
 16 **A. Yes.**
 17 Q. What personnel changes at the Children's
 18 Hospital would be made if the UMC plan is approved?
 19 **A. That would be the purview of the CEO of the**
 20 **Children's Hospital working with the board of the**
 21 **Children's Hospital to develop its plan of operations,**
 22 **including staffing and supplying and equipping that**
 23 **hospital.**
 24 Q. How would the CEO of the Children's Hospital
 25 be appointed under the UMC plan?

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1 **A. The Children's Hospital board and the UMC**
 2 **board would jointly appoint the CEO of the Children's**
 3 **Hospital.**
 4 Q. Mr. Valenti, you're the CEO of UMC. Do you
 5 have a term that you're fulfilling right now in
 6 relation to a timeline or a term of service?
 7 **A. Yes, sir.**
 8 Q. What is that term?
 9 **A. I have two terms. One term is a Texas statute**
 10 **term, which I believe goes through the middle of 2017,**
 11 **and in the state of Texas, the public hospital hospital**
 12 **district CEOs by statute are appointed every four**
 13 **years. I was -- that appointment by statute is -- I**
 14 **don't have the exact month, but it expires in -- that**
 15 **terms expires in 2017.**
 16 Q. So both terms expire in 2017?
 17 **A. That's -- I've only referred to that one term.**
 18 Q. Oh.
 19 **A. The second term is my contractual term between**
 20 **the hospital and myself and that term runs through**
 21 **June 1st of 2016.**
 22 Q. Do you anticipate your contract will be
 23 extended?
 24 **A. I serve at the pleasure of the board of**
 25 **managers and I can't answer that.**

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1 Q. Under the statute that you referenced, are you
 2 eligible for additional consecutive terms?
 3 **A. Terms after 2017?**
 4 Q. Yes.
 5 **A. No, I have not been appointed after the 2017.**
 6 Q. I understand that. But under the statute are
 7 you eligible to continue serving for an additional
 8 term?
 9 **A. Yes, I am.**
 10 **Thank you.**
 11 Q. Do you plan to stay in El Paso?
 12 **A. Yes.**
 13 Q. Do you want to stay in El Paso?
 14 **A. We love El Paso. Our family, our kids, they**
 15 **all grew -- they were raised -- they were less than one**
 16 **year old and a three-year-old and they're in schools**
 17 **and my wife and my family and we really enjoy this**
 18 **community and have made a lot of friends and it's been**
 19 **a very good journey for our family.**
 20 Q. Mr. Valenti, do you hope to continue in your
 21 role as CEO of UMC beyond June 16th of 2017?
 22 **A. June 1st of 2016?**
 23 Q. Yes.
 24 **A. Yes, sir.**
 25 Q. What is El Paso First?

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1 A. El Paso First is a company, a nonprofit. It's
 2 a nonprofit designation of a health plan, Medicaid
 3 health plan. It is a subsidiary of UMC -- of the
 4 Hospital District.
 5 Q. Who controls El Paso First?
 6 A. The governing body.
 7 Q. What is that?
 8 A. It's the El Paso First board of directors.
 9 Q. Are you on that board of directors?
 10 A. Yes, sir.
 11 Q. What is your role on the board?
 12 A. I am a board member.
 13 Q. Who else is on the board?
 14 A. We have four business leaders and three
 15 physicians. Our board chairman is Steve DeGroat, our
 16 vice chair is Ron Atcon, Michael Nunez and myself are
 17 the four businesspeople on the board. The three
 18 physicians are Dr. Gurjeet Shokar, Ruben Roncallo, a
 19 pediatrician, and Eddie Nassar, another pediatrician.
 20 Gurjeet Shokar is a family medicine physician.
 21 Q. And what is the relationship between UMC and
 22 El Paso First?
 23 A. El Paso First is a subsidiary company of UMC.
 24 UMC approves their operating and capital budget,
 25 appoints their board members. And UMC receives just

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1 periodic quarterly updates from El Paso First executive
 2 CEO, Frank Dominguez, on a quarterly basis. It's an
 3 update report on activities.
 4 Q. Did you say that El Paso First administers a
 5 Medicaid health plan?
 6 A. Yes, sir.
 7 Q. How does that work?
 8 A. El Paso First is organized as a nonprofit.
 9 The charter is to provide Medicaid health plan
 10 services. In addition it also provides TPA services to
 11 Children's Hospital and UMC. It also provides charity
 12 services to charity. And then it's also the --
 13 predominant is the Medicaid health plan for Medicaid
 14 and CHIP.
 15 And we have a contract with the State,
 16 State of Texas, to -- we're paid through the State of
 17 Texas, El Paso First is paid through the State of
 18 Texas. And the El Paso First health plan administers
 19 claims and pays providers and -- which includes
 20 hospitals and physicians -- for health services that
 21 are rendered to enrollees.
 22 Q. Does El Paso First pay the Children's
 23 Hospital?
 24 A. Yes.
 25 Q. How does that work?

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1 A. I serve on the board. When you say "How does
 2 it work?" in what detail? I can give you a very, very
 3 general, but I don't have specifics.
 4 Q. Let's do the general then.
 5 Thank you.
 6 A. The claims -- services are provided by the
 7 Children's Hospital that would result in patient bills.
 8 Those patient bills would then be sent to El Paso
 9 First. El Paso First then would pay those claims.
 10 That's a general description.
 11 Q. Who determines how much El Paso First pays on
 12 the claims?
 13 A. That is -- that is the internal operations of
 14 El Paso First establishes that relationship, that
 15 negotiation, with each provider including the
 16 Children's Hospital. It's a contract process --
 17 contract negotiation process.
 18 Q. You mentioned TPA before. What does "TPA"
 19 stand for?
 20 A. Third-party administrator.
 21 Q. I think you also said CHIP. Is that an
 22 acronym?
 23 A. It is. Children's Hospital something Payment.
 24 It's for children, CHIP and the Medicaid program. CHIP
 25 is a division of the Medicaid program.

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1 Q. Okay. Mr. Valenti, who would know the most
 2 about the relationship between El Paso First and the
 3 Children's Hospital?
 4 A. My CEO, Mr. Frank Dominguez.
 5 Q. He's the CEO of El Paso First?
 6 A. Yes.
 7 Q. Who else?
 8 A. I imagine his management team that's
 9 responsible for provider relations as well as
 10 contracting.
 11 MR. SPROUSE: Let's go off the record.
 12 (A recess was had.)
 13 Q. (By Mr. Sprouse) Mr. Valenti, we're back on
 14 the record after a lunch break.
 15 Have you been involved in any legislative
 16 activity or debate related to Medicaid reimbursements?
 17 A. Yes.
 18 Q. Can you describe that for me.
 19 A. Being in the state for 11 years, I've served
 20 as chairman of the Teaching Hospitals of Texas, I've
 21 also served on the executive committee of the Texas
 22 Hospital Association, and in those capacities, as well
 23 as, you know, representing our campus in the community,
 24 we periodically through the legislative session try to
 25 inform and educate our legislators with regards to

<p style="text-align: right;">98</p> <p>1 reimbursement and the needs of hospitals and -- for 2 reimbursement and also the -- in particular with 3 regards to the public hospitals in the state of Texas. 4 Q. Have there been changes to how Medicaid 5 reimbursements are made in the last five years? 6 A. Throughout my career it's been -- you know, 7 it's a unique landscape because it's -- one constant is 8 that reimbursement is constantly changing, not just in 9 the last five years but just throughout my career. 10 That's an expected occurrence with 11 hospital executives in the last five years both at the 12 federal and the state level. What we know as the 13 Affordable Care Act and also the Medicaid waiver are 14 substantial examples of tremendous evolution in our 15 reimbursement for hospitals. 16 Q. Mr. Valenti, what does "IGT" mean? 17 A. IGT, that acronym stands for intergovernment 18 transfer. 19 Q. How does that relate to the Children's 20 Hospital? 21 A. What we would -- the intergovernment transfer 22 is a vehicle in the Medicaid supplemental program where 23 we, as a public entity -- a public entity is the -- is 24 the only entity that can provide in the state of Texas 25 an intergovernment transfer up through the state,</p>	<p style="text-align: right;">100</p> <p>1 Children's Hospital was mismanaged. You've seen that? 2 A. Mismanaged and misgoverned. 3 Q. You share those opinions? 4 A. Yes, sir. 5 Q. What's the basis for your opinion that the 6 Children's Hospital was mismanaged and misgoverned? 7 A. I've been in the field for over 30 years and 8 it's important to operate these hospitals as though it 9 was your own company and you have to be extremely 10 frugal. There's a series of missteps that the 11 governing board and the management embarked on even 12 before the hospital was even opened. 13 The first example is when the management, 14 the CEO and the board, wanted to hire a chief operating 15 officer, however the concept of the Children's Hospital 16 was a lean clinical machine, there was no operations to 17 be in charge of, but the Children's Hospital board and 18 the CEO continued to proceed to hire a chief operating 19 officer. 20 Another example is the complete collapse 21 of the billing, something as basic as hospital billing. 22 Not only was the Children's Hospital management and 23 board not able to bill not once, not twice, but it took 24 them three times to bill within the first six months of 25 its existence. The billing decision, ironically, was</p>
<p style="text-align: right;">99</p> <p>1 through the federal government, that amount is matched 2 and then brought back, you know, through the state to 3 hospitals, nonprofit, for-profit, all types of 4 hospitals. 5 Children's has benefited with us serving 6 as an IGT partner with Children's to make that 7 reimbursement -- make that IGT where it's matched and 8 comes back. 9 Q. And I presume there are eligibility and other 10 requirements? 11 A. Yes, sir. 12 Q. Were any of those requirements related to the 13 facility lease with the Children's Hospital being tied 14 to fair market value? 15 A. No. 16 Q. Mr. Valenti, I think some of the pleadings 17 that have been filed in this case on behalf of UMC have 18 stated that the Children's Hospital has had financial 19 difficulties due to mismanagement. Have you seen those 20 statements? 21 A. I share that opinion, but I don't know if I 22 saw those statements. You mean in the modern press? 23 Q. In the pleadings filed in the bankruptcy case. 24 A. Yes. Yes. Yes. Yes, sir. 25 Q. So there's an allegation made by UMC that the</p>	<p style="text-align: right;">101</p> <p>1 supposed to be UMC's billing department. 2 We are experts in billing, we have an 3 excellent reputation on cash collections, it's known 4 through the community, it's known that we do a very 5 competent job of cash collections, yet the chairman of 6 the board, Sam Legate, and the CEO made the decision to 7 go with an outside billing company against my advice. 8 Consequently, that billing company -- 9 that relationship with the billing company, with 10 Children's Hospital and that company, was severed 11 resulting in some type of legal action and then a 12 subsequent company has been brought in. 13 The concept of the Children's Hospital 14 was to be a lean clinical machine with clinical 15 departments. What happened here was they started 16 expanding and doing operations that were not 17 conceptualized and in addition to that their results 18 were disastrous for their cash flow and their financial 19 performance. 20 Another example is the associates. The 21 associates from a conceptual standpoint were to be 22 leased to the hospital, UMC associates, and 23 subsequently the Children's Hospital elevated their pay 24 of the same exact associates, so there's a variance of 25 pay between UMC associates compared to Children's</p>

<p style="text-align: right;">102</p> <p>1 associates for the exact same position as well as a 2 different payment of benefits.</p> <p>3 Another example was their insistence in 4 2013, from October, November, December -- September, 5 October, November, December, where they were -- the 6 Children's was owing at that time UMC 50 million and 7 they were insistent on a \$10 million expansion from the 8 board recommended by management.</p> <p>9 With them not being able to pay their own 10 bills and for us providing free services without 11 payment from Children's and on top of that requesting a 12 \$10 million expansion for clinical services in the 13 radiology department was foolish. That's misgovernance 14 and mismanagement. It's unconscionable what happened.</p> <p>15 And so as I mentioned earlier, we took 16 the initiative to visit with Children's management to 17 really, "You can't afford to pay us, so what can we 18 stop paying? What scope can we skinny down, what 19 expenses could we skinny down, to save dollars?"</p> <p>20 The Children's board and management 21 needed to focus on growing the clinical volume with 22 relationships with doctors and with the clinical 23 operations. They did very little from an executive 24 standpoint to garner those relationships with 25 physicians. It was only towards the end of Mr.</p>	<p style="text-align: right;">104</p> <p>1 talking with the auditor -- Sam Legate called me, I 2 remember, it was late January or early February and 3 said, "Jim, I've got serious problems," and he was 4 referring to the Children's Hospital audit of 2014.</p> <p>5 I immediately stopped my meetings, I got 6 in a car and I spent two hours with Sam Legate, the 7 chairman, in his office and just trying to understand 8 what was happening. And at that time there was a huge 9 issue with the accounts receivable where the management 10 was highlighting a \$4 million loss for FY, fiscal year, 11 '14 and the auditor said, "No, it's 13 million loss," 12 and it was all attributed to accounts receivable from 13 an overstatement of nine million.</p> <p>14 So at that period of time Sam was asking 15 me, "What do I do?" And I said, "Well, you know, first 16 of all you need to get the auditors that -- Moss Adams, 17 the Children's Hospital independent auditors from UMC, 18 their independent board" -- I'm trying to lend a 19 helping hand with all my expertise and I told Sam, I 20 said, "You need to get your auditors, Moss Adams, in 21 person, do not take a phone call, they have to come in 22 person to address the board of the findings so we can 23 understand the magnitude of not only what happened in 24 2014, but what is happening through 2015." 25 Eventually the entire management team in</p>
<p style="text-align: right;">103</p> <p>1 Duncan's term that he started going out and regularly 2 visiting and developing relationships with referring 3 physicians. That was one of his key responsibilities 4 that we identified in 2010. The Children's board was 5 frustrated with that as well, but the Children's board 6 was not holding management accountable or themselves 7 accountable.</p> <p>8 So there was step after step and then 9 there was a -- it almost felt like they wanted to be 10 the big man on campus and they grew too quickly and 11 they added departments, overhead departments, medical 12 staff services, accounts receivable, accounting.</p> <p>13 This is another example. There was never 14 contemplated a CFO to be part of Children's, it was 15 supposed to be more of a controller position, and they 16 developed their own accounting and their positions. 17 That was supposed to be a joint service.</p> <p>18 Human resources, another example, that 19 was supposed to be a joint service so there's 20 coordination. So they duplicated human resources. So 21 there's a litany of services that were just duplicated 22 that caused overhead -- additional overhead expenses.</p> <p>23 So from my perspective as CEO it was very 24 frustrating to be next to the hospital, seeing it go 25 down this path that was clearly with the audit and</p>	<p style="text-align: right;">105</p> <p>1 the process of about six weeks were all transitioned 2 out. I don't know if they were terminations or 3 resignations or just moved on, but they were 4 transitioned out and in their place was contract 5 management. So for some period of time the Children's 6 Hospital relied upon contract managers to -- in middle 7 management, upper management, just to fulfill the 8 executive and management functions of the hospital.</p> <p>9 So that's kind of in a nutshell what I 10 mean by mismanagement and misgovernance of the hospital 11 of those multiple examples.</p> <p>12 Q. Mr. Valenti, I believe you testified that at 13 some point the Children's Hospital made the decision to 14 go with an outside company for its billing. Is that 15 right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. What company is that?</p> <p>18 A. I believe the name is Cymetrix and I'm not 19 sure of the spelling of that. It begins with a "C."</p> <p>20 Q. Are you familiar with Cymetrix?</p> <p>21 A. No, I'm not.</p> <p>22 Q. In your years in hospital administration you 23 have not encountered Cymetrix before?</p> <p>24 A. No, sir.</p> <p>25 Q. I think you also testified that Children's</p>

<p style="text-align: right;">106</p> <p>1 Hospital made the decision to hire its own 2 associates -- and by that you mean employees. Right? 3 A. Yes, sir. 4 Q. And really those associates were to be leased 5 to the Children's Hospital. Is that right? 6 A. That was the concept, yes. 7 Q. The concept. 8 And who were they to be leased by? 9 A. By the Children's Hospital. 10 Q. Well, would the Children's Hospital have 11 been -- 12 A. Would have been paying for those services. 13 Q. Yes. But was the concept that UMC would 14 provide the personnel to the Children's Hospital 15 pursuant to those leases? 16 A. That was the concept before it opened up, the 17 Children's Hospital opened. 18 Q. And just so the record's clean on this issue. 19 The concept was that UMC would lease associates to the 20 Children's Hospital? 21 A. Yes, sir. 22 Q. And instead the Children's Hospital hired its 23 own associates? 24 A. That's correct. 25 Q. For certain positions?</p>	<p style="text-align: right;">108</p> <p>1 down some of this as opposed to trying to expand?" 2 But we said, "That's your purview. 3 You're responsible for the hospital, we are not." And 4 so that was communicated by my two board officers at 5 that retreat I want to say approximately November of 6 2013. 7 Q. Where was the retreat? 8 A. At Rosemary Castillo's office. She is the CEO 9 of Bienvivir, she has a campus close to the foothills 10 of the mountain and has a very nicely appointed board 11 room. That retreat was held in that room. 12 Q. What did the proposed expansion relate to? 13 A. The Children's Hospital was requesting a -- 14 what we called a bump-out of the building, of the 15 actual physical building of UMC, to be built out 16 towards Raynolds, even a concept was to shell in 17 another floor over the first floor, and to expand 18 radiology services. 19 In essence that was the concept that was 20 communicated to us and that's where we became very, 21 very concerned, not only with the lack -- we were 22 providing services at that time, we were not being 23 adequately paid of course, and for Children's to come 24 up with an idea of expansion when they can't afford 25 what they currently have was very troublesome at our</p>
<p style="text-align: right;">107</p> <p>1 A. For all positions, from the CEO all the way 2 through the nurse that's on the nursing unit. 3 Q. Well, the concept for the Children's Hospital 4 was that the Children's Hospital would have its own 5 CEO. Isn't that right? 6 A. Yes, sir. 7 Q. So below the CEO -- 8 A. Yes. 9 Q. -- the concept was that UMC would lease 10 associates to the Children's Hospital. Is that right? 11 A. That's right. 12 Q. You also referenced a \$10 million expansion. 13 Was that in 2013? 14 A. Yes. That discussion started in late summer, 15 early fall of 2013. It was discussed at their board 16 retreat. At that time my board officers David Osborn 17 and Tracy Yellen and myself asked to participate in the 18 board retreat and at that board retreat we basically 19 gave the message to the Children's Hospital that, "You 20 are an independent separately licensed hospital. You 21 control your environment, your hospital, and we respect 22 that it." 23 But we told them, you know, in so many 24 words, "Please be frugal because at that time you owe 25 us 50 million and wouldn't it be better logic to pay</p>	<p style="text-align: right;">109</p> <p>1 board and management. 2 And so we tried to tactfully -- and David 3 Osborn and Tracy did a good job of, you know, tactfully 4 trying to explain that position to the Children's, but 5 also respecting that Children's is a separate 6 organization, a separate board, separate governance, 7 and they had their own control. 8 So that's what we tried -- we were very 9 respectful with them and we said, "It's your 10 responsibility, but please bear in mind your balance of 11 unpaid is growing." A year earlier it was 18 million 12 that was owed to UMC, at the time of the forbearance 13 agreement at the end of September of '14, it was 14 growing to 50 million, and the rest is history. 15 Q. Mr. Valenti, I think you've testified that 16 you, Tracy Yellen and one other -- 17 A. David Osborn. 18 Q. -- David Osborn were at the Children's 19 Hospital 2013 board retreat. Is that right? 20 A. 2014, November -- wait a second, let me get 21 the -- '13. You are correct. I misspoke on that. 22 It's '13, November 2013. 23 Q. And the expansion bump-out that you testified 24 about related to increased or additional radiological 25 services. Is that right?</p>

<p style="text-align: right;">110</p> <p>1 A. Yes.</p> <p>2 Q. Was that expansion actually done?</p> <p>3 A. No, sir.</p> <p>4 Q. So it was just a concept that was being</p> <p>5 discussed at the board retreat.</p> <p>6 A. It was a request of UMC. We talked about it</p> <p>7 at our committees as well as the board and just did not</p> <p>8 think that that was prudent under any circumstance.</p> <p>9 And so that -- that concept, at the same</p> <p>10 time -- was happening at the same time that the</p> <p>11 auditor's opinion was coming that, "You've got a second</p> <p>12 going concern opinion. The financials have been</p> <p>13 misstated by nine million, from four million loss to 13</p> <p>14 million loss."</p> <p>15 So at the same time -- and that occurred</p> <p>16 January, February, so they were still talking about</p> <p>17 that expansion through February and so that's kind of</p> <p>18 where they both overlapped.</p> <p>19 Q. But the expansion did not happen.</p> <p>20 A. Did not happen.</p> <p>21 Q. So in that respect the Children's Hospital, in</p> <p>22 your opinion, made the right decision?</p> <p>23 A. Well, they made no decision, because in their</p> <p>24 mind they -- they formally requested us and so -- to</p> <p>25 expand, because as the landlord it would be us -- they</p>	<p style="text-align: right;">112</p> <p>1 governing board should know better, as well as the</p> <p>2 management, when you owe 50 million, you're not going</p> <p>3 to look for a \$10 million expansion. Why in the world</p> <p>4 would we even consider that? And it's a brand-new</p> <p>5 hospital. That should have been anticipated on the</p> <p>6 building of a new hospital and was not.</p> <p>7 So just as a hospital operator for</p> <p>8 30-plus years, that makes absolutely no sense. That's</p> <p>9 why it was really, you know, kind of behind our</p> <p>10 board -- within our board meetings, it was frustrated</p> <p>11 at that type of request.</p> <p>12 But clearly we told the Children's, "It's</p> <p>13 your responsibility. We respect your authority, your</p> <p>14 responsibility. You control your entity." So we could</p> <p>15 only offer very sound and direct advice.</p> <p>16 Q. You testified -- I'm going to paraphrase --</p> <p>17 that in the next six weeks all the management was</p> <p>18 transitioned out. Did you say that?</p> <p>19 A. Yes.</p> <p>20 Q. So what time period are we talking about on</p> <p>21 the calendar, year and months?</p> <p>22 A. March and April of 2014.</p> <p>23 Q. And this was after you had discussed the audit</p> <p>24 with Sam Legate?</p> <p>25 A. Yes, after the late January, early February</p>
<p style="text-align: right;">111</p> <p>1 could never afford it and any modifications to the</p> <p>2 building would be done by us, that was the agreed-upon.</p> <p>3 So we had no intention of building that</p> <p>4 building when we were providing services at that time</p> <p>5 that was not being appropriately paid on agreed-upon</p> <p>6 contracts. So that's how that unfolded.</p> <p>7 Q. So the Children's Hospital made that request</p> <p>8 of UMC through you.</p> <p>9 A. Made the request through our board and me.</p> <p>10 Q. And the response was no.</p> <p>11 A. No, there was not a response, because it was</p> <p>12 pretty evident at that time the wheels were coming off</p> <p>13 of the cart and it just -- their focus as a hospital</p> <p>14 and board shifted from expansion, and so that just</p> <p>15 went -- kind of just ended a natural -- it put it in a</p> <p>16 parking lot, that idea.</p> <p>17 So we didn't have to really say no and</p> <p>18 then they knew that they had bigger issues than an</p> <p>19 expansion, they had to look at, "My goodness, what's</p> <p>20 happening with our audit and what's happening with our</p> <p>21 operations and what's happening with our management</p> <p>22 team?"</p> <p>23 Q. Is it your opinion just the very consideration</p> <p>24 of that expansion was mismanagement?</p> <p>25 A. Yes. And quite frankly, misgovernance. A</p>	<p style="text-align: right;">113</p> <p>1 meeting with Sam Legate. I was not on the board at</p> <p>2 that time, I'm not sure how all that took place, but we</p> <p>3 just knew that there were -- the CFO had left, the CEO</p> <p>4 the left, the CNO had left, the chief legal officer had</p> <p>5 left, various middle managers were leaving or had left,</p> <p>6 and there was just a huge turnover of the executive</p> <p>7 team.</p> <p>8 It was a difficult period of time because</p> <p>9 we had worked together with them through this period of</p> <p>10 time and got to know them as persons and got to know</p> <p>11 them as colleagues. It was difficult for all of us.</p> <p>12 And then, you know, at that period of</p> <p>13 time the board was looking at hiring -- the Children's</p> <p>14 board was looking at hiring a CFO and then that's when</p> <p>15 Ray Dziesinski came on board. He had just transitioned</p> <p>16 out of Dallas Children's, Dallas Children's Hospital,</p> <p>17 and then took the assignment and with Larry's</p> <p>18 departure, within a couple of weeks, he came CEO.</p> <p>19 Q. As all of these managers transitioned out of</p> <p>20 from Children's Hospital, did you discuss their</p> <p>21 departure with them?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you discuss their departure after they</p> <p>24 left with them?</p> <p>25 A. No, sir.</p>

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1 Q. Do you know why they left?

2 A. Well, I don't know for certain, but I know

3 from a -- just from outside looking in, I'm sure the

4 board was disappointed in their performance. But

5 that's just speculation, I don't have any -- I know

6 there was disappointments, Sam Legate voiced to me that

7 he was disappointed, and so that was, you know, where

8 most of my conversation came from.

9 Q. Mr. Valenti, you've identified several areas

10 that you believe were mismanaged by the Children's

11 Hospital. Are there others?

12 A. On the positive side -- I know you're not

13 asking me for the positive side, but I just want to

14 venture this. You have to understand that this was a

15 proud moment to start a children's hospital for the

16 community, for myself, our whole team, that board, the

17 citizens.

18 And so one thing that we have been able

19 to provide is good clinical services. A lot of those

20 good clinical services are provided through UMC as well

21 from support departments that help with the Children's

22 Hospital, passage of the Joint Commission, you know,

23 that fully accredited.

24 We like to take a small element of pride

25 of helping them with, you know, various services that

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1 we provide from guest services to security and other

2 things, maintenance, that help provide environmental of

3 care through the Joint Commission standards, and so we

4 share in that success with the Children's. Children's

5 became COG certified in oncology. Huge kudos

6 clinically for the community and for the campus.

7 All this is a sad story, quite frankly.

8 Q. Mr. Valenti, for the areas of mismanagement

9 that you have identified, did they result -- did they

10 affect the revenues available to the Children's

11 Hospital to meet its obligations?

12 A. Absolutely.

13 Q. Have you quantified the consequences of that

14 mismanagement in dollar figures?

15 A. I have not, but only through the independent

16 auditors of three going concern opinions, they lost the

17 first year 13 million -- I mean 23 million, 13 million,

18 and then 40 million.

19 Q. Can you state those figures again, please.

20 A. The first year of losses was 23. The second

21 year, FY '14, was 13. That's the year that the

22 auditors highlighted to the board and to Mr. Legate

23 that their audit findings were not four million loss,

24 but restated it to 13 million loss. And then this last

25 year, which is the last fiscal year, is a \$40 million

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1 loss. I'm saying that approximately.

2 Q. And that in turn affected the Children's

3 Hospital's ability to pay its obligations to UMC?

4 A. Absolutely, because the board and the

5 management did not focus on building relationships with

6 physicians, building those close ties with the

7 physicians, the primary care, the referring physicians.

8 They did a good job of staffing the specialists in the

9 hospital.

10 The accounts receivable, they added too

11 much direct expenses, they added too much overhead

12 expenses, and consequently for the last two years their

13 revenue per month is about six and a half million and

14 their expenses are about 8.4, and it's been static

15 for -- I want to say two years, and their volume is

16 hovering around anywhere from a census of 57 to 65.

17 Q. Mr. Valenti, of the losses at the Children's

18 Hospital that you've identified, how much of those

19 losses can be attributed to mismanagement?

20 A. I can't put a percentage. It's a -- I would

21 describe it as kind of a mosaic with a lot of

22 individual pieces. When you add up that mosaic

23 together, it produces that final result.

24 Q. Were there other factors that contributed to

25 the losses at the Children's Hospital?

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1 A. In our healthcare in the state of Texas, there

2 was also the changes in the waiver program and the

3 supplemental programs, Medicaid supplemental programs,

4 but the waiver program and the supplemental program

5 affected all hospitals, all Texas hospitals. It had

6 major effects on the disproportionate share program to

7 UMC.

8 Also a factor, a contributing factor, was

9 the reimbursement. Children's hospitals enjoyed for

10 decades what was called cost-based reimbursement. That

11 was -- that program was deleted and in its place was a

12 prospective payment system, but a different system and

13 just like hospitals -- acute hospitals needed to

14 change, their response of quickly adapting was not

15 there.

16 So all hospitals are faced with that.

17 This is a unique industry, but it's a changing

18 landscape, at times quarterly. The change of the

19 waiver program was a significant change, a five-year

20 program; the DSH program is a Medicaid supplemental

21 program, that was a change, but it affected all Texas

22 hospitals; the waiver affected all Texas hospitals; and

23 then the cost-based for children's was focused on

24 children's.

25 So those factors in addition to the

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1 factors I've highlighted over the last 30 minutes was
 2 all of the reasons why the Children's has found the
 3 situation it's in.
 4 Q. Mr. Valenti, I think you testified that there
 5 were changes in the waiver and Medicaid programs. Is
 6 that right?
 7 A. Yes, sir.
 8 Q. Have you been able to quantify what losses the
 9 Children's Hospital experienced due to those changes?
 10 A. I have not been able to quantify that. Since
 11 we did not receive their financials -- I think the last
 12 financials was August of '13 -- we would not be in a
 13 position to quantify that. That'd be really a question
 14 I would ask the Children's management team. At this
 15 point in time it would probably be a forensic audit
 16 that would have to -- or some type of audit to look
 17 back at what the impact was.
 18 Q. There were also changes I think you said to
 19 the DSH program for UMC. Is that right?
 20 A. Absolutely.
 21 Q. Resulted in losses to the Children's Hospital?
 22 A. To both, to both UMC and Children's.
 23 Q. Do you know what the dollar amount of those
 24 changes would be to the Children's Hospital?
 25 A. No, sir.

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1 Q. You also testified as to the cost-based
 2 reimbursement program being deleted for children's
 3 hospitals. Is that right?
 4 A. Yes, sir.
 5 Q. And that affected the revenue available to the
 6 Children's Hospital?
 7 A. Yes, sir.
 8 Q. Do you know what the dollar figure would be
 9 for the Children's Hospital affected by those changes?
 10 A. No, sir.
 11 Q. Would anybody at UMC know the dollar figures
 12 that resulted from these changes?
 13 A. It's hard for me to answer that, but I would
 14 estimate no. But if I were -- if I was asked that, I
 15 would, you know, start visiting with my CFO and then my
 16 controller, but I seriously doubt that they would
 17 really be able to quantify that because they're busy
 18 doing their own financial management of UMC.
 19 Q. Just so I'm clear, Mr. Valenti, is it your
 20 testimony today that the losses experienced by the
 21 Children's Hospital were the result of a combination of
 22 mismanagement and then in addition these changes to
 23 various government programs?
 24 A. Yes, sir.
 25 Q. But you can't allocate dollar figures to

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1 mismanagement versus the changes to government
 2 programs?
 3 A. No, sir.
 4 Q. Do you have a sense of what percentage might
 5 be attributed to mismanagement and the other portion
 6 attributed to --
 7 A. It's a little difficult to -- from my
 8 perspective as an executive, it's a little difficult,
 9 because we're faced as executives with multiple changes
 10 of reimbursement, not only through a five-year program,
 11 but quarterly, and so -- and it affects our cash flow,
 12 so you have to be -- going back, you have to be frugal
 13 to operate especially a start-up hospital and also a
 14 safety net hospital and even a nonprofit hospital.
 15 You have to be very frugal and you have
 16 to be able to be light on your feet to anticipate those
 17 changes and make changes. They failed to make
 18 structural changes, restructuring changes.
 19 I mean up to the week that Mr. Duncan was
 20 departed from the hospital, he thought that the
 21 Children's would be break even by the end of '14 and
 22 that was the year they had the biggest loss of
 23 40 million. So they clearly didn't have the capacity
 24 to understand the magnitude nor the board understood
 25 the magnitude of the problems faced and the challenges

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1 faced by the Children's Hospital.
 2 Q. Mr. Valenti, when did the changes in waiver
 3 and Medicaid programs take place that you've testified
 4 to?
 5 A. They were enacted -- I need clarification from
 6 my CFO. It was either October -- October of '12 or
 7 October of '13, October of 2012 or October of 2013.
 8 It's a five-year program. It sunsets in '16? I can't
 9 answer that specifically, but I'm -- that needs to
 10 be -- I need to ask my CFO that question.
 11 Q. You testified as to the changes to the DSH
 12 program. Is that right?
 13 A. The DSH program is -- disproportionate share
 14 program is changing annually.
 15 Q. Sure. But I think you testified today that
 16 there were some changes to the DSH program that had a
 17 negative economic impact on the Children's Hospital.
 18 Is that right?
 19 A. On all hospitals, yes.
 20 Q. On all hospitals.
 21 When did those take place?
 22 A. Every year they take place. Like, for
 23 instance, on -- see, what's happening, the ACA, the
 24 Affordable Care Act, is increasing -- this is by
 25 modeling -- is increasing. To help subsidize that or

<p style="text-align: right;">122</p> <p>1 pay for that, the DSH program is going down. So you 2 have one coming down -- and this is a schedule for all 3 hospitals in the nation where I think the program 4 sunsets in 2020.</p> <p>5 So every year there's a drop in that DSH 6 program from a national perspective. Texas is 7 following suit. While that's decreasing, you have the 8 waiver program, which is another supplemental program, 9 increasing, which is -- the two parts of that is the 10 DSRIP program, which are projects to enhance access and 11 quality care, that's supposed to be growing. So that's 12 the balancing.</p> <p>13 So the DSH program by design is statewide 14 and nationally declining.</p> <p>15 Q. When was the cost-based reimbursement program 16 deleted?</p> <p>17 A. That was in '13, I believe, 2013, 18 approximately -- let me add to my statement -- it was 19 approximately six months or so after the Children's 20 Hospital opened, so that would have been in 2012, the 21 cost-based program ended.</p> <p>22 In my earlier statement of the waiver, I 23 think -- by just doing the math, I think it had to 24 happen, the waiver, in 2012. So that's -- I'm just 25 correcting a past statement if you could reflect that</p>	<p style="text-align: right;">124</p> <p>1 2011, a full year before the actual change. So UMC 2 responded to those changes and Children's, looking 3 back, did not respond effectively with those changes.</p> <p>4 Q. Mr. Valenti, it sounds like you're describing 5 an environment where these revenues are going to be 6 affected by various changes in government programs that 7 are constantly happening. Is that fair?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Do the agreements between UMC and the 10 Children's Hospital, including the facility lease, take 11 into account the fluid nature of that environment?</p> <p>12 A. Those agreements were arrived at by, you know, 13 two separate management teams negotiating at arm's 14 length for the eventual contract terms and it is just 15 expected from every management team to respond to 16 reimbursement changes.</p> <p>17 Q. Is there anything specific in those agreements 18 that addresses the fact that these programs change over 19 time in such a way that the agreements may need to be 20 reevaluated?</p> <p>21 A. We as the -- both boards, both management 22 teams, the philosophy we took was that -- and it was 23 jointly between both boards, both organizations -- that 24 after a period of two years, we would relook at the -- 25 you know, the services and -- that were provided.</p>
<p style="text-align: right;">123</p> <p>1 in the record.</p> <p>2 Q. So these changes to the government programs 3 that you've testified to that negatively impacted the 4 Children's Hospital revenue all occurred after the 5 Children's Hospital opened. Isn't that right?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And it would also have been after the 8 Children's Hospital had entered into various agreements 9 with UMC?</p> <p>10 A. Let's expand upon that. In government 11 programs, they just don't get enacted one day, they 12 take a series of years to enact. So those changes were 13 afoot in 2011. Those changes -- in fact, I 14 communicated that to both boards, UMC and the 15 Children's board, that those changes were underfoot, 16 that the waiver was coming, something we didn't know 17 was coming to our field.</p> <p>18 Of course at the vote of the Children's 19 Hospital in '04, what we know is the ACA or Obamacare 20 was not even a concept. And then in addition to that, 21 the cost-based reimbursement that children's hospitals 22 benefited for decades was going away.</p> <p>23 So there were a lot of changes, but I was 24 alerting both boards, the Children's Hospital and UMC 25 board, about these changes in 2011, in the spring of</p>	<p style="text-align: right;">125</p> <p>1 Because we're not experts, but -- both 2 teams were not experts. This is a very unique -- as we 3 all know in this room, it's a very complicated 4 arrangement, very, very unique. We have found only 5 remotely one hospital nationwide to have this 6 arrangement, but both management teams and both boards 7 knew that, that we were not, quote, experts and so we 8 all envisioned that after two years that we would look 9 back and do an assessment and just, you know, make 10 changes or tweak things or they may decide that 11 Children's may want a different direction or they may 12 want more services. So that's what was contemplated 13 during the negotiations in 2011 with the contracts.</p> <p>14 Q. Did that reassessment include perhaps 15 adjusting the amounts that are due under the facility 16 lease?</p> <p>17 A. No.</p> <p>18 Q. So that was tied to fair market value. Is 19 that right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And that was not going to change?</p> <p>22 A. That's right.</p> <p>23 Q. Are you aware, Mr. Valenti, that one of the 24 components of the -- what we've been calling the UMC 25 bankruptcy plan is that it would be funded in part by</p>

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1 the proceeds of D&O insurance?
 2 **A. Yes, sir.**
 3 Q. Against whom do you think D&O type claims
 4 would be made?
 5 **A. The coverage is for their directors and**
 6 **officers. I'm not an expert in insurance or coverages**
 7 **and so I do know that the directors and officers**
 8 **insurance is to protect the officers and directors, the**
 9 **board members and the officers in the company.**
 10 Q. Would the D&O type claims pertain to any areas
 11 of conduct beyond what you've already testified to?
 12 **A. I'm not sure. I don't know how that policy is**
 13 **activated. I'm just not familiar with that. So I'm**
 14 **sure they would go through their own set of standards**
 15 **and evaluation to determine if there were any other**
 16 **issues beyond the ones that I mentioned and that's**
 17 **really for those experts to determine.**
 18 Q. You identified a Mr. DeGroat earlier. Is that
 19 right?
 20 **A. Yes, sir.**
 21 Q. And he's on the board of managers of UMC. Is
 22 that right?
 23 **A. Yes, sir.**
 24 Q. Had he been on the board for the Children's
 25 Hospital at any time?

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1 **A. A brief time. I don't have those years. I'm**
 2 **not exactly sure. He was a board member, I know he was**
 3 **not an officer.**
 4 Q. What is his position on the board of managers
 5 today?
 6 **A. He's the chairman of the board of managers.**
 7 Q. Of UMC?
 8 **A. Of UMC.**
 9 Q. And that is an unpaid volunteer position?
 10 **A. Yes, sir.**
 11 Q. What does Mr. DeGroat do professionally?
 12 **A. He's a financial executive with Lincoln, a**
 13 **company called Lincoln.**
 14 Q. Is there a full name for Lincoln that you
 15 know?
 16 **A. There is, but -- I could look it up on my --**
 17 Q. It's all right.
 18 **A. There is a full name.**
 19 Q. Do you have personal --
 20 **A. Lincoln something something.**
 21 Q. Do you have personal financial dealings with
 22 Lincoln?
 23 **A. I do.**
 24 Q. Is Mr. DeGroat your personal financial
 25 advisor?

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1 **A. No, sir.**
 2 Q. Somebody else at Lincoln is?
 3 **A. Yes.**
 4 Q. Does Mr. DeGroat have any contact with your
 5 personal finances at Lincoln?
 6 **A. No.**
 7 (Exhibit marked, No. 2.)
 8 Q. (By Mr. Sprouse) Mr. Valenti, you've been
 9 handed a document that's been marked as Exhibit 2 and
 10 I'll note that it's identified as the El Paso
 11 Children's Hospital Feasibility Study. Do you see
 12 that?
 13 **A. Yes, sir.**
 14 Q. And it says it's prepared for Thomason
 15 Hospital in March of 2007. Do you see that also?
 16 **A. Yes, sir.**
 17 Q. And it appears that this was produced by Kurt
 18 Salmon Associates. Do you see that?
 19 **A. Yes.**
 20 Q. Do you recognize this documented?
 21 **A. I recognize the cover sheet.**
 22 Q. When we had discussed the 2007 feasibility
 23 study earlier today, does this appear to be the same
 24 feasibility study that we discussed?
 25 **A. I just glanced over the table of contents. It**

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1 **appears to be. Without turning every page, just for**
 2 **the table of contents, it appears to be.**
 3 Q. Looking at it today do you recognize this as
 4 being the 2007 feasibility study?
 5 **A. Yes, sir.**
 6 (Exhibit marked, No. 3.)
 7 Q. (By Mr. Sprouse) Mr. Valenti, you've just
 8 been handed a document that's been marked as Exhibit 3
 9 and it's titled El Paso Children's Hospital Projected
 10 Financial Statements. Do you see that?
 11 **A. Yes, sir.**
 12 Q. And at the bottom right-hand corner there's a
 13 statement that it's from George Westfall, CPA, George
 14 Westfall Associates. Do you see that?
 15 **A. Yes, sir.**
 16 Q. Do you know who George Westfall Associates is?
 17 **A. He was contracted with to assist with the**
 18 **financial modeling with Kurt Salmon and other**
 19 **individuals.**
 20 Q. Who hired George Westfall?
 21 **A. You know, at this time I'm looking at this**
 22 **statement and it's a statement for 2010 -- 2010, 2012.**
 23 **I see where it says five months ended and seven months**
 24 **ended.**
 25 Q. Mr. Valenti, if you'll turn to the next page,

<p style="text-align: right;">130</p> <p>1 look in the bottom left-hand corner, there's a note. 2 Is that right? 3 A. February 15, 2011. The date on this, if I'm 4 supposed to -- if this is -- if this is all accurate as 5 photocopying, it says February 15, 2011, which is 6 almost a year before the Children's Hospital. 7 This may have been a document that Larry 8 Duncan -- Larry Duncan working with George Westfall, 9 because Duncan arrived in mid-2010, the date of this is 10 February 15, 2011. 11 So I'm looking at this document. Did you 12 have questions of me on it? 13 Q. My question is who hired George Westfall? 14 A. I don't know. We, as pre-Larry Duncan in 15 2010, hired him back in 2007. This document is 2011. 16 So I know during the development of the pro formas, he 17 had a role in the pro formas, George Westfall, along 18 with several other companies, but in this exhibit I 19 don't know who engaged him to prepare this. I don't 20 know. 21 At that time Larry Duncan was the CEO in 22 2010, summer of 2010, so possibly eight months. I 23 imagine that Larry Duncan was using George Westfall -- 24 utilizing his services to try to prepare their budgets 25 for 2012, 2013 and forward.</p>	<p style="text-align: right;">132</p> <p>1 MR. SPROUSE: We've been on the record 2 for about an hour. Do you want to take a break? 3 THE WITNESS: I'm okay. It's up to you 4 guys. 5 MR. STRUBECK: Let's continue. 6 MR. SPROUSE: Let's continue. 7 THE WITNESS: Okay. 8 (Exhibit marked, No. 4.) 9 Q. (By Mr. Sprouse) Mr. Valenti, you've been 10 handed a document that I believe has been marked as 11 Exhibit 4. Is that right? 12 A. Yes. 13 Q. And it appears to be an e-mail from you dated 14 8-1-2011. Do you see that? 15 A. Yes. 16 Q. Do you recognize this e-mail? 17 A. Let me take a moment to just review it. 18 I've read it. 19 Q. Let me first ask you about how you are 20 identified in the From line at the top of the page. 21 There's James Valenti, which is your name. Right? 22 A. Yes, sir. 23 Q. Then there's back slash Administration. What 24 does that refer to? 25 A. That's my address. And then Thomason and then</p>
<p style="text-align: right;">131</p> <p>1 Q. So as of the date that's on here, February 2 15th, 2011, George Westfall did not work for UMC? 3 A. I don't know that. 4 Q. Who would know? 5 A. Michael Nunez and Larry Duncan. 6 Q. Have you seen this document before? 7 A. You know, I can't recall it really, I just 8 can't recall this document. 9 Q. They're projected financial statements and 10 there are columns and rows for years and the row for 11 2014, for example, if you look at the second page, it 12 shows what I read to be a loss of nearly \$3 million. 13 Do you see that? 14 A. No, I don't see that. 15 Q. It's on the next page. 16 A. I see a loss of the first column as 12, and 17 then three million, then four positive, three loss in 18 2014, and 2.4 positive in '15. 19 Q. Okay. Do you know how those projections 20 relate to what actually occurred at the Children's 21 Hospital? 22 A. Well, just from the accountants the Children's 23 Hospital hired, their independent auditors, and we know 24 the fact that we had losses of 23, eight -- I'm 25 sorry -- 23, 13 and 40.</p>	<p style="text-align: right;">133</p> <p>1 El Paso County Hospital District. 2 Q. Do you remember this e-mail? 3 A. I don't really. 4 Q. Do you remember what was happening at the time 5 that gave rise to this e-mail? 6 A. What I could gather by reading it is that we 7 wanted to make sure that there was accuracy to the 8 square footage and it looks like I've been stating that 9 it was 225,000 and it sounds like I wanted that 10 confirmed. 11 Q. Was it confirmed to you? 12 A. I don't know at this moment in time, but I 13 think approximately -- I think I stated in this 14 morning's session that it was roughly 225,000 square 15 feet, give or take. 16 (Exhibit marked, No. 5.) 17 Q. (By Mr. Sprouse) Mr. Valenti, you've been 18 handed an exhibit that's been marked Number 5 and it's 19 a string of brief e-mails from 2012. Do you see that? 20 A. Yes. 21 Q. And it appears that this was an exchange 22 between you and Mr. Duncan. Do you see that? 23 A. Yes. 24 Q. It starts on the second page with Duncan 25 referencing five percent overhead and 30 percent of CDM</p>

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1 on the lab and imaging. Do you see that?

2 **A. Yes.**

3 **Q.** And then it says: Is it your position to not
 4 move on this? Perhaps we should talk after 1:00 p.m.
 5 Do you recall what these discussions were
 6 about?

7 **A. Let me take a moment just to review it.**

8 **Q.** Sure.

9 **A. I think I may know the gist of this.**

10 **Q.** Please tell us.

11 **A. Okay. We were down to the -- after**
 12 **negotiations and creating the contracts and**
 13 **negotiations from the summer of 2011 all the way**
 14 **through to January of 2012, I think what I'm referring**
 15 **to here is that we had finalized -- I thought our**
 16 **management teams had finalized the negotiations and**
 17 **Larry is communicating to me -- Mr. Duncan's**
 18 **communicating -- that, you know, they're steadfast in**
 19 **accepting the five percent overhead and 30 percent CDM**
 20 **on the lab and imaging.**

21 **And so I communicate to Larry that, you**
 22 **know, once you give your word on negotiation, it's**
 23 **steadfast, and I was just citing, you know, principles**
 24 **of negotiation. And then Larry is -- it looks like**
 25 **Larry is saying, "A deal" -- oh, I say, "A deal is a**

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1 deal."

2 **So, yeah, I was frustrated at that point**
 3 **in time because I thought we had finalized negotiations**
 4 **and then Mr. Duncan is communicating that Sam says,**
 5 **"Well, we're going to -- you know, we're going to**
 6 **accept the five percent and the 30 percent."**

7 **So that's what that's all about.**

8 **Q.** What is CDM?

9 **A. I think that refers to the chargemaster.**

10 **Q.** What is a chargemaster?

11 **A. That's -- it's a better question to ask**
 12 **Michael Nunez, my CFO, but it's a listing of all**
 13 **procedures and the charge associated.**

14 (Exhibit marked, No. 6.)

15 **Q.** (By Mr. Sprouse) Mr. Valenti, you've been
 16 handed a document marked Exhibit 6 dated December 3rd,
 17 2012. Do you recognize this letter?

18 **A. Yes, I do.**

19 **Q.** Do you recognize your signature on the letter?

20 **A. Yes, I do.**

21 **Q.** And I see on the top of page 2, it's
 22 identified in the header as a forbearance letter. Do
 23 you see that?

24 **A. Yes, sir.**

25 **Q.** What do you remember about this letter?

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1 **A. Where did you see the forbearance on page 2?**

2 **Q.** Yes, at the header.

3 **A. Yes. Yes. Earlier in the morning I had**
 4 **mentioned about a forbearance agreement. This is the**
 5 **precursor to communicating to the Children's Hospital.**
 6 **I also copied in the UMC board chair and the Children's**
 7 **board chair.**

8 **Let me pause for a moment so I can read**
 9 **through it and then I'll further answer.**

10 **In essence what we're trying to do is --**
 11 **this is ten months after the opening of the Children's**
 12 **Hospital and we're trying to provide some strong**
 13 **recognition to the Children's effort in opening the**
 14 **Children's Hospital and progressing.**

15 **And in the second paragraph we're talking**
 16 **about how we remain very confident in the financial**
 17 **viability of the Children's Hospital and we're -- you**
 18 **know, however, we're stating that, you know, there is a**
 19 **balance out there, that we're not -- that Children's is**
 20 **not fully paying UMC, there's a lack of payment.**

21 **So in essence we both jointly agreed on a**
 22 **forbearance agreement which would allow Children's**
 23 **Hospital to essentially get their financial and**
 24 **operating affairs in order and to begin payment on a**
 25 **payment plan to UMC.**

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1 **This was the -- the actual agreement was**
 2 **agreed to, executed, in early 2013, I think February of**
 3 **2013, so this was the letter that I sent that started**
 4 **that process.**

5 **Q.** And if you'll look at the second to the last
 6 line in the second paragraph starting with "Lack of
 7 payment." Do you see that?

8 **A. I'm sorry. Which page?**

9 **Q.** First page, second paragraph, second to last
 10 sentence, starts with "Lack of payment."

11 **A. Yes.**

12 **Q.** It says: Lack of payment on current
 13 obligations by Children's places an inordinate burden
 14 on UMC current operations and future development plans.
 15 Did I read that correctly?

16 **A. Yes.**

17 **Q.** Was it the expectation of UMC that payments
 18 from the Children's Hospital would fund UMC's future
 19 development plans?

20 **A. No. What that sentence means is that, of**
 21 **course, when we're providing services and not being**
 22 **paid, that provides a deficit to our hospital earnings**
 23 **and it could impact any of our future programs if those**
 24 **revenues aren't provided.**

25 **So what we're trying to do is emphasize**

<p style="text-align: right;">138</p> <p>1 to the Children's that, "Hey, we're celebrating in your 2 success of the first -- almost the first ten months, 3 but this amount is growing," and that's also on the 4 heels of the Children's having to rebill all of their 5 patients for the first six months not once, but three 6 times.</p> <p>7 So we were -- out of the starting blocks, 8 we were very concerned about the performance of 9 Children's and, of course, having a shortfall of 10 revenue where we're providing services and not being 11 paid, then, of course, it would naturally impact UMC.</p> <p>12 So that's what we were saying is we were 13 waving the flag and saying, "We believe in you, we want 14 to be there to help you, but we need to put you on a -- 15 you know, to -- both of us, both companies, begin a 16 payment plan," and that was the precursor to the 17 forbearance agreement.</p> <p>18 Q. At the time you wrote that letter was the 19 Children's Hospital being mismanaged?</p> <p>20 A. Unfortunately, yes, the early stages of it.</p> <p>21 Q. Did you know at the time or did you have the 22 opinion at the time that the Children's Hospital was 23 being mismanaged?</p> <p>24 A. There were elements -- you remember that 25 mosaic that I described? There were pieces of this</p>	<p style="text-align: right;">140</p> <p>1 page that's numbered 7149. Do you see that signature 2 page?</p> <p>3 A. I certainly do.</p> <p>4 Q. Do you recognize your signature?</p> <p>5 A. I do.</p> <p>6 Q. And who else signed this facility lease 7 agreement on behalf of UMC?</p> <p>8 A. Legal counsel, Eddie Sosa.</p> <p>9 Q. And who signed on behalf of the Children's 10 Hospital?</p> <p>11 A. Mr. Duncan.</p> <p>12 Q. And as legal counsel?</p> <p>13 A. Jill Vogel.</p> <p>14 Q. Do you recall signing this document?</p> <p>15 A. I do.</p> <p>16 Q. And this is the facility lease that we've been 17 discussing today?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And you recognize it as that document?</p> <p>20 A. I recognize, other than going through the inch 21 stack of pages, that this is the document.</p> <p>22 Q. On the first page in Section 1.3, it 23 identifies the lease term. Do you see that?</p> <p>24 A. Yes, sir.</p> <p>25 Q. What does it provide for the lease term?</p>
<p style="text-align: right;">139</p> <p>1 coming together, so we were concerned. It was very 2 unusual for any company to bill not once, but having to 3 bill three times and the delay of payment, it was 4 important.</p> <p>5 We had hoped that this would really grab 6 the attention of the Children's Hospital, but in a way 7 that was very respectful, that it was, you know, their 8 responsibility, we would work with them and, you know, 9 really focus on operations.</p> <p>10 (Exhibit marked, No. 7.)</p> <p>11 Q. (By Mr. Sprouse) Mr. Valenti, you've been 12 handed a document that's been marked as Exhibit Number 13 7 and it says at the top Facility Lease Agreement. Do 14 you see that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you know what a Bates number is?</p> <p>17 A. No, sir.</p> <p>18 Q. I'll represent to you that a Bates number 19 is --</p> <p>20 A. A base number or Bates?</p> <p>21 Q. The document at the bottom, how these are --</p> <p>22 A. Oh, Bates. Okay.</p> <p>23 Q. This is the numerical system that the 24 attorneys put on these documents so we can identify 25 them later. So I'm going to ask you to turn to the</p>	<p style="text-align: right;">141</p> <p>1 A. 360 months.</p> <p>2 Q. Does that coincide in any way with the 3 repayment schedule for the bonds?</p> <p>4 A. I would have to ask my CFO that question.</p> <p>5 Q. Today do you know if the bond repayment 6 schedule and the term of this lease are related?</p> <p>7 A. I don't know that.</p> <p>8 Q. If you'll turn with me to the next page, 9 Section 1.8.</p> <p>10 A. Okay.</p> <p>11 Q. There's a section 1.8.1. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. If you'll read it and let me know when you're 14 finished, I'll ask you a question about it.</p> <p>15 A. Okay.</p> <p>16 Q. What is the purpose of that provision in this 17 lease.</p> <p>18 A. This is the -- what I referred to earlier as 19 charity. This is indigent and charity and discounted 20 care that the tenant agrees to provide those medical 21 services to pediatric patients.</p> <p>22 Q. And it also says that those policies shall be 23 no more restrictive than the duly adopted financial 24 assistance policies of the El Paso County Hospital 25 District applicable to all residents of El Paso County.</p>

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1 Do you see that?

2 A. Yes, I do.

3 Q. So it's basically limiting the Children's

4 Hospital in that way. Would you agree with that?

5 A. Yes.

6 Q. In your experience as a hospital

7 administrator, is this an unusual or usual type of

8 provision in a lease agreement?

9 A. You know, considering the close proximity and

10 just the continuity, because what happens is some of

11 the patients come in to the hospital through the trauma

12 department, which is UMC's trauma department, which are

13 pediatric in nature. To have policies on the charity

14 care would be very disruptive to patients. So it would

15 be to the benefit of the patient to have more

16 consistent application of charity policies on the

17 campus.

18 We see that at times with our partners,

19 Texas Tech, where patients -- billing is confusing to

20 begin with, but with patient billing from two different

21 entities that are not consistent, and so it would be a

22 benefit to the patients.

23 MR. SPROUSE: Can we go off the record.

24 (A recess was had.)

25 Q. (By Mr. Sprouse) Mr. Valenti, we're back on

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1 the record. I think we may have glanced on this

2 earlier, but was there a working capital loan between

3 the Children's Hospital and UMC?

4 A. Yes, there was.

5 Q. And what was that?

6 A. We negotiated and provided working capital for

7 Children's Hospital to get their operations started at

8 the opening of the Children's Hospital in February of

9 2012 and to provide the funds to support their

10 operations for up to the first four to six months while

11 the Children's Hospital was waiting for reimbursement

12 to be paid by Medicaid and commercial insurance.

13 Since the opening of the Children's

14 Hospital, there was a delay -- there's always a planned

15 delay for the Children's to get recognized -- or any

16 new hospital to get recognized by the payors, including

17 Medicaid and commercial insurance carriers, and UMC was

18 providing the funds for the Children's Hospital to

19 operate before those early payments came in.

20 Q. What was the amount?

21 A. I don't know a specific amount, but it was in

22 excess of 20 million.

23 Q. What were the terms for repayment?

24 A. I just can't recall.

25 Q. Was it to be paid over a period of years?

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1 A. Most of the agreements were all paid over

2 years, I just can't recall the terms.

3 Q. Do you recall any discussions with the

4 Children's Hospital about early repayment of the

5 working capital loan?

6 A. No.

7 Q. Do you know whether or not it was paid early?

8 A. I believe it was paid before the term. I

9 don't know what the term was, but I think that was --

10 as I recall that was one of the proud moments of Sam

11 Legate of -- you know, to be able to conclude a

12 contract or conclude an agreement and pay off -- pay

13 off early. And so it was, I think, a proud moment of

14 the Children's board and the management to be able to

15 conclude the working capital and reimburse UMC for the

16 amount of the working capital.

17 Q. And it's your recollection today that it was

18 in fact paid before the term?

19 A. It was, it was paid early, but I don't

20 remember the terms or how early.

21 Q. And was it paid early at the request of UMC?

22 A. No.

23 Q. So it was paid early on the Children's

24 Hospital's own -- on its own judgment.

25 A. Yes, sir.

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1 Q. You referenced the problems with billing in

2 the Children's Hospital's first six months. Do you

3 remember that testimony?

4 A. Yes, sir.

5 Q. And I think you said that invoices had to be

6 reissued three times. Is that right?

7 A. Patient bills?

8 Q. Yes.

9 A. Yes.

10 Q. Were those services related to billing

11 provided by UMC?

12 A. No, those were services provided by

13 Children's.

14 Q. Exclusively?

15 A. Exclusively.

16 Q. What were the problems that led to the

17 reissuance of the bills?

18 A. I don't have the details of that. However,

19 speaking to their auditors with Moss Adams, there were

20 problems at the conclusion of their -- their -- that's

21 with the accounts receivable for fiscal year '14.

22 I don't know the details of why it had to

23 be rebilled three times other than that was the comment

24 and the reason that was given by the Children's

25 management team and reported up to the board. We were

<p style="text-align: right;">146</p> <p>1 all disappointed in that, of course, something as basic 2 as patient billings and especially in a start-up of how 3 important that is.</p> <p>4 I also think the time that we needed to 5 provide working capital was six months and it should 6 have been four months, so that two months was also 7 problematic because they could not get their billing 8 process accepted which required, you know, billing of 9 three times.</p> <p>10 Q. I believe you testified today as to when the 11 last time you had seen financial information from the 12 Children's Hospital. Is that right?</p> <p>13 A. I did.</p> <p>14 Q. And when was that?</p> <p>15 A. Well, I talked about a monthly statement that 16 my CFO provided me I believe it was August of 2013. Of 17 course since that time we've seen the audit of 2014, 18 which concluded at the end of September, 19 September 2014. We saw that audit later in 2015.</p> <p>20 Q. You saw the audit of 2014 in 2015?</p> <p>21 A. Yes, and I think that was through -- I think 22 through the process of due diligence that it was 23 shared. I'm not even aware if the Children's board 24 ever approved that audit, so -- but what I saw was 25 the -- through the due diligence that we performed</p>	<p style="text-align: right;">148</p> <p>1 the audit, I just can't recall.</p> <p>2 Q. I think you testified this morning that you 3 had attended Children's Hospital board meetings as an 4 ex-officio member. Is that right?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did the board meetings that you attended ever 7 go into executive session?</p> <p>8 A. They did periodically.</p> <p>9 Q. Did you stay at the meeting during the 10 executive sessions?</p> <p>11 A. Sometimes I was invited and other times I was 12 excused.</p> <p>13 (Exhibit marked, No. 8.)</p> <p>14 Q. (By Mr. Sprouse) Mr. Valenti, you've been 15 handed a document that's been marked as Exhibit 8 and 16 it says at the top Agreement on Obligations Between 17 University Medical Center of El Paso and El Paso 18 Children's Hospital. Do you recognize this document?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Can you describe it for me?</p> <p>21 A. This is the forbearance agreement that we 22 spoke earlier about. The precursor was the letter -- 23 my December letter to Mr. Duncan, and this is the -- 24 appears to be the executed agreement, February 1st, 25 2013, by Children's Hospital, Mr. Duncan and Mr.</p>
<p style="text-align: right;">147</p> <p>1 jointly in 2015.</p> <p>2 Q. Was that in conjunction with one of the 3 mediations?</p> <p>4 A. I believe so.</p> <p>5 Q. Did the Children's Hospital establish a data 6 room for that purpose?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And you accessed the data room?</p> <p>9 A. Yes, sir.</p> <p>10 Q. What information did you look at?</p> <p>11 A. My duty was to look at the board minutes and 12 the committee minutes and that's where I discovered 13 that the board committees were not meeting. And so 14 what I looked at -- my role in the due diligence was to 15 review the board minutes and committee minutes.</p> <p>16 Q. But you also looked at some financial 17 information?</p> <p>18 A. No, sir.</p> <p>19 Q. I thought it was your testimony that you had 20 seen the audited information for 2014?</p> <p>21 A. I didn't see it through the data room. I'm 22 trying to recall how I received -- or how I looked at a 23 copy. I know I didn't physically go into the computer, 24 pull up their financials, but I know that there must 25 have been a copy or there must have been a sharing of</p>	<p style="text-align: right;">149</p> <p>1 Valenti.</p> <p>2 Q. So you're right now looking at the signature 3 page?</p> <p>4 A. Yes, sir, on page 9.</p> <p>5 Q. And you recognize your signature?</p> <p>6 A. Yes.</p> <p>7 Q. And what was the structure of the forbearance?</p> <p>8 A. I'd have to take some time to review it, but 9 in general terms we wanted to provide Children's with 10 ample time to get their house, their operations, their 11 financial management in order, their operation 12 management in order and give them some time to improve 13 the performance and in the same time we would not, you 14 know, terminate services or try to collect and we would 15 give Children's time to improve their operations and 16 financial management.</p> <p>17 Q. If you will turn to the second page of this 18 exhibit, there's a Clause K at the top of the page. Do 19 you see that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. It says: Whereas, significant changes in 22 health care funding at the state and federal level have 23 impacted the projected revenue generation and cash flow 24 available to EPCH in it's start up phase and as a 25 result EPCH is presently unable to make payments to the</p>

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1 district in full accordance within the terms of the
 2 covered agreements.
 3 Do you see that?
 4 A. Yes, sir.
 5 Q. Did I read it correctly?
 6 A. Yes, sir.
 7 Q. So that is a reference to a cause for the
 8 Children's Hospital's problems in paying UMC. Isn't
 9 that right?
 10 A. It's identifying that Children's has
 11 experienced, you know, the changes to their revenue and
 12 cash flow based upon healthcare funding.
 13 Q. By signing this document were you in agreement
 14 with the statement in Clause K?
 15 A. Yes.
 16 Q. At the time you signed this agreement did you
 17 believe that Children's Hospital was being mismanaged?
 18 A. We had -- you know, this is going back to how
 19 I described this mosaic and certain pieces were falling
 20 into place. At this period of time we were still very
 21 supportive, we did try to do everything possible. We
 22 were not being paid fully, but yet we were very --
 23 believed in the mission, believed in continuing and
 24 really wanted Children's to progress with their
 25 operations and their financial management.

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1 This is just reflecting that there were
 2 changes in healthcare funding that all hospitals were
 3 affected. I think if they would have paid closer
 4 attention early on some of this could have been
 5 avoided, so it goes back to my principle of trying to
 6 be frugal and just, you know, treating every hospital
 7 as your own company, my personal company.
 8 And so I think if they were quicker to
 9 take corrective action, quicker to bill appropriately
 10 the first time, avoid six months of working capital and
 11 instead have four, pay attention to the doctors and the
 12 relationship with the primary care physicians and those
 13 relationships, and not increasing direct expenses,
 14 overhead expenses, and duplicating services, then that
 15 coupled with the changes in reimbursement was a -- all
 16 things were lining up as a -- kind of a perfect storm
 17 for the Children's Hospital.
 18 So if they did not address the -- if they
 19 could not quickly address the changes to the landscape,
 20 then their results would further decline. We were
 21 hoping at this point in time that -- as in any
 22 start-up, it's a challenge, especially in healthcare,
 23 and so again our intent was -- as my letter said, we
 24 were celebrating with them their first ten months and
 25 the signing of this their first year.

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1 So we were very much -- you know, and
 2 continued to believe in the mission, the vision, and
 3 it's just that we wanted them to make sure that they
 4 paid attention to the -- all of their faculties with
 5 regards to the operations and the financial management
 6 of the company.
 7 (Exhibit marked, No. 9.)
 8 Q. (By Mr. Sprouse) Mr. Valenti, you've been
 9 handed a document that's been marked as Exhibit 9 and
 10 it's titled Pledge and Security Agreement.
 11 Do you see that?
 12 A. Yes, sir.
 13 Q. And on page 8 of 12, using the pagination at
 14 the bottom of the document, I think you'll find the
 15 signature page.
 16 A. Yes.
 17 Q. Do you recognize your signature?
 18 A. Yes, sir.
 19 Q. And do you recognize the signature of Mr.
 20 Duncan?
 21 A. Yes, sir.
 22 Q. What was the purpose of this document?
 23 A. This is related to the lien and the granting
 24 of a security interest and in consideration of UMC not
 25 collecting their due amounts from Children's and

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1 putting the Children's on a payment plan and also a
 2 ceiling of, I believe, not to exceed 60 million, that
 3 in the forbearance agreement that Children's Hospital
 4 granted the security agreement and lien to UMC.
 5 Q. So it's your recollection that the pledge
 6 agreement was related to the forbearance?
 7 A. Yes, sir. I'm not an attorney, however that
 8 is my understanding.
 9 Q. And I believe you testified that the
 10 consideration for providing a security interest to UMC
 11 was not collecting on amounts owed, a repayment plan
 12 and then a ceiling on the amounts that could accrue.
 13 Is that right?
 14 A. I think those were the general terms. I may
 15 be missing some, but in my -- what I recall at this
 16 specific moment.
 17 Q. So those things that I just identified were
 18 what the Children's Hospital received in exchange for
 19 signing this pledge agreement in favor of UMC?
 20 A. Yes.
 21 Q. Are you aware of any dollar value attributed
 22 to those elements in favor of the Children's Hospital?
 23 A. Well, at the time of this close to 18 million
 24 was owed, so I would say the value at this point in
 25 time was -- from my executive perspective, I would say

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1 about 18 million.

2 (Exhibit marked, No. 10.)

3 Q. (By Mr. Sprouse) Mr. Valenti, you've been

4 handed a document that's been marked as Exhibit 10 and

5 it's a couple of e-mails. Do you have that in front of

6 you?

7 A. Yes, sir.

8 Q. In the middle of the page we see this is an

9 e-mail from you to a Richard Dayoub.

10 Am I saying that correctly?

11 A. Yes, sir, Dayoub. He's the CEO of the Greater

12 Chamber.

13 Q. Do you remember writing this e-mail?

14 A. Let me take a moment to review it.

15 I've completed reading it.

16 Q. Do you remember writing this e-mail?

17 A. Yes, sir.

18 Q. And in the e-mail you're addressing Mr. Dayoub

19 and I think you testified that he was a member of the

20 Chamber. Is that right?

21 A. Yes, sir.

22 Q. And it's also got references to a Kathleen.

23 Who's Kathleen?

24 A. She was either the chair -- the chairwoman

25 of -- chairperson of the Chamber at that -- in 2013.

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1 Q. And we're talking about the El Paso Chamber?

2 A. The El Paso Chamber.

3 Q. What was the purpose of this e-mail to Richard

4 and Kathleen?

5 A. As I recall from that first sentence, it

6 appears that this is an update e-mail to the Chamber.

7 At the time of the election we had many groups and

8 parties in support of the Children's Hospital, in fact

9 the vast majority of entities supported the Children's

10 Hospital vote in 2007.

11 At this period of time this was a

12 progress report, if you would, to the Chamber. I don't

13 know if this stemmed from a presentation I gave or a

14 meeting I was attending or a telephone inquiry from

15 either Richard Dayoub or Kathleen Walker.

16 So it's basically an update -- update

17 meeting -- update review.

18 Q. Did UMC feel an obligation to update the

19 Chamber on the progress of the Children's Hospital?

20 A. Yes.

21 Q. Item C in your e-mail says: Physician and

22 associate recruitment have exceeded expectations.

23 What did you mean by that?

24 A. At that period of time, in 2000- -- this was

25 written in 2013, so the Children's was open over a

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1 year. This is kind of a historical perspective that

2 when we opened the Children's Hospital, in that first

3 year, that the recruitment of associates and also the

4 physicians exceeded their plans of recruitment of

5 physician specialists that staffed the hospital and

6 also associates that we've been -- we've had -- that

7 Children's Hospital had exceeded their original

8 expectations on recruitment. Kind of a snapshot of

9 what's transpired.

10 Q. Item E of your e-mail says: CH, which I take

11 to mean Children's Hospital, was opened with less

12 required working capital from UMC as projected.

13 Do you see that?

14 A. Yes.

15 Q. It says: The budget was 30 million and the

16 CH need was 22 million.

17 Do you recall that being the case?

18 A. Yes. The 30 million I believe was a component

19 of two items. One was the -- covering the working

20 capital for the patient billings, that was that delay

21 of being reimbursed. And I think another portion of

22 that -- there are two components of the 30 million and

23 I can't recall unless I have the document in front of

24 me, but I think there were two components that

25 contributed to the 30 million and that it signified

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1 Children's paid 13.5.

2 I think over the first two years

3 Children's paid 34 million. So that was still -- as a

4 start-up we were -- at that moment in time we were very

5 proud of the -- even with the concerns of a start-up

6 and -- but we were still pleased with the 34 million.

7 It was not the full amount, but it showed progress.

8 It was -- at that time it was probably

9 close to 17, 18 million that was still owed to UMC.

10 With that amount of time that's something that

11 Children's could continue to improve upon and take that

12 balance down further.

13 (Exhibit marked, No. 11.)

14 Q. (By Mr. Sprouse) Mr. Valenti, I've handed you

15 a document that's been marked as Exhibit 11 and it says

16 at the top Joint Resolution of the El Paso County

17 Hospital District and El Paso Children's Hospital.

18 Do you see that?

19 A. Yes, sir.

20 Q. And at the bottom it says that it's dated

21 April the 9th of 2013. Do you see that?

22 A. Yes.

23 Q. The second page it looks like it's been signed

24 by Mr. Legate and Dr. Chheda on behalf of the

25 Children's Hospital. Do you see that?

158	<p>1 A. Yes.</p> <p>2 Q. And who signed this on behalf of UMC?</p> <p>3 A. Tracy Yellen, board chair, and Laura Ponce,</p> <p>4 board secretary.</p> <p>5 Q. You recognize their signatures?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Do you recognize this document?</p> <p>8 A. Let me read it.</p> <p>9 Yes, sir.</p> <p>10 Q. Do you recognize the document?</p> <p>11 A. Yes, I do.</p> <p>12 Q. You've seen it before?</p> <p>13 A. Yes, I have.</p> <p>14 Q. What was the purpose of this document?</p> <p>15 A. I believe it was an opportunity for both</p> <p>16 boards to memorialize the mission, the purpose, of the</p> <p>17 Children's Hospital and the desire of both the Hospital</p> <p>18 District and UMC to continue working together to</p> <p>19 provide vital services to the community.</p> <p>20 Q. Do you know why this was drafted and executed?</p> <p>21 A. I believe it was just for the boards to</p> <p>22 reaffirm the vision and the mission and the direction</p> <p>23 of the hospital and the benefit to the community.</p> <p>24 (Exhibit marked, No. 12.)</p> <p>25 Q. (By Mr. Sprouse) Mr. Valenti, you've been</p>	160	<p>1 file this document?</p> <p>2 A. I believe so and it would be probably in</p> <p>3 relationship to the security -- the previous -- the</p> <p>4 pledge and security agreement.</p> <p>5 Q. What was the date on the security agreement?</p> <p>6 A. That was February of '13.</p> <p>7 Q. If you'll look in the upper right-hand corner</p> <p>8 of Exhibit 12, there's a reference to a filing date</p> <p>9 being May 28, 2014.</p> <p>10 Do you see that?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Do you know why there was an over one year</p> <p>13 delay between execution of the security agreement and</p> <p>14 the filing of this document, Exhibit 12?</p> <p>15 A. I do not know the reason.</p> <p>16 Q. Do you know who would know?</p> <p>17 A. I would begin an inquiry with asking Eddie</p> <p>18 Sosa or Bruce Yetter.</p> <p>19 Q. And just so the record's clear. You haven't</p> <p>20 seen this document before today?</p> <p>21 A. I don't believe so. I know there's a lot of</p> <p>22 documents and pages of items a CEO comes across, but I</p> <p>23 don't recall seeing this document.</p> <p>24 Q. And you can't say why it was filed when it was</p> <p>25 filed?</p>
159	<p>1 handed a document that's been marked as Exhibit 12 and</p> <p>2 it says at the top left-hand corner UCC Financing</p> <p>3 Statement.</p> <p>4 Do you see that?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Do you recognize this document?</p> <p>7 A. I do not.</p> <p>8 Q. Do you know what the purpose of this document</p> <p>9 is?</p> <p>10 A. No, I do not know the purpose of this</p> <p>11 document.</p> <p>12 Q. Do you have any knowledge as to when it was</p> <p>13 filed?</p> <p>14 A. No, sir.</p> <p>15 Q. Do you have any knowledge as to why it was</p> <p>16 filed?</p> <p>17 A. I can only imagine that it was to satisfy a</p> <p>18 legal process.</p> <p>19 Q. Who would have authorized the filing of this</p> <p>20 document at UMC?</p> <p>21 A. I see the name Bruce Yetter, one of the</p> <p>22 assistant county attorneys that reports to Eddie Sosa.</p> <p>23 Apparently, it looks like the legal counsel had the</p> <p>24 authorization to process this legal document.</p> <p>25 Q. You believe Mr. Sosa authorized Mr. Yetter to</p>	161	<p>1 A. No, sir.</p> <p>2 (Exhibit marked, No. 13.)</p> <p>3 Q. (By Mr. Sprouse) Mr. Valenti, you've been</p> <p>4 handed a document that's been marked as Exhibit 13. Do</p> <p>5 you have that in front of you?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And it's a letter dated June the 20th of 2014,</p> <p>8 to you from the Children's Hospital. Do you see that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. If you look at the signature on the letter at</p> <p>11 the last page, it appears to have been signed by</p> <p>12 Mr. Dziesinski. Do you see that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Do you recall getting this letter?</p> <p>15 A. Yes, I do.</p> <p>16 Q. What was the context of this letter?</p> <p>17 A. Let me take a moment to read it.</p> <p>18 Okay. I've read it.</p> <p>19 Q. With respect to Exhibit 13, I understand you</p> <p>20 just read that letter. Is that right?</p> <p>21 A. I skimmed through it.</p> <p>22 Q. And what do you remember about the context</p> <p>23 between the Children's Hospital and UMC that gave rise</p> <p>24 to this letter?</p> <p>25 A. This was closely on the heels of what we refer</p>

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1 to as the Acton Group, A-C-T-O-N Group, or the
 2 Strategic Options Group that met three times in April
 3 and through May. And at this period of time the
 4 Children's Hospital was unwilling to take action or to
 5 really -- unwilling to -- the Children's Hospital at
 6 that period of time was basically in denial of their
 7 financial -- the precariousness of the hospital.
 8 This is in 2014 and that committee was
 9 dissolved because the Children's Hospital was not
 10 willing to discuss options or discuss plans of
 11 correction.
 12 At that meeting we presented the
 13 Children's with a page of options to improve revenue,
 14 to improve reimbursement, to reduce expenses, to give
 15 other options, and that meeting -- that effort drew to
 16 a conclusion less than a month from this letter.
 17 Q. A month prior?
 18 A. Less than a month prior sometime in May. And
 19 so the context of this -- and at that time we had
 20 provided the Children's with many options to improve
 21 revenue, improve reimbursement, reduce expenses and
 22 even put forth a strategic partnership, but at that
 23 time the Children's was -- the Children's Hospital went
 24 through a period of time where they were literally in
 25 denial of their financial situation and went from a

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1 denial -- almost the five stages of -- the five stages
 2 of Kubler Ross where you go through -- a patient goes
 3 different stages of denial and then you go into blame
 4 and then anger.
 5 This was the case where the Children's
 6 was blaming, you know, here in the case of act of God
 7 and that the -- that they have paid back some items,
 8 but couldn't pay back others.
 9 And it was also during this time in June
 10 and July that both management teams were working to --
 11 this was the second attempt to reduce expenses, try to
 12 reduce scope of services to try to save the Children's
 13 Hospital further money. At this period of time the
 14 hospital was in excess of 60 million owed to UMC.
 15 That's kind of the context and the
 16 environment that this was sent to me.
 17 Q. In this letter Mr. Dzieszinski is invoking the
 18 force majeure clause of the master agreement. Did you
 19 see that?
 20 A. I saw that reference on page 2 at the bottom.
 21 Q. Did you understand his theory in support of
 22 why he would do so?
 23 A. I'm not an attorney, but, you know, changes of
 24 reimbursement are not considered an act of God. I mean
 25 that's an act of the legislature and the lieutenant

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1 governor and others.
 2 Q. If you'll look at page 3 of 4 of this letter,
 3 there's a block quote there that sets forth the
 4 provision of the master agreement and there's a
 5 reference to Section 15.23(b). Do you see that?
 6 A. Yes, sir.
 7 Q. And I'm not going to read the whole thing, but
 8 it does reference as an element of force majeure
 9 possible material changes in healthcare laws or the
 10 interpretation thereof. Do you see that?
 11 A. Yes, sir.
 12 Q. Those are not acts of God, are they?
 13 A. Changes of reimbursement are not acts of God.
 14 Q. You agree with that statement?
 15 A. That changes of reimbursement are not acts of
 16 God. I'm not an attorney, but -- yes.
 17 Q. And it states at the bottom of that quoted
 18 block paragraph that: The parties shall use their
 19 respective reasonable efforts to negotiate in good
 20 faith to adopt amendments to this agreement and the
 21 related agreements, including adjustments, if any, to
 22 the rent due under the lease, to take such changes into
 23 account.
 24 Do you see that?
 25 A. Yes.

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1 Q. So there's a reference there to material
 2 changes in healthcare laws or the interpretation
 3 thereof. Do you see that?
 4 A. Yes.
 5 Q. And I think it was your testimony earlier
 6 today that, in fact, such changes had taken place.
 7 A. Yes.
 8 Q. And by virtue of those changes, Mr. Dzieszinski
 9 is referencing that clause of the master agreement and
 10 requesting that UMC negotiate in good faith as set
 11 forth in this block paragraph.
 12 Do you see that?
 13 A. Yes. Not only did we negotiate, this was the
 14 second attempt that we -- the second negotiation,
 15 because earlier in December of 2013, we took the
 16 initiative to sit down with Children's to reduce
 17 expenses, reduce services, to the degree possible.
 18 This was also at the time frame that both
 19 management teams were getting together and at this
 20 point in time the Children's Hospital's boat was
 21 overflowing with water inside the boat and we were all
 22 trying bail and both management teams were aggressively
 23 working tirelessly to try to reduce any types of
 24 expenses and scopes of services. So that's what
 25 occurred over the period of June and July.

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1 So this was -- we did take the initiative
2 on both sides to continue, as we have -- you know, the
3 contracts were agreed upon independently, both sides
4 came in good faith and at arm's length to provide the
5 agreements that we -- that define the relationship.
6 And so just as I mentioned that both
7 boards looked at and management teams at the opening of
8 the Children's Hospital, we thought about two years
9 would be a good time to review that, this was
10 clearly -- our first initiative was before the two
11 years and then, of course, this is right close in
12 proximity to the two years of negotiating and just
13 trying to -- at this point in time we're all trying to
14 do what we can to reduce any types of expenses, so it
15 would not continue to burden the Children's Hospital.
16 Q. What adjustments to UMC make to rent due under
17 the lease?
18 A. No adjustments to the rent. The adjustments
19 came at the service agreements.
20 Q. Why did UMC not make any adjustments to the
21 rent due under the lease?
22 A. The charge was to look at the services. There
23 was not a dispute of the lease because they were --
24 both sides arrived at that figure and that was already
25 set in motion from the beginning.

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1 And so the plan from both boards was to
2 look at the services, the service agreements, hence
3 that's what the management teams did.
4 Q. Mr. Valenti, at any point did the Children's
5 Hospital request that UMC adjust the rent due under the
6 facility lease?
7 A. Adjust the rents due. I know during the
8 forbearance agreements, you know, we put them on a
9 payment plan, put the Children's Hospital on a payment
10 plan, so I imagine some of that would be affected of
11 how they paid going forward.
12 Q. But as far as the rent rate due under the
13 lease, was that ever adjusted?
14 A. It wasn't adjusted nor do I even recall that
15 the Children's -- Children's management or the
16 Children's Hospital board ever requested that. I just
17 don't recall that. We all focused on the expenses, the
18 master service agreement expenses. At this period of
19 time I don't even think that the lease amount was even
20 a discussion item. Yeah, I don't believe that the
21 lease amount was a discussion item.
22 Q. Mr. Valenti, just so that we're clear today.
23 Is it your recollection that the Children's Hospital
24 has never asked UMC to reduce the rent due under the
25 lease?

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1 A. There was a period of time when we were in
2 negotiations -- or the Children's was in negotiations
3 with a strategic partner. This was in '14, in the
4 summer of '14 through the early fall of '14. There
5 were varying models that was advanced in some of those
6 cases. It was always, even under the strategic
7 partnership models, that the strategic partner or
8 Children's would pay the lease amount, would pay the
9 services, would be responsible for the debt. So those
10 were the arrangements.
11 I know now that the Children's Hospital
12 wants to recharacterize the lease. When a company
13 comes into circumstances that they can't afford the
14 position they're in, then they're trying to reduce
15 everything, and so I think it would be natural for
16 everything to be reduced from their perspective, but,
17 again, the management teams never focused on the lease.
18 The lease was established, the lease was long-term and
19 what we tried to focus on are the items that management
20 could focus upon, is the actual services provided.
21 Q. Management could have focused on the terms of
22 the lease, though. Isn't that right?
23 A. Not really, because that was really -- we
24 always were in the viewpoint that it was independent
25 separate appraisals, both hospitals had their

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1 negotiations at arm's length, and it was arrived at and
2 it was substantiated that way. And so we never really
3 considered that with the Children's management or UMC.
4 Q. You never considered the --
5 A. It was never part of our dialogue.
6 Q. To reduce the rent?
7 A. To reduce the rent.
8 (Exhibit marked, No. 14.)
9 Q. (By Mr. Sprouse) Mr. Valenti, you've been
10 handed a document that's been marked as Exhibit 14.
11 It's a letter dated February 24th of 2015 from you to
12 Mr. James Sexton. Do you see that?
13 A. Yes, sir.
14 Q. Do you remember writing this letter?
15 A. Let me glance over it.
16 Yes, sir.
17 Q. Can you describe the letter for me, please.
18 A. The context of this letter dated
19 February 24th, 2015, we had just lived through three
20 proposals to Children's Hospital that were turned down.
21 This is in between the third and fourth proposal that
22 UMC provided Children's. We provided Children's
23 Hospital three -- a total of four proposals. This
24 letter was written in between the third and fourth
25 proposal.

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1 All the proposals are not too dissimilar
 2 going back to the May of 2014 and at this point in time
 3 we were anticipating that there would be -- after the
 4 third proposal, it was the understanding at that time
 5 with the county judge, Veronica Escobar, it was in her
 6 judge's chamber with the Children's Hospital
 7 management, the Children's board members, at that time
 8 the Children's management were represented by contract
 9 executives, Jim Sexton and then Jim O'Keffe was their
 10 CFO and board members, I believe -- I know Sam Legate
 11 was there, Chris Kleberg was there, and I think two
 12 other board members, Mary Lou Camerena, and I attended
 13 as well as my board chair at that time, Bill Hanson.
 14 So at that point in time, that was in
 15 September, the September preceding this February, and
 16 we all discussed -- and that was after the unsuccessful
 17 conclusion of the strategic partnership that happened
 18 in -- the conclusion in September.
 19 We were in the judge's chamber and at
 20 that moment in time we were highlighting options for
 21 the county judge about the change of governance for the
 22 Children's Hospital, that Children's Hospital would
 23 need to amend their bylaws. We had already researched
 24 that Children's Hospital did not have to amend their
 25 articles of incorporation. That was determined through

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1 legal counsel. And to amend their bylaws and to, in
 2 essence, resign.
 3 That timetable was through December --
 4 through November, December, and literally starting at
 5 the beginning of the year with a transfer of -- where
 6 the Children's Hospital would be having a new board and
 7 we would begin operating the hospital.
 8 At that negotiations the dialogue just
 9 kept dragging on. At the same time we were paying --
 10 we were providing services to Children's with no
 11 payment. All payment ceased in March of 2014, so
 12 almost 11 months with no payment at the date of this
 13 letter, almost a full year. We were providing services
 14 without payment, so our board -- there was a
 15 deliberation from our board and at this moment in time
 16 we are trying to reduce any services to try to reduce
 17 UMC's exposure and outlay of expending funds for
 18 services that weren't being paid by Children's.
 19 That's what this -- that's the context of
 20 how this evolved over a three-month period with this
 21 letter.
 22 Q. Mr. Valenti, this is also a notice of
 23 termination of certain services provided by UMC. Isn't
 24 that right?
 25 A. That's correct.

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1 Q. And the services that would be terminated
 2 include fiscal/payroll. Do you see that?
 3 A. Yes.
 4 Q. Revenue cycle?
 5 A. Yes.
 6 Q. Environmental services?
 7 A. Yes.
 8 Q. And I take that to be synonymous with
 9 housekeeping. Is that right?
 10 A. Yes, sir.
 11 Q. Laundry?
 12 A. Yes, sir.
 13 Q. Dietary?
 14 A. Yes, sir.
 15 Q. Nurse support/education?
 16 A. Yes.
 17 Q. And quality management?
 18 A. Yes, sir.
 19 Q. If those services, in fact, had been
 20 terminated, would the Children's Hospital have been
 21 able to continue to operate?
 22 A. Yes. We selected these services to be support
 23 areas and that Children's Hospital could secure these
 24 services within a 30-day period. So we tried to
 25 minimize the losses that UMC was incurring with

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1 nonpayment from Children's Hospital and these were the
 2 services that management recommended to our board and
 3 our board agreed upon and hence this letter of
 4 February 24th.
 5 Q. Did you later rescind this letter?
 6 A. I believe at this point, after this point in
 7 time, occurred the mediations. I might be off on some
 8 months, but after that -- the termination of services
 9 did not occur.
 10 Q. Thank you.
 11 And there's a statement in here in the
 12 second to last paragraph that the services provided by
 13 UMC amounting in over \$33,000 per day in costs incurred
 14 by UMC.
 15 Do you see that?
 16 A. Yes.
 17 Q. How did you arrive at that figure?
 18 A. I think that was -- from my recollection, that
 19 was I believe taking the 1.2 million -- I'm sorry. Let
 20 me back up.
 21 Approximately \$12 million of services --
 22 \$12 to \$14 million of services UMC was providing to
 23 Children's, if you take that amount and take it to a
 24 daily amount -- I think it was a daily amount -- the
 25 math would come out to about 33,000 a day. I believe

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1 so, but I -- someone would have to confirm that on a
 2 calculator or doing the math.
 3 Q. And the million dollar figure that you
 4 described for us, is that annually?
 5 A. That was an annual figure.
 6 Q. So you just divided that by 365?
 7 A. Yeah. And a monthly figure would have been
 8 1.2 million. I believe the monthly amount is about
 9 \$1.2 million.
 10 Q. So a component of that 33,000 per day would
 11 include amounts due under the facility lease?
 12 A. I don't recall. I would have to -- I believe
 13 it was the 1.2 million. I don't believe it included
 14 the facility lease.
 15 (Exhibit marked, No. 15.)
 16 Q. (By Mr. Sprouse) Mr. Valenti, you've been
 17 handed a document that's been marked as Exhibit 15.
 18 It's a series of e-mails, but I'd like to now direct
 19 your attention to the page that has the Bates number on
 20 the bottom 7458. Let me know when you've found that.
 21 A. Yes, sir.
 22 Q. And there's an e-mail dated May 23rd of 2014
 23 from a Lance Ramsey. Do you see that?
 24 A. Yes.
 25 Q. Who's Mr. Ramsey?

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1 A. He is one of the principals of the Gjerset
 2 firm?
 3 Q. Who does Gjerset work for?
 4 A. It's the -- Jim Gjerset works for Jim
 5 Gjerset's firm. I think there's a full name to the
 6 firm and it just escapes me the full name, but Lance
 7 Ramsey is a principal in that firm. It's a
 8 reimbursement legal counsel firm.
 9 Q. Do they do work for UMC?
 10 A. Yes, sir.
 11 Q. Were they doing work for UMC in May of 2014?
 12 A. Yes, sir.
 13 Q. It looks like this e-mail is to a Brittani
 14 Bilse. Do you see that?
 15 A. Yes.
 16 Q. Do you know who Ms. Bilse is?
 17 A. No, I do not.
 18 Q. Have you seen this e-mail before?
 19 A. No, I have not seen this e-mail before.
 20 Q. Mr. Ramsey states in the e-mail that he is --
 21 or, "Here is the action plan I am recommending to UMC."
 22 Do you see that?
 23 A. I do.
 24 Q. The first paragraph says: Confirm that we
 25 have the extension until next Wednesday with HHSC.

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1 Do you see that?
 2 A. Yes.
 3 Q. Do you know what extension he's referring to?
 4 A. I do.
 5 Q. What is that?
 6 A. This is -- this is the -- this is where in
 7 order for Children's to benefit from the Medicaid
 8 supplemental program, Children's executive and board
 9 were to certify documents, submit those to HHSC,
 10 similar to other hospitals that participate in the
 11 Medicaid supplemental program, and to avail themselves
 12 to the Medicaid supplemental reimbursement. This is
 13 the program that Children's, Ray Dzieszinski as well as
 14 their board chairman Sam Legate, were unwilling to sign
 15 certification documents.
 16 Q. Do you know why they were unwilling to sign
 17 those documents?
 18 A. Only from the perspective of what
 19 Mr. Dzieszinski told me is that he didn't trust the
 20 Children's board.
 21 Q. When did he tell you that?
 22 A. In this time frame. This was a major deal
 23 because the Children's lost out on \$8 million of
 24 funding. In essence we held up the entire financing in
 25 the state of Texas over the Memorial Day weekend to try

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1 to obtain Children's in a position that they would sign
 2 the certification, their board and their management,
 3 either of them, to avail themselves of eight million.
 4 We made special arrangements with Lance
 5 Ramsey and Jim Gjerset through their contacts with HHSC
 6 to get legal compliance with HHSC to hold -- to hold up
 7 the funding of the entire state over the Memorial Day
 8 weekend so that it would give Children's time to
 9 certify the document by the executive and the chairman
 10 of the board.
 11 That was not successful and the chairman
 12 was unwilling to sign the certification and the CEO was
 13 unwilling to sign the certification and hence we
 14 delayed the funding of the entire Medicaid supplemental
 15 program for the entire state of Texas for about five
 16 days.
 17 So that was a very sad chapter, a very
 18 disappointing chapter, that all that the Children's
 19 needed to do was -- their leadership of governance and
 20 leadership of the board, of management, is just to sign
 21 the certification that was customary and every hospital
 22 has those certifications. They were unwilling and
 23 hence they passed on \$8 million of reimbursement, which
 24 quite frankly is sinful.
 25 Q. Mr. Dzieszinski told you he wouldn't sign the

<p style="text-align: right;">178</p> <p>1 certification because he didn't trust the board. Is 2 that right?</p> <p>3 A. That's correct.</p> <p>4 Q. What else did he say about that?</p> <p>5 A. That's it.</p> <p>6 Q. He didn't say why he didn't trust the board?</p> <p>7 A. I didn't go into details and that's what he 8 just gave me as a response.</p> <p>9 Q. Did you ask him what he meant by that?</p> <p>10 A. I did not. I picked up the phone and I called 11 Sam Legate and asked him, "Please sign this because 12 you-all need revenue, you need reimbursement." And I 13 asked Sam Legate, "Please sign the document. Your CEO 14 will not sign the document." He did not want to sign 15 the document.</p> <p>16 Q. Did Mr. Legate say why he would not sign the 17 document?</p> <p>18 A. He did not.</p> <p>19 Q. Did you ask him?</p> <p>20 A. He wanted Ray Dziesinski to sign the document. 21 This eight million was not -- it's gone, 22 it's gone forever. You can't appeal it. You can't 23 play back the tape and redo it. It was a substantial 24 loss of opportunity of a company that was in excess of 25 \$60 million in debt foregoing \$8 million of funding.</p>	<p style="text-align: right;">180</p> <p>1 Those documents were important because 2 they were confidential and it provided itself a 3 compliance risk. That risk was identified by the 4 Gjerset firm and hence we needed to have recertified 5 documents that I mentioned minutes ago for the CEO and 6 the board. This was also signed off by the HHSC 7 attorneys. They agreed with the course of action. 8 So we did everything in our effort to 9 strongly encourage the Children's Hospital, even with 10 the satisfaction of HHSC legal counsel agreeing to this 11 plan of action.</p> <p>12 Q. How did you know that the documents had been 13 leaked?</p> <p>14 A. A reporter -- a reporter called our -- I 15 believe a reporter called myself, my board chairman, my 16 CFO and asked for explanations of the document that he 17 received.</p> <p>18 Q. Was there any reporting of the leaked 19 documents or their contents?</p> <p>20 A. There was, but I can't recall the specifics.</p> <p>21 Q. Was the compliance risk, Mr. Valenti, the fact 22 that the documents were leaked or did the risk relate 23 to the contents of the documents?</p> <p>24 A. Both items.</p> <p>25 Q. What were the contents of the leaked</p>
<p style="text-align: right;">179</p> <p>1 It's unconscionable.</p> <p>2 Q. Mr. Valenti, in paragraph 2 of this e-mail it 3 says: Gjerset & Lorenz needs to draft a letter to HHSC 4 on behalf of UMC disclosing the leaked materials. 5 What are the leaked materials?</p> <p>6 A. During the Strategic Options Committee, I 7 refer to it as the Acton Group, confidential documents 8 were distributed to the members of the committee. The 9 members of the committee were several members of the 10 Children's Hospital board, including Ray Dziesinski, 11 their management, UMC board members including myself, 12 and Ron Acton was the chair.</p> <p>13 Both boards thought it was an excellent 14 choice for Mr. Acton to serve as chairman. He's known 15 through the community and through the campus for his 16 tireless efforts and his ability to help compromise and 17 help navigate through difficult situations. He's 18 seasoned, an expert.</p> <p>19 And at the deliberations there were 20 confidential documents that were then leaked to a 21 reporter. Eventually Sam Legate mentioned that -- I 22 believe a month or so in passing -- that he finally 23 owned up that those documents were left at a Children's 24 board meeting, he left those on the table and someone 25 else had leaked those to the paper.</p>	<p style="text-align: right;">181</p> <p>1 documents?</p> <p>2 A. As I recall they were relating the -- there 3 were financial statements and they were linking the IGT 4 with potentially the lease payment and that presented 5 the context of a compliance leak that associated those 6 as well as the release of this to a third party that 7 was confidential statements that should have been 8 returned.</p> <p>9 Q. In these documents how was IGT and the lease 10 linked?</p> <p>11 A. I don't recall the specifics.</p> <p>12 Q. Would that have been of concern to the HHSC?</p> <p>13 A. It was of concern to our legal counsel 14 Gjerset, Lance Ramsey, and that's why we put into place 15 the recertification of the documents by Children's to 16 really -- as well as we -- we received a -- kind of a 17 refresher-up course of compliance from Gjerset, from 18 the firm, because it's an important -- this program at 19 the state level and at our hospital level is a very 20 important program and you have to follow explicitly 21 rules of this program, which they are very competent 22 in.</p> <p>23 And in their judgment, their professional 24 legal judgment, there was a breach and this was the 25 course of action they recommended and we followed our</p>

<p style="text-align: right;">182</p> <p>1 attorney's advice.</p> <p>2 Q. Do you believe that the materials were</p> <p>3 intentionally leaked?</p> <p>4 A. Yes, sir.</p> <p>5 Q. By Mr. Legate?</p> <p>6 A. He offered a half apology. He confessed to me</p> <p>7 that he did leave the reports on the Children's table.</p> <p>8 He did not -- he stated to me he did not personally</p> <p>9 leak it, but someone at the table provided it to</p> <p>10 Children's -- to the reporter.</p> <p>11 Q. When did that happen?</p> <p>12 A. Sometime the summer of '14.</p> <p>13 Q. Well, this e-mail is dated May of 2014, so I</p> <p>14 presume the leak was prior to May.</p> <p>15 A. Yes, but I don't think it was -- what I'm</p> <p>16 saying is that the disclosure from Sam Legate, the</p> <p>17 chairman, was eventually after that period of time.</p> <p>18 Q. Fair enough.</p> <p>19 Do you know when the documents were</p> <p>20 leaked?</p> <p>21 A. Yes, almost -- almost immediately after the</p> <p>22 conclusion of the Strategic Options Committee, what I</p> <p>23 refer to as the Acton Group, it was almost within a</p> <p>24 24-hour period.</p> <p>25 Q. What date would that have been?</p>	<p style="text-align: right;">184</p> <p>1 error.</p> <p>2 Q. Did you ever see the leaked documents?</p> <p>3 A. Yes.</p> <p>4 Q. And it's your recollection they linked the IGT</p> <p>5 and lease payments in some way?</p> <p>6 A. Yes.</p> <p>7 Q. Do you believe that that linkage in the</p> <p>8 documents was inappropriate?</p> <p>9 A. The leak?</p> <p>10 Q. Yes.</p> <p>11 A. Oh, absolutely.</p> <p>12 Q. No, the link, L-I-N-K.</p> <p>13 A. Oh, the link. The relationship on the page</p> <p>14 for proximity was too close and so a reader would have</p> <p>15 that link. It was a concern to the Gjerset firm, Lance</p> <p>16 Ramsey, so hence he came up with a plan of action as</p> <p>17 well as the education I had just mentioned to reeducate</p> <p>18 everyone of the seriousness of this activity.</p> <p>19 As I recall I think it happened at the</p> <p>20 second meeting, not the third, because the third</p> <p>21 meeting we confronted everybody about what happened,</p> <p>22 the membership of that committee, and said, "What's</p> <p>23 happening here?" You know, there was a -- a compliance</p> <p>24 breach of a serious magnitude.</p> <p>25 Q. How did Mr. Ramsey know about the contents of</p>
<p style="text-align: right;">183</p> <p>1 A. I'd have to get a calendar out. I can't -- I</p> <p>2 don't have that specific -- the Acton Group met three</p> <p>3 times and I believe it was after the third meeting.</p> <p>4 Q. Was it in 2014?</p> <p>5 A. May of 2014.</p> <p>6 Q. So shortly before this correspondence?</p> <p>7 A. Yes.</p> <p>8 Q. What do you think was the motivation for the</p> <p>9 leak of those documents?</p> <p>10 A. I have no idea.</p> <p>11 Q. Mr. Legate didn't shed any light on that?</p> <p>12 A. No, sir.</p> <p>13 Q. Was the recertification instigated by UMC?</p> <p>14 A. It was a legal process that was recommended by</p> <p>15 legal counsel and we followed legal counsel's advice.</p> <p>16 Q. And this was in response to the leak?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Paragraph 3 of the e-mail says: We need a</p> <p>19 letter from EPOCH that clarifies the record and</p> <p>20 acknowledges the errors of the leaked documents.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. That just means that it was a mistake. Is</p> <p>24 that right?</p> <p>25 A. The errors of the leaked documents, yes, an</p>	<p style="text-align: right;">185</p> <p>1 the leaked documents?</p> <p>2 A. He attended the Acton Group.</p> <p>3 Q. If you turn the page on this Exhibit 15, see</p> <p>4 another e-mail --</p> <p>5 A. Can I clarify that answer?</p> <p>6 Q. Yeah.</p> <p>7 A. I'm recalling that Michael Nunez was at that</p> <p>8 meeting, at the Acton Group meeting. I'm not</p> <p>9 100 percent certain. So I'm just reflecting on my</p> <p>10 statement and I'm not 100 percent certain that Michael</p> <p>11 was there. I believe he was, but I could be mistaken.</p> <p>12 Q. When was the second meeting of the Acton</p> <p>13 Group?</p> <p>14 A. I have that document in my office, but I can't</p> <p>15 tell you. The meeting -- the first meeting was at the</p> <p>16 end of April, the next two meetings were in May.</p> <p>17 That's my recollection. It preceded, you know, the IGT</p> <p>18 and the May 23rd.</p> <p>19 Q. Turn to the next page of this exhibit, Bates</p> <p>20 number 7459. Do you see that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. It's an e-mail again from Mr. Ramsey where</p> <p>23 he's forwarding a letter subject to UMC's final</p> <p>24 approval. Do you see that?</p> <p>25 A. Yes, sir.</p>

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1 Q. He states: We envision a similar letter from
 2 EPCH that we would submit to HHSC simultaneously.
 3 Do you see that?
 4 A. Yes.
 5 Q. Then on the next page of the exhibit is a
 6 draft of the letter. Do you see that?
 7 A. Yes.
 8 Q. Have you seen this letter before?
 9 A. Let me glance at it.
 10 I've just skimmed through it. I remember
 11 this and I was copied on the last page.
 12 Q. Was the letter actually sent?
 13 A. I believe so because that started the wheels
 14 in motion for HHSC to -- their legal counsel to come in
 15 a comfort zone.
 16 Q. By "comfort zone," you mean the extension of
 17 time?
 18 A. The extension of time and also that they
 19 signed off on the process that was being proposed by
 20 Lance Ramsey.
 21 Q. In the middle of the first paragraph of this
 22 letter it says: Due to regrettable circumstances and
 23 timing, UMC withdrew its IGT commitment for EPCH last
 24 Wednesday.
 25 Do you see that?

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1 A. Yes.
 2 Q. Is that a reference to the leak?
 3 A. Yes. And that's where we're requesting later
 4 in that paragraph the extension to try to work through
 5 the legal solution that Lance Ramsey and Todd Ramberg
 6 proposed as well as their approach to legal counsel
 7 with HHSC to get this back into a compliance safety
 8 zone.
 9 Q. Was UMC the Children's Hospital IGT sponsor in
 10 2015?
 11 A. Yes.
 12 Q. Was the certification completed for 2015?
 13 A. I don't know if it was completed. Let me
 14 expound upon that. There was a payment for DSH payment
 15 and the payment was in early May of 2015. And so we
 16 provided the IGT funding and hence Children's Hospital
 17 received 4.5 million, 4.6 million in Medicaid
 18 supplemental reimbursement.
 19 Q. In 2015?
 20 A. In 2015.
 21 Q. Is UMC continuing to be the Children's
 22 Hospital's IGT sponsor today?
 23 A. No, it is not.
 24 Q. When did that cease?
 25 A. At the time that Children's Hospital notified

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1 us that they had -- they did not need to be -- they did
 2 not need UMC to be an IGT partner, that they had
 3 provisions of another entity to be their IGT partner.
 4 Q. When did that happen?
 5 A. That came in '14, summer of 2014.
 6 Q. How was that communicated to UMC?
 7 A. I believe it was a letter from John Guggedahl,
 8 the vice chair, to myself.
 9 Q. Mr. Valenti, can you tell me again who was on
 10 the Acton Group?
 11 A. The official name, I think, was the Strategic
 12 Options Committee or Task Force and it was -- Mr. Acton
 13 served as chair, Bill Hanson representing UMC, Steve
 14 DeGroat, Tracy Yellen, Brother Nick. It was myself and
 15 legal counsel on UMC's side, Eddie Sosa and myself. I
 16 have a question that I raised earlier whether Michael
 17 was there or not. I believe he was, but I could be
 18 incorrect.
 19 On the Children's side it was Sam Legate,
 20 it was Rosemary Castillo. Chris Kleberg attended a
 21 meeting, perhaps several meetings. I'm trying to
 22 recall this from memory and by just looking around the
 23 room. Ray Dzieszinski represented Children's. I think
 24 there was another Children's board member, but I can't
 25 remember.

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1 Q. And can you summarize the purpose of the
 2 Strategic Options Task Force?
 3 A. Both boards agreed to form the Strategic
 4 Options so that both boards could work towards
 5 solutions to assist the Children's Hospital.
 6 Q. Those efforts ultimately --
 7 A. Failed.
 8 Q. Failed.
 9 A. Those efforts failed from a reason that UMC
 10 proposed a whole listing of services, of actions, to
 11 improve reimbursement, to reduce expenses, to improve
 12 revenue, very creative ideas that were advanced by
 13 Lance Ramsey, and those were never acted upon by the
 14 Children's Hospital, which was of course very
 15 frustrating to be able to present options in detail, a
 16 plan of action, action steps, and I volunteered as well
 17 as Lance Ramsey to help Children's initiate all these
 18 ideas, but consequently the Children's board was in
 19 denial and started walking down the avenue of blaming
 20 and did not take heed to the ideas.
 21 The ideas were very much in order to
 22 improve the operations and the financial management of
 23 the Children's Hospital and to our dismay they weren't
 24 even acted upon.
 25 Q. Mr. Valenti, after the bankruptcy filing, did

<p style="text-align: right;">190</p> <p>1 you remove from UMC any documents pertaining to the 2 Children's Hospital?</p> <p>3 A. No, sir.</p> <p>4 I have a question about that last 5 statement. Did you ask me about removal of any 6 documents?</p> <p>7 Q. Yes.</p> <p>8 A. And what did you mean by "removal"?</p> <p>9 Q. Taking documents away from the facility.</p> <p>10 A. No, sir.</p> <p>11 Q. Who is Yolanda Estrada?</p> <p>12 A. Yolanda Estrada?</p> <p>13 Q. Yes.</p> <p>14 A. She was my board chair many years ago.</p> <p>15 Q. Do you keep up with Ms. Estrada?</p> <p>16 A. No, sir. I had one occasion of a -- she had 17 called the office within the last 12 months. I could 18 not answer the call, but we corresponded through e-mail 19 and it was about her son having interest in a career in 20 nursing and so I was trying to be helpful to the 21 family.</p> <p>22 Q. Was Ms. Estrada involved with the planning for 23 the Children's Hospital?</p> <p>24 A. I would have to reconstruct the years she was 25 on the board and -- she was -- I would have to -- she</p>	<p style="text-align: right;">192</p> <p>1 of interest.</p> <p>2 Q. Does he advise the board?</p> <p>3 A. He provides occasionally input through either 4 questions or comments informally to board members. In 5 the span of ten years I think he's approached the board 6 maybe once or twice with feedback. He's a concerned 7 citizen and engaged citizen and attends the board 8 meetings. He has almost nearly perfect attendance. 9 When he does not show, which was one time, we were all 10 concerned because we were fearful something happened to 11 him as an accident or health or something, but -- it 12 turned out it was an accident, so I think that's why he 13 didn't make the meeting.</p> <p>14 MR. SPROUSE: Let's go off the record. 15 (A recess was had.)</p> <p>16 Q. (By Mr. Sprouse) Back on the record.</p> <p>17 Mr. Valenti, if the UMC bankruptcy plan 18 is approved, what impact do you think that would have 19 upon the pediatric physicians and their willingness to 20 stay at the Children's Hospital?</p> <p>21 A. My board chairman, Steve DeGroat, and myself 22 visit with approximately 80 percent of the pediatric 23 physicians in the community. We've hosted meetings, 24 we've hosted luncheons. They're very much appreciative 25 of us, our outreach to the physicians. They have</p>
<p style="text-align: right;">191</p> <p>1 was definitely between the approval of the voters in 2 November of '07 to the opening of the Children's 3 Hospital. I just don't recall completely.</p> <p>4 I would have to -- there's many board 5 members that have served on the UMC board and I'd have 6 to look at a tenure list. I just don't recall the 7 specific dates of service of Ms. Estrada.</p> <p>8 Q. Do you know a Dr. Luna?</p> <p>9 A. Yes.</p> <p>10 Q. Who is Dr. Luna?</p> <p>11 A. He also served as a board member. He was my 12 board chair at the time of the Children's Hospital -- 13 the opening of the Children's Hospital. He, too, 14 served through that period of 2007, 2008 through 2012.</p> <p>15 Q. Who's Tom Watson?</p> <p>16 A. Tom Watson is a principal of the accounting 17 firm of BKD, partner.</p> <p>18 Q. Does he have any connection to UMC?</p> <p>19 A. Yes.</p> <p>20 Q. What does he do for UMC?</p> <p>21 A. He's our independent outside auditor. We 22 contract with BKD and Tom manages our account.</p> <p>23 Q. Who's Mike Rooney?</p> <p>24 A. Mike Rooney, Mr. Rooney, is a citizen of 25 El Paso. He frequently attends UMC board meetings out</p>	<p style="text-align: right;">193</p> <p>1 commented that that outreach has been missing from the 2 Children's Hospital. They appreciated our candor and 3 the status where we find ourselves in.</p> <p>4 In addition they've been very graphic in 5 openly stating that the current board does not 6 represent them. They openly state that they have 7 supported myself not 100 percent, but 200 percent. 8 They have even pointedly asked, "When is the Children's 9 Hospital current board going to resign?"</p> <p>10 Physicians, in my field of 30-plus years, 11 they talk openly. They're not bashful about making 12 statements, but those are statements that have been 13 made.</p> <p>14 I think there was a concerted effort 15 before Mr. Herbers to really label UMC, Jim Valenti, as 16 the scapegoat and they did a very effective job with 17 the physician community in 2014. I think in 2015 we 18 were able to reach out to physicians and provide our 19 side and our perspective that we want a separately 20 licensed children's hospital, we want a separate board, 21 we want to grow the services, we want the mission. 22 Everything that we envisioned in '07 we want to be able 23 to provide.</p> <p>24 What we're trying to do is allow the 25 Children's to be under the shelter of the district</p>

CERTIFICATION

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3 I, the officer before whom the foregoing
4 deposition was taken, do hereby certify that I
5 personally recorded the testimony of the witness whose
6 testimony appears in the foregoing deposition; that
7 said deposition is a true record of the testimony given
8 by said witness; that I am neither attorney for,
9 related to, nor employed by any of the parties to the
10 action in which this deposition is taken, and that I am
11 not a relative or employee of any attorney employed by
12 the parties hereto, or financially interested in the
13 action.

14
15
16 Teri C. Finnegan
17 Certificate No. 2911
Expires: 12-31-2015
18 Firm No. 734
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