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The Law Office of Dale L. States
6724 North 43rd Avenue
Glendale, AZ 85301
(623) 934-3769 Telephone
(623) 463-8034 Facsimile
Dale L. States, Bar No. 001543
Attorney for PLAINTIFFS

BEFORE THE ARIZONA CORPORATION COMMISSION

In re the matter of:

JOSEPH MICHAEL GUESS, SR.
Plaintiff,

PROGRESSIVE FINANCIAL MANAGEMENT,

JAMES DOUGLAS SHERRIFFS,

RICHARD GORDON DAVIS
Arizona Corporation Commission
DOCKETED

RGD,

NOV 06 2000

RGD ENTERPRISES, INC

DOCKETED BY

IRA JOE PATTERSON,

RANDALL WAYNE SMITH, JR.

BALLY OVERSEAS TRADING, INC.

Defendants,

[∞]
Docket No. : S-03280A-98-0000

MEMORANDUM IN LIEU OF
CLOSING ARGUMENT

COMES NOW Richard Davis ONLY, by and through counsel undersigned and offers his Memorandum in Lieu of Closing Argument.

FACTS

The state has produced ample evidence to support its argument that a "ponzie" scheme was operated by some of the respondents in this case. One witness after the other identified Sherriffs, Guess or Patterson as the person who recruited them for an "investment program"

1
2 which would produced phenomenal earnings with no liability. There was, however,
3 absolutely no evidence to even suggest that Richard Davis ("Davis") had contact of any kind
4 with any of the victims. There was no evidence that Davis had met with any of the witnesses,
5 talked with him, or communicated with them in any way, shape or form.
6

7
8 What the evidence did show was this: Davis and his wife incorporated a small family
9 business on March 26, 1976. It was called RGD Enterprises, Inc. and was designed to be the
10 parent corporation for Communication Enterprises, Inc., a telephone answering service
11 operated by Davis and his wife. Michael Guess was a customer of the answering service and
12 became a "friend" of Davis. In February 1997, Guess described an investment scheme to
13 Davis which had some connection with international banking. When Mr. Knops asked Davis
14 to describe the program¹, Davis could do little more than repeat the "mumbo-jumbo" that
15 Guess had used to sell him the program. From his testimony, it is painfully obvious that
16 Davis had no idea how the program worked. Davis said that he trusted Guess as a friend and
17 believed Guess when he told him that large profits could be made with little or no risk².
18
19

20 Incidentally, unlike the other respondents, Davis submitted to an examination under
21 oath by Mr. Knops and David Adams³. When I asked Mr. Adams on cross-examination if he
22 had any reason to believe that Davis provided any untruthful testimony during his
23 examination, Mr. Adams replied, "No, I do not."
24
25
26
27

28

¹ Page 20 of Exhibit 125

² A theme repeated by all of the victims who testified in this case.

³ It may not be reasonable to ask the hearing officer to read the Davis examination in its entirety; however, a cursory reading provides clear evidence that Davis was forthcoming and candid in his responses to the questions.

1
2 At the urging of Guess, Davis testified⁴ that he wire transferred \$30,000 to a bank in
3 Alabama his initial investment in the "program". Davis did not have the wire transfers during
4 the examination but acquired wire transfers from his bank since the hearing and they are
5 attached to this Memorandum as Respondent's Exhibits "2" and "3."
6

7
8 A second investor, Glen E. King, also wired \$50,000 to the Alabama bank account of
9 Randall Smith on February 27, 1997. Both King and Davis began to receive interest
10 payments on their investment during April 1997. During the next four months, King received
11 a total of \$27,500, Davis received payments which totaled \$26,000. All of the funds received
12 by Davis and King were from the Alabama account of Randall Smith.
13

14
15 Immediately after the receipt of their first interest payments, Davis and King were
16 approached by Guess who suggested that they create a new corporate entity to coordinate the
17 investment program⁵.
18

19 King and Davis were taken to the office of A. Frederic Schaffer, an attorney who
20 supposedly had Arizona Corporation Commission ties and influence. In any event, he
21 allegedly had the expertise to establish an entity which could take advantage of these
22 investment opportunities and conform to the laws of the State of Arizona and the rules and
23 regulations of the Arizona Corporation Commission.
24

25
26 The entity proposed by Schaffer would be an LLC with Davis' corporation, RGD
27

28

⁴ Page 53 of Exhibit 125

⁵ Davis was stilled confused about the purpose of the corporation on October 20, 1998 when he provided his statement to Mr. Knop. Page 54 of Exhibit 125.

1
2 Enterprises, Inc., as the manager. Both Davis and King were to serve as officers of the new
3 LLC, as would Guess, Patterson and Sherriffs. For reasons which Davis is unable explain, the
4 LLC was never registered with the Arizona Corporation Commission. During the hearing, it
5 was established that Guess paid Schaffer \$12,000 for his services, thereby eliminating the
6 possibility that Schaffer hadn't completed the filing because he hadn't been paid. It is more
7 likely that Guess and Sherriffs had their split at about that time and the LLC was lost in the
8 shuffle. Another explanation may be that Guess, Sherriffs and Schaffer were creating an
9 entity which appeared to have some substance as a means of grooming Davis and King for
10 larger investments.
11

12
13 During the same period of time, that is, between April and August 1997, Sherriffs
14 opened a bank account with Norwest Bank of Scottsdale under the name "RGD Investments."
15 Neither Davis nor King were signers on the account and there is no evidence that either man
16 had any control over the account or received any funds from that account.
17

18
19 At the end of 1997, Davis was instructed by Sherriffs to issue 1099's to several
20 "investors" including Davis and King. All of the funds which Davis and King received were
21 reported as interest income. Neither Davis nor King received any return on their investments
22 after July 1997 and with the exception of the events which I've described, neither man had
23 any control over deposits or withdrawals from any bank account in which Sherriffs, Guess or
24 Patterson had an interest. Nor was there any evidence that funds solicited by Sherriffs, Guess
25 and Patterson from other "investors" paid to or shared by Davis or King.
26
27

28 The situation in which Davis and King found themselves was virtually identical.

1
2 There were two exceptions; first, Davis provided a sworn statement to the corporation
3 commission and attorney general representatives and apparently King did not. Second, Davis
4 agreed to allow Michael Guess to use his corporate name in the proposed investment program.
5 Why, during the state's presentation, was King referred to as an investor and Davis treated as
6 a respondent?
7
8

9 First, the state may argue that by allowing the other Respondents to use RGD
10 Enterprises, Inc., Davis provided them with the instrumentality to defraud the victims. That
11 argument does not have a foundation. The reason? Norwest Bank did not require Davis to
12 sign an authorization to permit the use of RGD Enterprises, and there was no evidence that
13 Davis permitted the bank to open an account in the corporate name.
14

15
16 Sherriffs opened a second account apparently, which he called "James D. Sherriffs
17 RGD Account"⁶, again without Davis' permission or participation. In addition, the
18 Respondents used a variety of names to swindle their victims, including Progressive Financial
19 Management, Bally Overseas Trading, Inc., World Trading Alliance, Private Placement Asset
20 Management Agreement, BVW Investments, Asset Enhancement Program and Far Horizon
21 Trust. Davis had absolutely no connection with any of these entities.
22
23

24 The truth is, the other named respondents appeared to randomly select names of
25 fictitious enterprises with which to swindle their victims and the fact that the entity did or did
26 not legally exist was completely irrelevant. The victims depended upon the credibility or
27 apparent credibility of the respondent making the promises and the mysterious trading
28

⁶ Exhibit S-71

1
2 company who was supposedly making the overseas investments. These victims who appeared
3 as witnesses were lured by the large returns which these respondents promised, and whether
4 the respondents operated as "Far Horizon Trust", "Bally Overseas Trading" or "RGD", the
5 result would have been the same.
6

7
8 In summary, consider:
9

- 10 a. That Davis invested his savings, the other respondents did not invest a dime;
11
12 b. Davis had no contact with the other "investors" (except for Ed King);
13
14 c. All of the other "investors" were solicited by one or more of the other named
15 respondents;
16
17
18 d. Davis had no control over the funds invested or the bank accounts, the other
19 respondents accepted "investments" and managed the checking accounts which received and
20 disbursed funds;
21
22
23 e. Davis appeared for sworn testimony, the other respondents either would not
24 appear or took the 5th Amendment when questioned by the Assistant Attorney General;
25
26 f. Davis has lost money as an investor, the remaining respondents have lost
27 nothing.
28

1
2 Davis' level of understanding and participation in the "investment program" is best
3 understood by reviewing his examination under oath⁷. Excerpts which are illustrative of
4 Davis' ignorance in respect to the investment program and His reliance upon the promises of
5 Michael Guess are attached to this Memorandum. Davis' responses to pointed questions
6 reflect a painfully ignorant man who, in the final analysis relied solely upon the promises and
7 information supplied by Michael Guess. From his testimony and the testimony of all of the
8 witnesses, it is apparent that Michael Guess is a manipulative, highly skilled, confidence man.
9 In victim after victim, Guess, Patterson and Sherriffs were able to convince educated people,
10 including in one instance, an investment counselor, that they had access to a secret investment
11 opportunity which produced enormous profits at no risk to the investors. Furthermore, the
12 program was not available to the general public, and in fact if the investors made inquiry the
13 existence of the program would be denied by the banks and governmental agencies. This is
14 the same kind of nonsense that you hear from those who believe that there are Russian
15 soldiers in secret bases in Texas, that "people" are watching us from black helicopters and
16 there are unidentified flying objects from outerspace that are kidnapping our neighbors. Why
17 do seemingly intelligent people believe that they can earn enormous profits at no risk? In this
18 case the answer can probably be summed up in one word: greed.
19
20
21

22
23 If greed is the bait, Michael Guess an adept fisherman. His pitch was so persuasive
24 that Davis continued to defend him, in the belief that the problems were created by the FBI
25 and other shadowy governmental agencies who were attempting to squelch this program. It
26 was not until the last day of testimony when we introduced a newspaper clipping which
27 reported that Randall Smith had entered into a plea agreement in Atlanta which admitted that
28

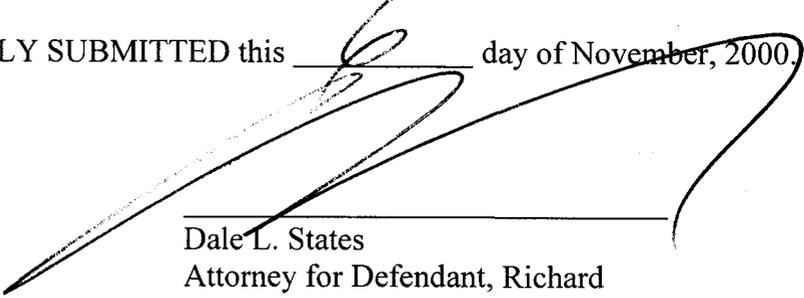
⁷ Exhibit S-125

1 he was involved in a confidence scheme, that Davis was willing to concede that he and the
2 other investors had been "conned".
3

4
5 The investors, including Davis, may be guilty of ignorance and perhaps greed, but
6 there is no evidence or reason for the state to join Davis as a respondent in the case presently
7 before the Arizona Corporation Commission. Davis has not offered to sell or sold any
8 investment or security to anyone. Davis has made no representation to any victim, nor for
9 that matter had any communication with any victim presenting testimony in this case.
10

11
12 Davis' "friendship" with Michael Guess has come at a high price. His reputation has
13 been damaged, his peace of mind destroyed and his defense in this and other civil actions
14 arising from his association with Michael Guess have cost Davis thousands of dollars in
15 attorneys' fees and court costs. Because the state has failed to produce any evidence which
16 would support the allegations contained in the proposed order for relief, the Arizona
17 Corporation Commission has an obligation and it would only be right to deny the proposed
18 order for relief as it applies to Richard Gordon Davis.
19

20
21 RESPECTFULLY SUBMITTED this 6 day of November, 2000.

22
23
24 
25 Dale L. States
26 Attorney for Defendant, Richard
27 G. Davis ONLY

28 A copy of the foregoing was
mailed this 6th day of
November, 2000 to:

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Mark C. Knops, Esq.
Moirra McCarthy, Esq.
Arizona Corporation Commission
1300 W. Washington-3rd Floor
Phoenix, AZ 85007
Attorneys for the Securities Division

Joseph Michael Guess, Sr.
2911 East Calavar Road
Phoenix, AZ 85032
Respondent

Peter Strojnik, Esq.
P.O. Box 34563
Phoenix, AZ 85067
Attorney for James Douglas Sherriffs

Ira Joe Patterson
4330 North 30th Street
Phoenix, AZ 85016
Respondent

Randall Wayne Smith, Jr.
1905 Springlake Court
Birmingham, AL 35215
Respondent

Bally Overseas Trading, Inc.
1905 Springlake Court
Birmingham, AL 35215
Respondent

Christopher B. Parkerson, Esq.
JOHNSON & MOBLEY
2101 Fourth Avenue South, Suite 200
Birmingham, AL 35233

by: m. menard

Exhibit 1

RICHARD GORDON DAVIS 10/20/98

1 Q. Do you have a way of checking on that?

2 A. I can try to look it up and find out.

3 Q. From whom did you receive information that
4 led to your decision to make this investment?

5 A. Basically things I learned from Mike Guess.

6 Q. Did you speak with anyone else regarding
7 this investment other than Mr. Guess?

8 A. Well, I did some inquiry of trying to find
9 out about it. Wasn't an awful lot of information
10 available on the --

11 Q. Who did you inquire with?

12 A. Well, I -- just financial people that I had
13 some -- almost really no relationship with in the past.

14 Q. Okay. Did you ever speak with a Randall
15 Smith in connection with the investment?

16 A. No. I've never spoken to Randall. I'm
17 aware of Randy Smith, but I had never spoken with him.

18 Q. Can you tell me what the name of this
19 program was that you invested in?

20 A. Well, let's say I know the funds were
21 transferred to the Bally Trading Corporation. That's
22 the biggest in the -- the biggest name that I'm
23 familiar with.

24 Q. Was this called the Joint Venture
25 Investment Management Program?

Exhibit 2

1 A. Pardon?

2 Q. Why was the September payment less?

3 A. Well, the program ran into a little bit of
4 a slowdown at that period. Basically trading in the
5 European market has an -- August is a close-down month
6 anyway. It's a nonbanking month.

7 Q. Was it your understanding then that
8 distributions you received in April, May, June, and
9 July were interest payments being distributed as a
10 return on your investment?

11 A. Yes.

12 MR. KNOPS: Let me have this marked as an
13 exhibit, please.

14 (Exhibit 2 marked for identification.)

15 Q. (BY MR. KNOPS) I'm handing you what's
16 been marked as Exhibit 2. Have you ever seen that
17 before?

18 A. That's right. Yeah.

19 Q. There's a figure shown on here of \$26,000.

20 A. Right.

21 Q. Is that correct?

22 A. Right.

23 Q. And does this represent the distributions
24 from the investment you made?

25 A. That we just talked about, yes.

Exhibit 3

RICHARD GORDON DAVIS

10/20/98

1 Exhibit 2?-----

2 A. The 1099s? I did.

3 Q. Did you prepare other Form 1099s?

4 A. Yes, I did.

5 Q. Are there some financial or accounting
6 records from which this information shown on Exhibit 2
7 was compiled?

8 A. After a fashion, there was a gentleman who
9 was supposed to have been doing all the accounting; set
10 up the accounts, the funds in accounts, the -- received
11 the distributions, and then issued the proceeds to
12 investors.

13 And he did a very poor job of keeping that
14 up. And, in fact, he just zero. He just bombed. So
15 we had to fill out work for the banks. We had to put
16 it all together from the checks issued and do it, yeah.

17 Q. Who was that person?

18 A. Mr. James Sheriffs.

19 Q. Did you then file a tax return for RGD
20 Enterprises, Inc., for 1997, state and federal?

21 A. Let's see. My corporate year for RGD
22 Enterprises ended in September of '97. Yeah.

23 Q. And did your corporate tax return reflect
24 these distributions?

25 A. As far as I know it did, yes.

Exhibit 4

RICHARD GORDON DAVIS

10/20/98

1 Q. Is it fair to say then that the information
2 reflected on these 1099s will be incorporated into the
3 next tax return prepared for RGD Enterprises, Inc.?

4 A. Oh, yes. Yes.

5 Q. Help me to understand how you viewed the
6 use of RGD Enterprises, Inc., as the vehicle for
7 accounting for these distributions.

8 A. Basically it was for this -- this funds
9 transaction. And, as I say, Mr. Sheriffs set up the
10 accounts with the RGD Enterprise name situation. But
11 he totally let us down as far as he was a -- as to
12 running it for us.

13 Q. Is it fair to say that Mr. Guess obtained
14 the information that allowed you to prepare these
15 1099s?

16 A. Pardon?

17 Q. Did Mr. Guess obtain the information as to
18 payments to --

19 A. Oh, yeah. To individuals, yes. Yes.

20 Q. And then did he provide a summary sheet to
21 you that would show how much he -- each of these
22 individuals shown on Exhibit 3 was to be credited?

23 Let's take a recess for a moment.

24 (Recess from 10:48 a.m. to 10:48 a.m.)

25 MR. KNOPS: Let's go back on the record.

Exhibit 5

RICHARD GORDON DAVIS 10/20/98

1 administered were funds that flowed into RGD
2 Enterprises, Inc.?

3 A. Yes. I would consider it funds that were
4 set up. They had to set up separate bank accounts,
5 because I had no bank accounts for RGD Enterprises
6 anyway. So I considered them fair accounts.

7 Q. Was the name of that account RGD
8 Enterprises, Inc., as the account holder?

9 A. I don't have a copy of the check with me.
10 It's RGD Enterprises. I know it was the first line. I
11 think Sheriffs had his name on it.

12 Q. And when that account was opened, was that
13 opened as an account for RGD Enterprises, Inc.,
14 intended to be an RGD Enterprises, Inc., account?

15 A. Well, I -- for this specific use only.

16 Q. Okay. And how did you -- what do you
17 define as the use then that the account was put to?

18 A. The receiving of proceeds from the program
19 and then the distribution -- or disbursement of
20 proceeds to investors.

21 Q. Prior to the 1099s shown on Exhibits 2
22 and 3, had you issued 1099s at any prior time in
23 connection with such a program that Mr. Guess is
24 associated with?

25 A. No.

Exhibit 6

1 A. Right.

2 Q. Is the information contained in that
3 portion of the page after your name, is that accurate
4 information?

5 A. Yeah. It looks to be.

6 Q. And Mr. Guess is indicated below you as to
7 be vice president, trading activities. And then
8 Mr. King is listed below that as vice president,
9 operations of the manager.

10 Was that all what was contemplated by you
11 at the time that this draft was prepared?

12 A. I guess so.

13 Q. Now, what happened to this document after
14 this draft dated 8/4/96 -- 8/14/97?

15 A. As far as I know, it never got completed.
16 Never got whatever you do with them.

17 Q. Why didn't it go any further?

18 A. I don't know.

19 Q. Who was responsible for making the decision
20 on this?

21 A. The overall decision?

22 Q. Yeah.

23 A. That? Probably Mike Guess.

24 MR. KNOPS: Can I have this marked as an
25 exhibit, also.

Exhibit 7

1 A. No, I didn't.

2 MR. KNOPS: Can I have this marked as an
3 exhibit, also.

4 (Exhibit 6 marked for identification.)

5 Q. (BY MR. KNOPS) I'm handing you what's
6 been marked as Exhibit 6. Can you look at that and
7 tell me if you've ever seen that before.

8 A. Yeah. This looks like something that I've
9 been supplied with in the past, yeah, talking about
10 midterm notes.

11 Q. Who gave that to you?

12 A. Mike Guess.

13 Q. Do you remember what purpose he had in
14 giving that to you?

15 A. Just for my edification and tried to get
16 some information on how the program is generated. As I
17 said, there wasn't an awful lot of information
18 available.

19 Q. Did Mr. Guess indicate that the program
20 that you invested in is related to the activity that's
21 described in that exhibit?

22 A. No. This is more of a general -- I don't
23 know how to answer that one.

24 It's my understanding this is pretty
25 much -- this is what the program worked around, this

Exhibit 8

1 type of a concept.

2 Q. Uh-huh. Those initial payments that you
3 received in 1997 for those first four months --

4 A. Yeah.

5 Q. -- the three \$6,000 payments and the one
6 \$5,000 payment, I believe you've testified here today
7 that that was distribution of interest to you.

8 A. Well, distribution of whatever they call
9 it. Proceeds, yeah.

10 Q. Are you aware of the source of those funds
11 that were distributed in those four payments?

12 A. Am I aware of where the money came from?

13 Q. Yeah.

14 A. Yes. My understanding is they came from
15 our investment.

16 Q. Did the funds come from Randall Smith or
17 from somebody else?

18 A. That's -- that was my understanding, yeah.

19 Q. Did anybody ever tell you that those funds
20 were personal loans from Randall Smith? ---

21 A. No.

22 Q. Did you have any awareness of any
23 discussion that the four payments were made not on the
24 basis of an investment that you made, but as
25 compensation for being the core group to bring into

Exhibit 9

RICHARD GORDON DAVIS 10/20/98

1 A. ---Yes, I am.

2 Q. -- 1099-Miscellaneous?

3 A. They've probably got 15 different 1099s.

4 Q. Do you know if Mr. Guess had money invested
5 in the program?

6 A. I don't know if -- at this point.

7 Q. Was there a 1099 issued for Mr. Guess?

8 A. Yes, there was.

9 Q. 'It's been over a year since your last
10 payment under investment. You still have not received
11 your full principal yet based on what you told me here
12 today.

13 Have you had any concerns about the fact
14 that you haven't received the balance of your
15 investment?

16 A. I've been concerned. But I know that there
17 have been some rocky problems in the program up the
18 chain, and I feel very secure that I'll get my money
19 back.

20 Q. Can you tell me what the problems are that
21 have held up your payments?

22 A. I -- I -- I really don't know what the
23 exact problems are. That there were just problems on
24 what the -- I don't know the specifics of the -- what
25 the problems are.

Exhibit 10

RICHARD GORDON DAVIS 10/20/98

1 idea was it to get into this trading program?

2 A. That would be Mike Guess.

3 Q. And you met Mike Guess because he was a
4 customer of CEI, right?

5 A. Yeah.

6 Q. And then how long ago was that?

7 A. Oh, that -- he was a customer of mine a
8 year and a half before we ever got into this program
9 here.

10 Q. Okay. And he -- how did -- how did he
11 present this idea to you?

12 A. Very casually.

13 Q. I mean, what did he say that aroused your
14 interest in this?

15 A. Oh, things like this. Explained what
16 his -- he explained his background and things like
17 that.

18 Q. When he explained this trading program to
19 you and asked you -- I presume he asked you if you
20 wanted to get involved or to invest in it. Is that
21 right?

22 A. Not really, no. We talked a lot about the
23 program before there were any investment possibilities
24 even available.

25 Q. You talked about the --

Exhibit 11

1 A. Yes. What he did and this -- these type of
2 programs long before there was any discussion of
3 getting involved in a program.

4 Q. Okay. And at what point did you and he or
5 he decide to get into an active program here?

6 A. Oh, probably be about the first part of
7 '97. You know, when --

8 Q. So was that a result of some sort of a
9 mutual agreement? Sort of like, hey, you know, Mike,
10 why don't you -- why don't you look around and see if
11 you can find something that we can get into?

12 Along those lines? Or how did it all come
13 about?

14 A. That would probably be a good definition.
15 Because these type of programs, they come onboard as a
16 period comes up. And that's -- that was our kind of
17 let's look. And then something came up, and that's
18 the -- it just went together, yeah, about that time
19 first end of '97.

20 Q. Mr. Davis, did you have a real thorough
21 understanding of this trading program? I mean, real
22 thorough? Or was there just --

23 A. It was more of a general.

24 Q. It was general?

25 A. General understanding.

Exhibit 12

1 Q. So there were still things that you didn't
2 really understand about it?

3 A. Well, I don't -- I was -- I was -- there's
4 things I do every day that I don't understand about.

5 But, yeah, I was sold on the concept. And
6 there's a lot of details that I probably never will
7 understand.

8 Q. You were sold on the general concept?

9 A. Yeah, uh-huh.

10 Q. But you didn't get a lot of specifics? Is
11 that fair to say?

12 A. Yeah. It depends upon your definition of
13 specifics.

14 Q. Did you know who the trader was going to
15 be?

16 A. Yes. That was on -- that was --

17 Q. Did you know what banks were going to be
18 involved in these transactions?

19 A. Right.

20 Q. Did you -- had you ever seen any of
21 these -- these instruments that they were trading in?

22 A. I had been shown instruments before, yeah.

23 Q. By whom?

24 A. Mike Guess.

25 Q. By Mike Guess?

Exhibit 13

1 something that you didn't have any active involvement
2 in.

3 A. Well, I was the president of my existing
4 corporation, RGD Enterprises.

5 Q. Okay. And this -- you said that RGD
6 Enterprises sort of ceased to be anything in 1979,
7 wasn't it?

8 A. It ceased in doing any day-to-day activity,
9 yes.

10 Q. Until Mike Guess came down the pike, right?

11 A. Right.

12 Q. And you brought this investment program
13 under the umbrella of RGD Enterprises as a corporate
14 structure, right?

15 A. It ended up that way, yes.

16 Q. So that was the first active thing that RGD
17 Enterprises had done since '79?

18 A. That's right. Yes.

19 Q. When you got those checks, do you know who
20 wrote them to you, the ones for \$6,000?

21 ~~A. Mr. Sheriffs.~~

22 Q. Mr. Sheriffs wrote them?

23 A. Yes.

24 Q. And then I presume they were written on
25 this local account.

Exhibit 14

RICHARD GORDON DAVIS

10/20/98

1 Q. This. This private placement offering.

2 This draft. This --

3 A. This draft that you -- I'm getting confused
4 as to what you're asking here.

5 Q. You guys set this thing up because of this
6 investment program, right? And that's why you -- you
7 came up with this thing.

8 A. After this came up -- well, after our
9 initial investment program, right. You got that.

10 Q. Right.

11 A. Okay.

12 Q. But it's -- essentially this entails the
13 same thing that you guys were invested in.

14 A. Expanding the concept, yes.

15 Q. Okay. That program, that trading program
16 that was being set up --

17 A. Okay.

18 Q. -- initially back in -- what was it?

19 A. February, March.

20 Q. -- February, March, that came under RGD
21 Enterprises?

22 A. Well, not really at that time. We just
23 ~~invested in the program and developed the RGD concept~~
24 ~~after that.~~

25 Q. At what point after that? Do you recall?

Exhibit 15

1 A. Well, you can see when we started talking
2 about it in detail there.

3 Q. And in August?

4 A. Uh-huh.

5 THE COURT REPORTER: Is that a yes?

6 THE WITNESS: Yes.

7 Q. (BY MR. ADAMS) Did Michael Guess never
8 tell you how he learned about this kind of program?

9 A. Yeah. He explained to me tutored with a
10 lot of financial people in the past. Learned about it.
11 Been in the programs before.

12 Q. And, if I recall, you said you didn't know
13 what Joe Patterson's involvement was.

14 A. He's a friend. He's been a friend of
15 Mike's for many years.

16 Q. But you don't know what his involvement was
17 in the program --

18 A. No.

19 Q. -- or in the -- this whole thing?

20 A. No. Not really, no.

21 Q. Although he is mentioned in here as an
22 officer of the company.

23 A. Oh, he was possibly a potential somebody
24 to, I don't know, look for investors. I really don't
25 know. I just consider him a part of Mike. He had been