

1                   IN THE SUPREME COURT OF THE UNITED STATES

2   - - - - - x

3   CHADBOURNE & PARKE LLP,                   :

4                   Petitioner                   :   No. 12-79

5                   v.                                 :

6   SAMUEL TROICE, ET AL.                   :

7   - - - - - x

8   - - - - - x

9   WILLIS OF COLORADO                   :

10   INCORPORATED, ET AL.,                   :

11                   Petitioners                   :   No. 12-86

12                   v.                                 :

13   SAMUEL TROICE, ET AL.                   :

14   - - - - - x

15   - - - - - x

16   PROSKAUER ROSE LLP,                   :

17                   Petitioner                   :   No. 12-88

18                   v.                                 :

19   SAMUEL TROICE, ET AL.                   :

20   - - - - - x

21   Washington, D.C.

22   Monday, October 7, 2013

23

24                   The above-entitled matter came on for oral

25   argument before the Supreme Court of the United States

1 at 11:06 a.m.

2 APPEARANCES:

3 PAUL D. CLEMENT, ESQ., Washington, D.C.; on behalf of

4 Petitioners.

5 ELAINE J. GOLDENBERG, ESQ., Assistant to the Solicitor

6 General, Department of Justice, Washington, D.C.; for

7 United States, as amicus curiae, supporting

8 Petitioners.

9 THOMAS C. GOLDSTEIN, ESQ., Bethesda, Maryland; on

10 behalf of Respondents.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

	C O N T E N T S	
1		
2	ORAL ARGUMENT OF	PAGE
3	PAUL D. CLEMENT, ESQ.	
4	On behalf of the Petitioners	4
5	ORAL ARGUMENT OF	
6	ELAINE J. GOLDENBERG, ESQ.	
7	For United States, as amicus curiae,	
8	supporting Petitioners	19
9	ORAL ARGUMENT OF	
10	THOMAS C. GOLDSTEIN, ESQ.	
11	On behalf of the Respondents	29
12	REBUTTAL ARGUMENT OF	
13	PAUL D. CLEMENT, ESQ.	
14	On behalf of the Petitioners	52
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

(11:06 a.m.)

CHIEF JUSTICE ROBERTS: We will hear argument next this morning in Case 12-79, Chadbourne & Parke v. Troice in the consolidated cases.

Mr. Clement.

ORAL ARGUMENT OF PAUL D. CLEMENT

ON BEHALF OF THE PETITIONERS

MR. CLEMENT: Mr. Chief Justice, and may it please the Court:

The Stanford Ponzi scheme was a massive fraud, but that fraud clearly included material misrepresentations about transactions in covered securities. The complaints in this case bear that out. Plaintiffs allege specifically that their money was -- there were misrepresentations about how their money would be invested in covered securities, that the misrepresentation was material, and that indeed, the security of the underlying investments was the most important factor in securing Plaintiff's own investments in the CDs.

JUSTICE KENNEDY: I -- I think there's some problem with whether or not this was covered securities, but I also think that's not in the case anymore. Am I correct in the latter assumption?

1 MR. CLEMENT: Well, I certainly agree with  
2 you in the latter assumption, Your Honor, which is both  
3 lower courts decided this on the case that the complaint  
4 specifically -- referred to covered securities  
5 specifically enough. I don't want to belabor the point  
6 because I don't think it's in the case, but I will say I  
7 do think there's a reason that that was not a contested  
8 issue because if you think about the securities that  
9 were referred to, strong multinational corporations,  
10 major international banks, those are companies that are  
11 traded on U.S. national exchanges.

12 Also, if you get into the details of the  
13 record, I mean, I think if you want to look at  
14 something, Joint Appendix Page 746 is an attachment to  
15 the Willis complaint. And there, there's a reference to  
16 the New York Stock Exchange and it's a translated letter  
17 to investors and you can read it more than one way. But  
18 I sure think the whole point of that paragraph is to  
19 lead the Plaintiffs to think that their stock -- they're  
20 buying an interest in stocks that would be traded on the  
21 New York Stock Exchange particularly. So --

22 CHIEF JUSTICE ROBERTS: So if -- if I'm  
23 trying to get a home loan and they ask you what assets  
24 you have and I list a couple of stocks and, in fact,  
25 it's fraudulent, I don't own them, that's a covered

1 transaction, that's a 10(b)(5) violation?

2 MR. CLEMENT: Well, I don't know, Mr. Chief  
3 Justice. That would depend on the answer to a question  
4 that I don't think the Court has to decide in this case,  
5 which is whether a reference to your stockholdings would  
6 be sufficient to -- to come with --

7 JUSTICE KAGAN: Well, suppose you say you're  
8 going to pay off the loan by selling some stockholdings  
9 eventually.

10 MR. CLEMENT: Yeah, I think that probably  
11 would be covered, Your Honor. And I don't think that's  
12 any great surprise. I mean, this Court held in a case  
13 called Reuben against the United States that if you  
14 pledge securities that are -- and tell the banks that  
15 they're valuable and they, in fact, aren't, that that's  
16 covered by the securities law. In that case, it wasn't  
17 just in connection with, it was actually considered a  
18 constructive sale or transfer of the securities.

19 JUSTICE SCALIA: If they were covered  
20 securities, right? I mean, you're -- you're pledging  
21 covered securities to the bank and make a  
22 misrepresentation about them, right?

23 MR. CLEMENT: Well, that's right. I'm just  
24 saying, though, that I don't think the fact that you can  
25 have a misrepresentation in connection with a loan

1 application or something like that is all that  
2 surprising in the sense that the way that both 10(b),  
3 10(b)(5) and SLUSA are structured. The "in connection  
4 with" requirement can take something that might  
5 otherwise be plain fraud and if there's a  
6 misrepresentation in connection with a security or a  
7 covered security, that makes it securities fraud.

8 JUSTICE BREYER: My goodness. Are there  
9 cases where they brought such things? I mean, every  
10 State has laws that forbid fraud. And mortgages are  
11 probably -- and loans are probably made in the billions  
12 every year. All it takes is someone to say on his sheet  
13 of listing assets to have a covered security and say,  
14 don't worry, I'll hold these. I'll hold them. Or don't  
15 worry, I will sell this one and buy that one. Don't  
16 worry, I'll buy another one. I won't -- I won't put up  
17 the security of my sprinkler system. I will sell the  
18 sprinkler system and use it to buy a -- a covered  
19 exchange.

20 I guess if those fall within the securities  
21 laws, we would have expected to see billions of actions.  
22 Why not?

23 MR. CLEMENT: Well, with -- with respect, I  
24 don't think in most of these cases anything is going to  
25 particularly turn on that. I also think -- I'm happy to

1 answer --

2 JUSTICE BREYER: I know that's what you  
3 think, but I need to know why you think it. If there  
4 are billion -- if I'm right in my -- what I just said.

5 MR. CLEMENT: Because there are lots of  
6 cases where whether you can prosecute a fraud or  
7 securities fraud is not going to make much difference.  
8 You can go at it either way. There are circumstances --  
9 there are really two things that are at issue here: One  
10 is --

11 JUSTICE BREYER: Tell me a case where the  
12 SEC has ever -- there may be such cases -- but what is  
13 done is somebody has simply tried to get a loan and he  
14 put on that sheet of paper listing assets a covered  
15 security. And he said, I intend to keep it. Or he  
16 said, you know, I will buy some more or I'll sell it and  
17 buy some more or, you know, or put in your three things.  
18 Just list the case where they've ever prosecuted that as  
19 a securities fraud or private people have. After all,  
20 it's beneficial sometimes for private people. What are  
21 the cases?

22 MR. CLEMENT: Your Honor, I don't know that  
23 there are cases directly on point. But let me be clear.  
24 Our theory here does not, by any means, necessarily have  
25 to extend to those holder situations. What is at issue

1 here is not just a misrepresentation about holdings of  
2 securities. It is -- they are misrepresentations about  
3 covered securities transactions. And more particularly,  
4 they are false promises to purchase covered securities  
5 for Plaintiffs' benefit. And there are SEC cases that  
6 are brought under those circumstances and as well there  
7 should be. Because when you sell something, whether  
8 it's a noncovered security or something else based on a  
9 misrepresentation about covered securities, you trigger  
10 the interests of the SEC and SLUSA in a distinct way.

11 JUSTICE KAGAN: What if people reach a  
12 prenuptial agreement and as part of the prenuptial  
13 agreement they agree that in a year, one party to the  
14 marriage is going to sell as many shares of Google stock  
15 and buy a home with it. Is that covered by the  
16 securities laws now?

17 MR. CLEMENT: I would think probably not at  
18 the end of the day. But I also would say that this is  
19 so far removed from that. I mean, first of all --

20 JUSTICE KAGAN: Well, how is it removed from  
21 that? Because it has the same structural features,  
22 which is it's a misrepresentation about what you're  
23 going to do with securities, but, in fact, does not  
24 affect any securities trading. What it affects is a  
25 decision to do something else, here to buy CDs or in my

1 example to go get married.

2 MR. CLEMENT: With respect, Your Honor, I  
3 think this Court has already crossed the bridge. You  
4 don't have to effect the specific transaction in which  
5 you are -- the fraud is alleged to be associated with.

6 So you have cases like O'Hagan, for example,  
7 where the actual transaction on the -- on the exchange  
8 is not sullied with the fraud and the victim of the  
9 fraud doesn't even trade, the holder of the confidential  
10 information.

11 JUSTICE KAGAN: In all of our cases, there's  
12 been something to say when somebody can ask the  
13 question: How has this affected a potential purchaser  
14 or seller in the market for the relevant securities?  
15 And here there's nothing to say.

16 MR. CLEMENT: With respect, I disagree with  
17 the premise. I don't think --

18 JUSTICE KAGAN: Somebody, not necessarily  
19 the victim of the fraud, but somebody has to have had  
20 some transaction in the market. It's the kind of  
21 misrepresentation that would affect someone in making  
22 transactions in the covered market. How would this do  
23 that?

24 MR. CLEMENT: Well, the only way in which  
25 there isn't that kind of transaction here is because the

1 fraud was bigger. As we point out in the briefs, if you  
2 imagine that this was a thing where they said, look,  
3 we're going to purchase multinational corporations; and  
4 instead, they purchase domestic corporations, well, then  
5 there would be a transaction that would not have  
6 otherwise occurred on the market in domestic  
7 transactions that would have been perfectly analogous to  
8 the kind of normal transaction that took place in  
9 Bankers Life and or in Zandford in the market. And yet,  
10 the fraud was sufficiently associated with it.

11 And I don't think this Court wants to say  
12 that the only frauds that are not in connection with are  
13 the really big ones.

14 JUSTICE BREYER: Well, what is the case?  
15 What is the specific case, private or SEC, that comes  
16 the closest -- I grant you there is none direct -- but  
17 comes the closest to Justice Kagan's hypothetical, if  
18 you marry me, I will sell my IBM stock?

19 MR. CLEMENT: I don't think there's a  
20 particularly close case, because A, I think the SEC has  
21 better things to do.

22 JUSTICE BREYER: Try --

23 MR. CLEMENT: And I think privately --

24 JUSTICE BREYER: -- is the SEC's closest  
25 case, but they may be better at answering this. What is

1 their closest case to the horrors that they foresee if  
2 you lose?

3 MR. CLEMENT: Well, I -- I think probably I  
4 would start with the Richard Line case, which is cited  
5 on page 21 of their brief. And what that case shows is  
6 that you can have frauds in connection with covered  
7 securities that affect things that are either not  
8 covered securities or in that case are nothing at all.

9 Mr. Line was very clever. He took people  
10 who were interested in having their kids go to college  
11 and needed financial aid, and he said, I'll take your  
12 assets from you, and they'll be -- they'll be mine. I'm  
13 not going to give you anything in return, not a covered  
14 security, nothing. Because the whole point of this is  
15 to get your assets off your books. And what I'll do is  
16 I'll invest those in the market, make a bunch of money  
17 and in four years when you're no longer worried about  
18 financial aid, I'll return your principal and some of  
19 the proceeds.

20 JUSTICE ALITO: Well, in Justice -- Justice  
21 Kagan's hypothetical and in some of the others, it seems  
22 that it's really irrelevant in whether the assets in  
23 question are securities or some other asset. And it's  
24 also -- and, therefore, a fortiori it's irrelevant  
25 whether if it involves securities, whether they're

1 covered or they're not covered.

2 Now, would you be willing to concede that in  
3 that situation, where it really -- all you're talking  
4 about is an asset. It doesn't matter whether it's a  
5 covered security or a -- a Rembrandt or gold, that in  
6 that situation 10(b) doesn't reach the case?

7 MR. CLEMENT: I think that -- I would agree  
8 with that, Justice Alito, but for a slightly different  
9 reason than you may be imagining. Which is, I think one  
10 of the mistakes that can be made here is to ask in  
11 connection with to do all the work. And the statute has  
12 multiple requirements, including a materiality  
13 requirement.

14 And as your question suggests, if you're  
15 making a misrepresentation and the whole point of it is  
16 to just tell somebody that look, I have wealth or I have  
17 sort of assets, I don't know that the specific nature of  
18 them makes any difference.

19 But in a case like this, the whole point of  
20 this fraud was to take a noncovered security and to  
21 imbue it with some of the positive qualities of a  
22 covered security, the most important of which being  
23 liquidity. And if you look at sort of the underlying  
24 brochures here that were used to market this, that's  
25 really what this fraud was all about.

1                   These CDs were offered as being better than  
2 normal CDs because we can get you your money whenever  
3 you need it.

4                   JUSTICE ALITO: Does it matter that there --  
5 apparently, that there is not an allegation that there  
6 actually were any purchases or sales of covered  
7 securities? It says in -- the statute says, "in  
8 connection with the purchase or sale of a covered  
9 security." And there weren't. I don't believe there's  
10 an allegation that they actually were purchased or sold.  
11 Does that matter?

12                   MR. CLEMENT: It doesn't matter, Your Honor,  
13 for the reason I indicated earlier, which is you don't  
14 want to draw a line that basically says, look, if you  
15 buy different securities than you were supposed to or  
16 you sell fewer than you were supposed to, that's  
17 covered, but if you're a Madoff and you go all the way  
18 and simply lie about the whole thing and there never  
19 were any securities purchases at all, that that's  
20 somehow better.

21                   JUSTICE ALITO: What's your best case on  
22 that?

23                   MR. CLEMENT: Well, I think, again, if you  
24 want to start with SEC adjudications, again on page 21  
25 there is the Jett adjudication where again there was a

1 broker/dealer in that case, and they just made up the  
2 trades. They told their employer: You know, look how  
3 I've done, look at these great trades. And there just  
4 weren't any trades.

5           And of course all of the Madoff cases, or a  
6 substantial number of Madoff cases, fit that -- fit that  
7 categorization. It's actually not clear whether this  
8 case does, because at the end of the day I think what's  
9 alleged is either there were no purchases or  
10 substantially less purchases of covered securities than  
11 represented. Nobody has really thought the difference  
12 between zero and substantially less made much of a  
13 difference in this case.

14           And I would certainly, like I said, suggest  
15 that that's the right result, because whatever else is  
16 true, you can't somehow have a better fraud that's  
17 immune from the SEC just because you completely made the  
18 whole thing up and there were no transactions at all.

19           JUSTICE GINSBURG: Mr. Clement, there are --  
20 Zandford said that "in connection with" doesn't include  
21 ever common law fraud that happens to involve covered  
22 securities. So can you give us an example of what would  
23 not be covered? What fraud involving securities would  
24 not qualify as in connection with the sale or purchase  
25 of securities?

1 MR. CLEMENT: Sure. Let me start with -- I  
2 mean -- with a hypothetical that Zandford used because I  
3 think it helps illustrate why even if coincide is the  
4 test, we satisfy it here. What Zandford was really  
5 distinguishing was two cases: One where a broker/dealer  
6 gets money from a potential client with the purest of  
7 intentions and only at a later stage do they say, you  
8 know, I'm kind of below on own payments, I need some  
9 money, I'm going to embezzle the funds.

10 And Zandford said, in that context, the  
11 fraud and the security purchases are independent events.  
12 I don't think anybody would look at this case and say  
13 that the misrepresentations about covered securities  
14 purchases and the fraud were independent events, nor  
15 would anybody say that this isn't a case where from the  
16 very beginning there was intent by Stanford not to make  
17 good on the promise to purchase covered securities on  
18 behalf of the plaintiffs.

19 So this is like Zandford itself or Wharf --  
20 Wharf Holdings itself, where the fraudulent intent is  
21 there at the very moment the transaction takes place.  
22 And again, Wharf Holdings is another example where this  
23 Court says in dictum that, you know, it would be one  
24 thing if they sold the option and only later  
25 independently decided that they weren't going to perform

1 on the option. But if they had that intent all along,  
2 they clearly coincide.

3 JUSTICE SCALIA: I had assumed that the  
4 purpose of the securities laws was to protect the  
5 purchasers and sellers of the covered securities. There  
6 is no purchaser or cover -- or seller of a covered  
7 security involved here.

8 MR. CLEMENT: Well, there --

9 JUSTICE SCALIA: It's -- it's a purchaser of  
10 not-covered securities who is being defrauded, if  
11 anyone. Why -- why would the Federal securities law  
12 protect that person?

13 MR. CLEMENT: A couple things, Your Honor.  
14 First of all, obviously the Federal securities laws  
15 apply to non-covered securities as well as covered  
16 securities. So the real question here is going to be  
17 SLUSA's coverage because, as I said, 10(b)(5) applies to  
18 non-covered securities.

19 Second of all, this Court is well over the  
20 bridge about not requiring that it be the plaintiff's  
21 own purchases or sales that are what the inquiry focuses  
22 on. And that's been true in a whole line of this  
23 Court's cases.

24 JUSTICE SCALIA: It doesn't have to be the  
25 plaintiff's, but it has to be somebody's.

1 MR. CLEMENT: Well, and here there are  
2 purchases of covered securities. They're the alleged  
3 purchases. They're the false promises that I'm going --

4 JUSTICE SCALIA: Nonexistent purchases,  
5 right?

6 MR. CLEMENT: Well, as I said, I don't think  
7 anything turns on it, but there actually were some  
8 purchases.

9 CHIEF JUSTICE ROBERTS: The only element of  
10 fraud in there was by the bank itself. They're the only  
11 ones whose purchases or sales could be said to have been  
12 affected by the misrepresentation. And of course, they  
13 can't --

14 MR. CLEMENT: Right, but --

15 CHIEF JUSTICE ROBERTS: -- make any claim on  
16 that basis.

17 MR. CLEMENT: Right, Mr. Chief Justice. And  
18 that has been the case in other cases as well. The  
19 security transactions in Bankers Life, neither the  
20 seller nor the buyer of those transactions had -- was  
21 affected by, directly by the fraud. In Zandford, there  
22 were security sales. Those security sales --

23 CHIEF JUSTICE ROBERTS: But somebody else --  
24 somebody else was, right?

25 MR. CLEMENT: Sure, and -- and the

1 plaintiffs were clearly affected by this fraud.

2 CHIEF JUSTICE ROBERTS: Not by the purchase  
3 or sale, right? They were affected, according to your  
4 theory, by the fact that, oh, they told us there were  
5 these stocks. But the actual purchases and sales, the  
6 fraud did not go to the purchase and sales of the  
7 covered securities; it went to the CDs.

8 MR. CLEMENT: And, again, that's true in so  
9 many cases. Dabit, the holders didn't purchase or sell  
10 at all, but that was okay. O'Hagan, the defrauded party  
11 was the company with the confidential information.

12 JUSTICE KENNEDY: Your white light is on,  
13 but what is the simplest formulation of your test. If  
14 we were to write the opinion your way, what -- the test  
15 would be?

16 MR. CLEMENT: The simplest, narrowest way to  
17 decide this case is to say that when there is a  
18 misrepresentation and a false promise to purchase  
19 covered securities for the benefit of the plaintiffs,  
20 then the "in connection with" standard is required.

21 If I may reserve my time.

22 CHIEF JUSTICE ROBERTS: Thank you, counsel.

23 Ms. Goldenberg.

24 ORAL ARGUMENT OF ELAINE J. GOLDENBERG,

25 FOR UNITED STATES, AS AMICUS CURIAE,

1 SUPPORTING the PETITIONERS

2 MS. GOLDENBERG: Mr. Chief Justice, and may  
3 it please the Court:

4 We agree with the narrow formulation that  
5 Mr. Clement just gave, that the issue in this case is  
6 that it involves a false promise to purchase covered  
7 securities using the fraud victims' money in a way that  
8 they are told is going to benefit them, and that that is  
9 a classic securities fraud. Their question --

10 JUSTICE SOTOMAYOR: So how broad is the word  
11 "benefit"? Because that's really what this case comes  
12 down to.

13 MS. GOLDENBERG: Well, I think --

14 JUSTICE SOTOMAYOR: Assuming we accepted  
15 your narrow test, which wouldn't address every situation  
16 that the other circuits have talked about, but let's --  
17 let's --

18 MS. GOLDENBERG: I think it's clear that  
19 "benefit" isn't restricted merely to ownership of the  
20 securities themselves. And I would point to --

21 JUSTICE SOTOMAYOR: Well, that was the  
22 Madoff situation, which was different from this one.

23 MS. GOLDENBERG: Well, I don't think the  
24 Madoff situation is particularly different from this  
25 one. In Madoff, there were feeder funds that people

1 were buying into that were non-covered securities. And  
2 what they were being told is that the money that was  
3 being put into the feeder fund was then going to go on  
4 and be used to purchase covered securities that they  
5 themselves were not going to have an ownership interest  
6 in, but that the benefit of those purchases was going to  
7 be passed back to them through this intermediate layer.

8 JUSTICE BREYER: But the -- the case that he  
9 says -- I'm quite interested in your reaction to which  
10 cases that you've ever brought this would, if you lose  
11 here would prevent you from bringing, and Line was the  
12 one that because mentioned.

13 MS. GOLDENBERG: Yes.

14 JUSTICE BREYER: In Line, there is a broker  
15 who says to a client: Give me some money and I will buy  
16 some securities on the exchange for you. And they gave  
17 him the money, and he didn't. Well, that's directly  
18 related to a promise that is going to effect the  
19 purchase or sale of a security directly. He's promising  
20 someone to buy securities for his account.

21 MS. GOLDENBERG: I actually --

22 JUSTICE BREYER: I don't think that that's  
23 this case.

24 MS. GOLDENBERG: Well, I actually think that  
25 the Line case is much more analogous to this case than

1 Your Honor is suggesting, because what was happening in  
2 Line is the -- what the broker said to the victims was:  
3 You have children who are going to college, you don't  
4 want to have this money around because you want to be  
5 able to get financial aid, so give the money to me, and  
6 in several years I will give that money back to you  
7 with --

8 JUSTICE BREYER: He didn't say: I will buy  
9 them for you.

10 MS. GOLDENBERG: Well --

11 JUSTICE BREYER: And I can understand how a  
12 promise to buy securities for you is a promise to a  
13 person or a statement that would lead a person to take a  
14 position. Whether it's this plaintiff or someone in the  
15 world, it would lead someone in the world to take a  
16 position.

17 What your opponents say is that is what is  
18 present -- not present here; neither the person who is  
19 giving the money nor anyone else, with the possible  
20 exception of the defendant, is being led by this  
21 statement to take a position in a market for, buy,  
22 against, sell, or even, if you like, not sell or buy,  
23 hold. I'll throw that in.

24 MS. GOLDENBERG: Your Honor, just to return  
25 to Line for a moment, and then I'd like to address sort

1 of how the purposes of the securities laws are  
2 implicated in a situation like this, in Line, what the  
3 victims were told was that they were going to be given  
4 the money back after four years had passed with interest  
5 calculated above market rate.

6 So they are not being told that they were  
7 going to be given whatever profit is made on a  
8 securities transaction, or, as I read Line, although  
9 it's slightly sparse on its facts, that they're going to  
10 be the owners of the securities or have an ownership  
11 interest in any way.

12 And so I do think it is cases like Line that  
13 are at the margin --

14 JUSTICE SCALIA: Anyway, Line's not a case  
15 of ours, is it?

16 MS. GOLDENBERG: No, it's not, Your Honor.

17 JUSTICE SCALIA: It's not a case of any  
18 court, is it?

19 MS. GOLDENBERG: It is an SEC --

20 JUSTICE SCALIA: It's one of your cases.

21 MS. GOLDENBERG: Yes.

22 JUSTICE SCALIA: Right. We don't have to  
23 agree with all of your cases, do we?

24 MS. GOLDENBERG: Certainly not, although we  
25 do think that the SEC's expert view in a formal

1 adjudication may warrant some deference. But --

2 JUSTICE KAGAN: Ms. Goldenberg, suppose I  
3 think that the correct test is something along the lines  
4 of what Justice Breyer just said, is -- is this the kind  
5 of representation that could affect somebody? It  
6 doesn't have to be the victim of the fraud, it can be  
7 somebody else, but that could affect somebody's decision  
8 to buy or sell or hold covered securities. Can you  
9 satisfy that test?

10 MS. GOLDENBERG: Yes, I think so. Because I  
11 think that here there is a major effect on investor  
12 confidence and investor confidence specifically with  
13 respect to covered securities in several different ways.  
14 If people see that lies of the kind here where someone  
15 is telling someone else I'm going to buy covered  
16 securities and it's going to benefit you are being made  
17 and those lies are -- are -- well, that's a fraud on the  
18 victims, then I think people are less likely to go to  
19 their broker and say here's some money, go out on the  
20 market and buy me some securities.

21 It's a -- it's a lie that goes to the  
22 mechanism by which the securities markets operate, which  
23 is the purchases and sales, and it makes it less likely  
24 for people to be willing to believe that when they  
25 engage in purchases and sales, that something's really

1 is going to happen, and the person is going to  
2 respond --

3 JUSTICE KENNEDY: Well, I mean if you went  
4 to church and heard a sermon that there are lots of  
5 people that are evil, maybe then you wouldn't invest.

6 MS. GOLDENBERG: Well, but this is much more  
7 particular, again, to the mechanism by which the  
8 securities markets operate. And I think another way to  
9 look at it is just to imagine the honest version of  
10 Stanford.

11 If someone honestly said to CD purchasers,  
12 give me your money and I'm going to put it into covered  
13 securities and people invested in that scheme, then that  
14 would pump money into the covered securities markets.  
15 But now people are much less likely to invest in a  
16 scheme like that.

17 CHIEF JUSTICE ROBERTS: Well, but nobody is  
18 suggesting that the SEC can't take action with respect  
19 to the noncovered securities. So, to the extent there's  
20 diminished confidence in the securities markets, the SEC  
21 has all the tools available to address that.

22 The question is the different one under  
23 SLUSA.

24 MS. GOLDENBERG: Well, I think it's true  
25 that the SEC would continue to have tools, but I do

1 think --

2 CHIEF JUSTICE ROBERTS: I mean, in fact,  
3 this -- it would inspire confidence to the extent that  
4 lawyers can bring these actions as opposed to having  
5 them precluded, which is what you're arguing for.

6 I'm sorry I interrupted you.

7 MS. GOLDENBERG: No, that's fine. I think  
8 that this is a very particular effect on investor  
9 confidence and the integrity of the markets, which is  
10 one of the purposes of the securities laws.

11 And with respect to SLUSA, the purpose of  
12 SLUSA is to try to stop people from going around the  
13 requirements of the PSLRA and some of the limitations in  
14 this Court's decisions, and I think that purpose is --  
15 is at issue here as well.

16 I'd also like to talk a little bit, if I  
17 could, about the issue that was raised earlier about  
18 whether an actual purchase or sale needed to be made, or  
19 whether a purported or intended purchase or sale is  
20 sufficient. And I think that practically from the  
21 moment that the '33 and '34 Act went into place, there's  
22 been a consensus in the lower courts -- and the SEC has  
23 said this as well -- that a purported or intended  
24 purchase or sale is sufficient, and it's for the reason  
25 that Mr. Clement gave that otherwise, you have these

1 home run, egregious frauds where someone is, instead of  
2 saying I'm going to buy this less risky thing and then  
3 buying a riskier thing, someone says I'm going to buy  
4 securities and then doesn't buy them at all and absconds  
5 with the money, and that that is something -- a  
6 situation that has to be -- has to be covered.

7 JUSTICE ALITO: Can I take you back to the  
8 test that you think we should apply here?

9 MS. GOLDENBERG: Sure.

10 JUSTICE ALITO: The test that Mr. Clement  
11 articulated and that you agreed with seems to amount  
12 to -- to saying, when exactly what is alleged here is  
13 alleged, that that's within 10b or 10b-5, that's not  
14 that helpful as a precedent going forward.

15 Now, the test that Justice Breyer suggested,  
16 whether something would affect investors' confidence in  
17 the securities market, I don't know how we can -- and  
18 you say, yes, this would -- that would be met here -- I  
19 don't know how we can determine what -- whether  
20 something, certainly of this nature or maybe even  
21 further removed, would in effect -- would affect  
22 investor confidence.

23 Somebody might read about this scheme in the  
24 paper and say, well, you know, there's a lot of hanky  
25 panky going on with the sale of any kind of securities

1 and CDs, I'm just going to keep cash under my mattress.  
2 How do we -- how would we determine that?

3 MS. GOLDENBERG: Well, I -- I think it's for  
4 the reasons that I gave earlier, which is that this goes  
5 to the purchase/sale mechanism, and that we know that  
6 people have to have confidence in that order -- in order  
7 for the securities markets to work. It may well be that  
8 people also, you know, lack confidence in other things,  
9 but that is the thing that's the particular problem and  
10 the thing that the securities laws are aimed at. And I  
11 know Petitioner --

12 JUSTICE SCALIA: What troubles me,  
13 Ms. Goldenberg, is not the problem of our figuring out  
14 these economic consequences, but the text of the  
15 statute, which says, "in connection with the purchase or  
16 sale of one of the covered securities."

17 MS. GOLDENBERG: Yes, Your Honor.

18 JUSTICE SCALIA: There has been no purchase  
19 or sale here.

20 MS. GOLDENBERG: Well, there's been a  
21 purported purchase.

22 JUSTICE SCALIA: It can't be in connection  
23 with a purchase or sale that has never occurred. I  
24 mean, it could be have read in connection with the  
25 purchase or sale, or the promised purchase or sale, or

1 the contemplated purchase or sale, but it doesn't. It  
2 says, "in connection with the purchase or sale." I  
3 don't know how you can make that stick to a situation  
4 where there has been no purchase or sale.

5 MS. GOLDENBERG: That's true, Your Honor,  
6 but it also doesn't say the consummated purchase or  
7 sale. And so I think the purported, intended,  
8 consummated, all those things are swept up in the text.  
9 And I think that's consistent with the way that you  
10 would use the phrase in ordinary life.

11 If I were going to go to my real estate  
12 brokers to sell my house, I might gather up a bunch of  
13 documents, I might show up at the office at a certain  
14 time in connection with the sale of my house. And even  
15 if the sale falls through and there is no consummated  
16 contract, I've still done those things in connection  
17 with the sale.

18 And as I say, I think courts and the SEC  
19 have consistently taken that position, and if it  
20 weren't, if that weren't the case, then egregious frauds  
21 would go unremedied and that would be a tremendous  
22 problem.

23 CHIEF JUSTICE ROBERTS: Thank you, counsel.

24 Mr. Goldstein?

25 ORAL ARGUMENT OF MR. THOMAS GOLDSTEIN,

1 ON BEHALF OF THE RESPONDENTS

2 MR. GOLDSTEIN: Mr. Chief Justice, and may  
3 it please the Court:

4 I would ask you to write an opinion  
5 affirming and that it adopts the following rule, and  
6 that is, that a false promise to purchase securities for  
7 one's self in which no other person will have an  
8 interest is not a material misrepresentation in  
9 connection with the purchase or sale of covered  
10 securities.

11 The other side has asked you to adopt a rule  
12 that has never been advocated by the SEC in any other  
13 proceeding; it's never been advocated, as I understand  
14 it, in its briefs in this case; it's never been adopted  
15 by any Court ever. And I think there are good reasons  
16 for that.

17 Their theory is that what happened here is  
18 that there was a promise to buy covered securities that  
19 would be for the benefit of someone else. That has two  
20 textual flaws, it doesn't comport with the purpose of  
21 the statute, and it would have extraordinary  
22 consequences.

23 It doesn't -- it doesn't conform to the text  
24 of the statute in either of two ways. Covered security,  
25 which is what the Plaintiffs here purchased, is a

1 defined term. It is a security, but only the subset of  
2 securities that are traded on a national exchange and  
3 some of the other additions that would involve, for  
4 example, mutual funds.

5 And so Congress didn't say that it was in  
6 connection with the purchase or sale of a covered  
7 security if it was a covered security that someone else  
8 would get the benefit of.

9 It is -- what has to be bought here is a  
10 stock, and instead, what was bought here was a CD. As  
11 Mr. Clement says, this is a case of a massive fraud. He  
12 could well have said, this is a case of a massive  
13 securities fraud. But it was not a case of a covered  
14 securities fraud. The Plaintiffs here bought something  
15 that Congress specifically excluded from preclusion  
16 under SLUSA.

17 The second textual flaw in their position is  
18 that --

19 JUSTICE ALITO: I don't understand what the  
20 first textual flaw is.

21 MR. GOLDSTEIN: Okay. So --

22 JUSTICE ALITO: What is the jumping off  
23 point for this flaw?

24 MR. GOLDSTEIN: The jumping off point is  
25 that there -- is the defined term "covered security."

1 JUSTICE ALITO: Right.

2 MR. GOLDSTEIN: So SLUSA only applies if  
3 there was a material misrepresentation in the -- in the  
4 purchase or sale of a covered security.

5 JUSTICE ALITO: Well, everybody -- the case  
6 proceeds on the assumption that the -- that the CDs were  
7 not covered securities. The question is whether it's --  
8 the "in connection with" requirement is met by the  
9 allegation, which is interpreted to mean that there  
10 would be future purchases and sales of covered  
11 securities.

12 So I'm not sure what you're getting out of  
13 the fact that covered securities is a -- is a defined  
14 term.

15 MR. GOLDSTEIN: Because Congress asked you  
16 or told the courts to focus on the question of what the  
17 product is that there was a misrepresentation in the  
18 course of the transaction, in the course of the purchase  
19 or sale, and that is only a covered security. It is not  
20 some other product that has as a benefit an interest in  
21 a covered security.

22 JUSTICE ALITO: It doesn't say a  
23 misrepresentation about the covered security. It says,  
24 "a misrepresentation in connection with."

25 MR. GOLDSTEIN: That's actually, I think,

1 Your Honor, a really good point for us because the other  
2 side's argument up till the brief -- excuse me -- up  
3 until the oral argument is that it was a  
4 misrepresentation about covered securities that would  
5 trigger SLUSA.

6 The problem with their position is that what  
7 the Court has always said when it talked about the  
8 definition of "in connection with" is really two things.  
9 It has to be flexible. We have to give the SEC the  
10 ability to deal with novel frauds. But because,  
11 metaphysically, everything is connected with everything  
12 else, we're going to have to draw a line. There's going  
13 to have to be some limit.

14 And you've pointed out that it's not an  
15 easily administered one, but the -- the bulwark, the one  
16 thing that stops 10b-5 from getting completely out of  
17 control, is that all of the frauds involved are ones  
18 that the Court has recognized would have an effect on  
19 the regulated market. That was true in O'Hagan; it was  
20 true in Zandford.

21 Now, I realize that my friends from the  
22 Solicitor General's Office said today at the podium that  
23 they can imagine that this fraud would have an effect on  
24 the regulated market. They did say the opposite in  
25 their briefing in the case. Their brief at the cert

1 stage said there was no possibility that there would be  
2 an effect on the regulated market.

3 And so this, I -- I imagine --

4 CHIEF JUSTICE ROBERTS: Can you -- can you  
5 just give me the page for that?

6 MR. GOLDSTEIN: Yes, sir. The -- it is -- I  
7 will get it during the -- it's quoted multiple times in  
8 our brief, but my colleagues will get it if you don't  
9 mind, and --

10 CHIEF JUSTICE ROBERTS: Oh, no. It's okay.

11 MR. GOLDSTEIN: It's in the cert pages at  
12 about page 12, I think, but we'll -- I will have it for  
13 you in just a moment, please.

14 And they said there is no -- the -- to quote  
15 it almost verbatim, there was no prospect that this  
16 fraud would have an effect on the covered securities  
17 market.

18 The second textual flaw --

19 JUSTICE SCALIA: Well, wait. And -- and if  
20 that's -- if that's wrong, you acknowledge you don't  
21 win?

22 MR. GOLDSTEIN: No, I do not.

23 JUSTICE SCALIA: All right. Okay. So what  
24 difference does it make?

25 MR. GOLDSTEIN: Well, it -- it is a

1 concession. As I understood, they're -- they seem to  
2 recognize, and if you read, for example, their brief in  
3 Zandford, they say that the sine qua non of their  
4 ability to determine as the enforcement authority here,  
5 that something has a -- is in connection with the  
6 purchase or sale of the regulated security is whether it  
7 would have an effect on the regulated market. They  
8 wrote a brief to you saying that and --

9 JUSTICE SCALIA: And you really don't agree  
10 with that anyway.

11 MR. GOLDSTEIN: I think that that is their  
12 best hope, and I don't think they can satisfy it. We  
13 think their authority is narrower still.

14 JUSTICE KENNEDY: What is your position if  
15 the broker says, "Give me \$100,000 and I will buy  
16 covered securities," and then he just pockets it and --  
17 and flees?

18 MR. GOLDSTEIN: That is securities fraud, in  
19 our view, according to the SEC's administrative  
20 position. No court has ever said that. So that's  
21 Justice Scalia's point from the first half-hour.

22 We can -- if that is correct, if the SEC is  
23 correct about that, we still prevail because what's  
24 happening is the broker is saying: I will purchase for  
25 you the covered securities. That's what the Line case

1 stands for. Their brief in --

2 JUSTICE KENNEDY: Well, I don't see how this  
3 case is that much different. They say: We were going  
4 to invest in CDs and the CDs will be backed by purchase  
5 of the securities that we will purchase for you.

6 MR. GOLDSTEIN: Okay. And so the -- the  
7 critical difference, I think, is in the definition of  
8 "purchase." And that was going to be the second textual  
9 flaw that I was going to point out. And that is, we can  
10 acknowledge that they would have a much stronger case in  
11 the hypothetical that you've described if the covered  
12 securities are pledged to back the CDs. This happens,  
13 for example, on a margin account. It happens if --  
14 there are lots of times someone will say: I intend to  
15 use your money to buy covered securities, to buy stocks,  
16 and I am providing those stocks as security for the  
17 loan.

18 The reason that is securities fraud is the  
19 definition of a purchase includes pledging the --  
20 pledging the stocks. That's really important. And it  
21 tracks with the Court's holding that "in connection  
22 with" reaches as far as frauds that would have an effect  
23 on the regulated market.

24 Imagine if I were allowed to say: Look, I  
25 am going to buy covered securities and you now hold an

1 interest in them, an enforceable interest in the stocks.  
2 And if that were not securities fraud, the market  
3 couldn't function very well, because things like margin  
4 accounts, you could never have the confidence that you  
5 would have the protection of 10(B)5.

6 The critical difference, Justice Kennedy, is  
7 between two different cases. If -- this case, which is  
8 SIB, says, look -- among all of its many  
9 misrepresentations -- I will take your money and I  
10 intend to buy covered securities. That gets the -- you  
11 know, putting all aside the difficulty of liquid assets  
12 versus covered securities, give them their best version  
13 of the representation here. But it was only buying it  
14 for itself. It did not pledge to sell the assets. It  
15 did not give the plaintiffs any interest in them. For  
16 example, the interest rate on the CDs was completely  
17 independent of the return on those covered securities.

18 JUSTICE GINSBURG: Mr. Goldstein, I take it  
19 from what you said up to now that you are not defending  
20 the Fifth Circuit's test. It called for a determination  
21 whether the misrepresentation is the heart or the crux  
22 of the complaint.

23 MR. GOLDSTEIN: We -- we do defend that  
24 rule. We do not think it's the best ground to decide  
25 the case, and I will explain what I mean by that.

1           The Fifth Circuit undertook to articulate a  
2 rule that would govern all cases in which someone  
3 purchased something that was supposedly invested in  
4 covered securities; so including, for example the Madoff  
5 cases where there was securities fraud. Madoff falsely  
6 sold interest in a fund. That's core securities fraud.

7           SIB never sold any securities at all. It  
8 only sold CDs. So if the Court believed that the Fifth  
9 Circuit was correct, that it was appropriate to decide  
10 all of these derivative investments -- if I could,  
11 cases -- then we think you need a flexible term like  
12 "more than tangentially related." But we think this  
13 case court stands on its own on the question of, look,  
14 if I promise -- if I sell you something and I say I am  
15 going to take the money and buy CDs for myself and those  
16 CDs have the quality of being liquid -- now you don't  
17 have an interest in the CDs. I am not pledging them to  
18 you, so there is no purchase by you of a covered  
19 security -- then that is not a securities fraud. And I  
20 did want -- want to get --

21           JUSTICE SOTOMAYOR: But that's the Line case  
22 where, I am told by the government, you were trying  
23 to -- I know that Justice Scalia doesn't think it's  
24 important, but I do. Okay?

25           If someone tells me, sell your securities,

1 give me the money, I will buy securities for myself and  
2 give you a fixed rate of return later, I think that's in  
3 connection with the purchase and sale of securities even  
4 though it's not legally purchased for my benefit.

5 MR. GOLDSTEIN: Okay. Two things about  
6 that, Justice Sotomayor. I will say that if -- what I  
7 think you were actually told from the podium is that it  
8 is unclear from the SEC's administrative opinion whether  
9 the persons who gave the money to the broker as an  
10 investment were actually given an interest in the  
11 securities. It's just not clear from that opinion.  
12 There is certainly no SEC holding.

13 JUSTICE SOTOMAYOR: Let's assume they were.

14 MR. GOLDSTEIN: Okay. Then the second thing  
15 I would say is the SEC has always been very clear to you  
16 that the key part of your hypothetical is that it's a  
17 broker. And the SEC has said to you repeatedly, and I  
18 will just give this to you from their Zandford brief at  
19 page 23: "There is a particularly strong connection  
20 between fraud and securities transactions when  
21 stockbrokers, like Respondent, misappropriate securities  
22 and securities proceeds from brokerage accounts."

23 The key feature is that you can understand  
24 why it is that the market can't function if your  
25 stockbroker is making promises about buying and selling

1 securities. This is a bank. This is a bank that  
2 doesn't issue covered securities in any way because it's  
3 a foreign bank. It issues only the non-covered  
4 securities that Congress specifically excluded from --

5 JUSTICE BREYER: That's true, but suppose  
6 Jay Fisk gets into his horse and carriage, drives up and  
7 down Wall Street, and says: "I'm going to buy Union  
8 Pacific! I'm going to buy Union Pacific," knowing that  
9 people will in fact all run out and buy it quickly, and  
10 what he really intends to do is when it comes out he  
11 didn't, he's going to sell outright.

12 Anyway, typical fraud. Now, that is  
13 certainly covered.

14 MR. GOLDSTEIN: Yes. That's market  
15 manipulation.

16 JUSTICE BREYER: So -- so now, here, what we  
17 have is Mr. Stanford, I guess, saying to people: "I'm  
18 going to buy securities, I'm going to buy securities."  
19 And maybe he didn't.

20 MR. GOLDSTEIN: Yes.

21 JUSTICE BREYER: Just like Jay Fisk.

22 MR. GOLDSTEIN: Sure.

23 JUSTICE BREYER: Okay. So why does the  
24 first within and not the second.

25 MR. GOLDSTEIN: Because the first completely

1 messes up the stock market and the second one has  
2 nothing to do with it.

3 The first --

4 JUSTICE BREYER: In other words, if they had  
5 done exactly the same thing but with an intent or -- or  
6 maybe and the affect of a purchaser of stock or a seller  
7 of stock reacting to the statement, then it affects it?

8 MR. GOLDSTEIN: Absolutely, because that's  
9 the sine qua non --

10 JUSTICE BREYER: Okay. Where neither of  
11 those is present, it doesn't.

12 MR. GOLDSTEIN: That's right.

13 JUSTICE BREYER: Okay.

14 MR. GOLDSTEIN: And it's not.

15 JUSTICE KAGAN: Could -- could you go back  
16 to the Madoff case --

17 MR. GOLDSTEIN: Yes.

18 JUSTICE KAGAN: -- because you portrayed it  
19 as investors joining into funds that directly held  
20 stock, and I thought that it was more complicated than  
21 that.

22 MR. GOLDSTEIN: Okay. I -- I will play it  
23 out. That was not my intention. The Madoff cases  
24 involved the following scenario, and there are diverse  
25 ones and so I caution the course -- the Court about

1 trying to lay down a rule that will govern all those.

2 So Madoff engages in securities fraud. We  
3 -- in covered securities fraud. He says: I have this  
4 fund; it is invested in stocks. That turns out to be  
5 completely untrue. So we know that Madoff engaged in  
6 securities fraud.

7 The Madoff cases are about the next  
8 generation, the indirect purchasers, and that is people  
9 who bought into a fund, and the fund bought into Madoff.  
10 Now, those cases have been resolved on two separate  
11 grounds that may not be entirely consistent, neither one  
12 of which has any implications for our case.

13 Theory number one, and this is by -- in an  
14 opinion by Judge Rakoff just a few weeks ago for the  
15 Second Circuit. He says: Look, the indirect purchaser  
16 cases are covered by SLUSA because I look at SLUSA and  
17 it says: Look at the allegation. And the core  
18 allegation in those cases is of covered securities  
19 fraud. It was that: I was deceived, I lost my money, I  
20 should say -- because Madoff engaged in securities  
21 fraud. He was selling air. He wasn't selling anything  
22 at all.

23 That's not this case. SIB sold only  
24 non-covered securities.

25 The second way they have been resolved is

1 that you may be said to have -- when you bought into  
2 what are called the "feeder funds" that -- that in turn  
3 invested in Madoff, you may well have purchased an  
4 interest in the Madoff fund itself and, therefore, you  
5 were engaged effectively in the purchase or sale of  
6 covered securities.

7 That is clearly on the other side of the  
8 line from this case. Nobody contends that we bought  
9 anything other than noncovered assets.

10 Now, I have tried to get to the -- to the  
11 hypotheticals that the Court put to the -- my friends in  
12 the first half hour. And realize that these --

13 CHIEF JUSTICE ROBERTS: I'm sorry.  
14 I just --

15 MR. GOLDSTEIN: Yeah.

16 CHIEF JUSTICE ROBERTS: -- about 30 seconds  
17 behind you.

18 Nobody contends that you bought anything  
19 other than non-covered assets?

20 MR. GOLDSTEIN: Correct.

21 CHIEF JUSTICE ROBERTS: I thought there was  
22 an allegation that you were purchasing and selling  
23 covered assets. The ones that were misrepresented to be  
24 backing CDs.

25 MR. GOLDSTEIN: No, sir. They have not even

1 made that argument. They say that it's enough to  
2 trigger SLUSA, that SIB bought something that was said  
3 in some sense, and I have no idea what the rule is, to  
4 be for our benefit or to back our CDs. But the only --  
5 it is categorically the case that the only purchase or  
6 sale by the Plaintiffs --

7 CHIEF JUSTICE ROBERTS: By SIB.

8 MR. GOLDSTEIN: Yes, yes, sir. Now, this  
9 is, of course, a significant step further than the line  
10 that already concerned some members of the Court.  
11 Justice Scalia, Justice Thomas and the late Chief  
12 Justice dissented in O'Hagan. And this is a very  
13 significant move further than even that case, because  
14 the emphasis of the SEC in O'Hagan was that that kind of  
15 fraud would have a tremendous effect on the market if --  
16 if people didn't -- couldn't be confident that the  
17 other -- the person on the other side of the trade had  
18 material nonpublic information.

19 Now, returning to the hypotheticals that the  
20 Court put to my friends in the first half hour, realize  
21 they're not hypotheticals. They are exactly why the SEC  
22 is in the case. The SEC doesn't administer SLUSA, it is  
23 concerned that a narrower reading of "in connection  
24 with" will affect its ability to administer the  
25 securities laws. But you put to the SEC the question,

1 okay, name a case that you've brought in the past  
2 80 years that you could not bring if the Plaintiffs  
3 prevail here. Name a case that you hypothetically want  
4 to bring.

5 JUSTICE KENNEDY: That's exactly what I  
6 would like you to think about for a second. Because the  
7 last words of Ms. Goldenberg of the SEC, well, if you  
8 win, it's going to seriously hamper the SEC in  
9 combatting fraud. Of course it wouldn't in a case like  
10 this, because they aren't limited by covered securities,  
11 they can deal with any security and they did bring a  
12 case here. But they're worried about what you say, that  
13 somehow this will narrow their authority and they quote  
14 Line, which is debatable.

15 But assuming that it's debatable,  
16 Mr. Clement will have a chance to answer this exact  
17 question. And so you are saying there are none. And  
18 Line is debatable. And, therefore, it would not have  
19 hampered them in any case in the past, nor any one we're  
20 likely to think of in the future but for Line, which is  
21 somebody's decision over at the SEC, and can be argued  
22 that it fits within your definition.

23 Is that really your answer or are we going  
24 to discover Mr. Clement coming up and saying, you forgot  
25 about da, da, da, da, da?

1 MR. GOLDSTEIN: If he does, it'll be the  
2 first time. They filed three merits briefs, three reply  
3 briefs, the SEC filed a cert stage amicus brief, it  
4 filed a merits amicus brief. It has argued orally in  
5 front of you. And so far, we haven't found a case.

6 Now, can you -- can I tell you that I can  
7 imagine a case that because of my rule the SEC can't  
8 bring? I can and I think that they shouldn't be allowed  
9 to bring it. I'm not saying that our rule has no effect  
10 on them. I'm saying it does. But it's the lending  
11 cases, it's the prenuptial cases, it's those things that  
12 hang over the economy like a loaded gun.

13 JUSTICE GINSBURG: Aren't those rather  
14 academic, because SLUSA wouldn't be a bar to them  
15 anyway? Because then that's class actions.

16 MR. GOLDSTEIN: My point -- my point,  
17 Justice Ginsburg, I apologize, is not that those are  
18 affected by -- that those -- that rule affects SLUSA, it  
19 affects the SEC's ability to bring a felony prosecution,  
20 despite the rule of lenity on the basis that that's  
21 securities fraud.

22 Really understanding the consequence of this  
23 case, I'll admit to you, that the effect on SLUSA --  
24 this is kind of a one-off case. They haven't identified  
25 any other cases like this under SLUSA. So they're

1 adopting a very broad reading of "in connection" to kind  
2 of kill a gnat. But the reason that they -- the SEC  
3 wants to do it is because it wants an extremely broad  
4 reading of "in connection with the purchase or sale."  
5 They want to be able to bring a case in which someone is  
6 alleged to have purchased a non-security, a house,  
7 issued a loan, on the basis of some statement about the  
8 liquidity of the fraudster. And that is never a case  
9 that's ever been brought before. And so it's true that  
10 we would prevent them from doing that, but that's a good  
11 thing, not a bad thing. They've had 80 years to say  
12 that they need that authority and they never have.

13           If there is going to be a way in which we  
14 lose this case, notwithstanding the foregoing, I think  
15 it's going to be Justice Alito's concern, can you  
16 articulate a narrower rule in favor of the Petitioners  
17 that says it was the feature that they were covered  
18 securities that was essential to the fraud.

19           I think we can say first, that is not in the  
20 text of the statute, right? That those words don't  
21 appear.

22           JUSTICE ALITO: Well, all that's in the text  
23 of the statute is "in connection with," which is  
24 open-ended. So I don't know what you're going to get  
25 from the text of the statute.

1                   MR. GOLDSTEIN: Well, I do think that this  
2 was not in connection with the purchase or sale. It  
3 certainly wasn't material to any purchase or sale. But  
4 the other thing, Justice Alito, is this notion that --  
5 that the feature of them being stocks was essential to  
6 the fraud would be true in, for example, a loan.

7                   If I say to you, I want to get a loan for  
8 \$100,000, I promise to buy for myself stocks that I  
9 could sell to repay the loan, the only thing that was  
10 critical about them is that they were liquid. And  
11 remember, that's actually all that SIB said is that it  
12 had liquid assets. That's the only feature of it. And  
13 so if we're going to focus on that --

14                   JUSTICE GINSBURG: You're not contesting at  
15 this point -- I think both courts below assumed that the  
16 assets included stocks that would be traded on the  
17 exchange. You're not making the argument that it's  
18 not necessarily -- that maybe the portfolio included  
19 nothing that was traded on the exchange?

20                   MR. GOLDSTEIN: We are not. I will say,  
21 however, that the other side has a serious problem of  
22 administrability of an opinion in its favor in the  
23 following way: Justice Ginsburg, the \$7 billion in  
24 assets that SIB claimed to own clearly included some  
25 stocks on the NYSE. I think that's perfectly fair.

1           The question is how many? Nobody knows the  
2 answer to that. And if you are going to rule for them,  
3 the lower courts are going to face cases where a bank  
4 says, we have liquid assets as well.

5           JUSTICE ALITO: Can I just be clear on  
6 your -- your position on the issue of whether there has  
7 to be an actual purchase or sale?

8           MR. GOLDSTEIN: Yes.

9           JUSTICE ALITO: What is your answer? Yes,  
10 there must be or no, it's not essential?

11          MR. GOLDSTEIN: It is not essential to our  
12 position. If you agree -- if you agree with the SEC  
13 that there doesn't have to be a purchase or a sale, we  
14 still easily win the case. No court has -- I believe  
15 that's only been resolved administratively. And so you  
16 would have to decide that in their favor in order to win  
17 the case. In order -- we are not giving up on the  
18 question.

19          JUSTICE ALITO: You don't want us to decide  
20 the case on that basis?

21          MR. GOLDSTEIN: No.

22          JUSTICE ALITO: You don't want us to issue  
23 an opinion that says there has to be a purchase or sale,  
24 and therefore, affirm.

25          MR. GOLDSTEIN: That is not the ground on

1 which we have pressed the case in front of you. I'm not  
2 trying to make it more complicated. It is illustrative  
3 of all the rules that they need you to adopt that no  
4 court has ever adopted.

5 Remember, on Page 21 of their brief, which  
6 is what you're being pointed to as their best cases,  
7 they point to three administrative proceedings. No  
8 court decision of a district court, court of appeals or  
9 this Court, and it's only on the failure to purchase  
10 point.

11 They have no cases in which the -- the core  
12 features of this case are present, and that is, you have  
13 a fraud that would not have an effect they had  
14 previously said on the regulated market whatsoever. And  
15 it's merely the fact that it's for the benefit of  
16 someone else. No court has ever adopted it. And -- and  
17 in picking up what this Court said was so important in  
18 Zandford and O'Hagan is that it has not been the SEC's  
19 position in the past. I know they have said it when  
20 they stood up today, but there the SEC assured you for  
21 decades we have taken this position, it's been essential  
22 to our enforcement priorities, under Section 10b, this  
23 case is completely different.

24 JUSTICE ALITO: Well, if we decided the case  
25 on that basis, it really would be a one-off. So the SEC

1 today has told us this would have an effect on the  
2 securities market. But we would hold -- we won't listen  
3 to that because at an earlier point in the case as  
4 interpreted by you, they said it wouldn't. So that  
5 would be -- that would be the holding where, you know,  
6 because the SEC previously said it wouldn't be an effect  
7 on the securities market, that's the reason for the  
8 decision.

9 MR. GOLDSTEIN: No, sir. My point is not  
10 that when the SEC says it that it becomes true. We  
11 certainly don't agree with that. My point is they is  
12 haven't articulated -- before they said the opposite and  
13 today they haven't articulated anything that is more  
14 than the kind of metaphysical go from here to here to  
15 here.

16 And it asks too much when we start from a  
17 statute that carved these CDs out. Congress said, we  
18 have this idea of a security. We have this idea from  
19 the National Securities Markets Improvements Act that  
20 the States regulate noncovered securities. And so we  
21 are going to say that the preclusive effect of SLUSA  
22 does not reach these things like the CDs that we leave  
23 to regulation by the State. So this case clearly falls  
24 very easily within the text of SLUSA as being not  
25 precluded.

1                   Then you ask: Well, am I going to stretch  
2 the language of the statute to say, well, even though  
3 these are noncovered CDs, because securities were  
4 involved, I think SLUSA should still apply. In asking  
5 whether you should stretch the language, you would say,  
6 well, what's the point of the phrase "in connection  
7 with"? Why did Congress give it that kind of capacious  
8 reading, but didn't say fraud about securities or fraud  
9 involving securities. It did say "in connection with."  
10 And what your precedents have said over and over and  
11 over and what has been the dividing line that has  
12 prevented 10(b)(5) from swallowing all fraud is these  
13 are misrepresentations that affect the regulated market  
14 negatively. This fraud did not do that.

15                   If there are no further questions.

16                   CHIEF JUSTICE ROBERTS: Thank you, counsel.

17                   Mr. Clement, you have four minutes.

18                   REBUTTAL ARGUMENT OF PAUL D. CLEMENT

19                   ON BEHALF OF THE PETITIONERS

20                   MR. CLEMENT: Thank you, Your Honor.

21                   A couple of are points. First of all, it is  
22 just simply wrong that courts have not decided that a  
23 purported sale is covered. The Grippo case from the  
24 Eleventh Circuit, which we cite in both our opening and  
25 reply brief is one of those cases. There are others

1 consistent with the SEC's longstanding position.

2 JUSTICE SOTOMAYOR: Zandford is a case like  
3 that.

4 MR. CLEMENT: Zandford is a case from this  
5 Court that essentially says that as well.

6 JUSTICE SOTOMAYOR: Would you -- among all  
7 the circuit courts, which test would you adopt?

8 MR. CLEMENT: I don't know that I would  
9 adopt any of them, Your Honor, because I think a lot of  
10 them make the same mistake, which is they get  
11 materiality, and they sneak it into the "in connection  
12 with" requirements. So --

13 JUSTICE SOTOMAYOR: Except Judge Sutton in  
14 the Sixth Circuit.

15 MR. CLEMENT: Yes, and I think if you were  
16 going to accept one test, I would accept -- I would ask  
17 you to have the Siegel test from Judge Sutton. But I do  
18 think it's a mistake to have materiality or causation  
19 slip into the "in connection with" requirement.

20 I'd like to start with Justice Kennedy's  
21 very apt observation that this fraud here is very  
22 similar to the paradigmatic securities fraud where I  
23 simply -- a broker simply says, give me your money; I  
24 will buy securities, and never does it. And from the  
25 perspective of the defrauded party, it doesn't matter

1 whether what they get in return is a statement that says  
2 they own some securities or a statement in a feeder fund  
3 that says they have an interest in the Madoff fund, or  
4 whether they get here a CD that they are told by the  
5 brochure that tells them what this is all about that  
6 it's backed by the investments in the securities.  
7 They're all one and the same.

8           Another thing I have to correct is it's  
9 simply not true that the returns here were not variable  
10 on the performance of the portfolio. It's not really  
11 well developed in the record here, but if you want to,  
12 we could lodge the brochures that are used to market  
13 these things that tell these guys that their returns are  
14 variable and that they could lose all their principal  
15 because of the investments in covered securities.

16           A second thing is, of course Mr. Goldstein  
17 correctly says there are particular problems when broker  
18 dealers lie about covered securities. Well, so too  
19 there are particular problems when an unregistered  
20 investment company lies about covered securities. And  
21 that's what their own complaint says was the reality of  
22 these -- of the Stanford Investment Bank, that it was an  
23 unregistered investment company.

24           That's interesting for two reasons: One, if  
25 it were a registered investment company, all of its

1 securities would be covered securities. That's another  
2 way you can get within the covered security vane. So  
3 this idea that Mr. Goldstein proclaims, this is not a  
4 covered securities fraud, is simply wrong. It is. It  
5 was material to this fraud to make misrepresentations  
6 about purchases of covered securities. Without those  
7 representations that we're going to take their money and  
8 we're going to reinvest it -- again, words from their  
9 complaint -- in covered securities, nobody's going to  
10 give their money to a bank in Antigua. The reason you  
11 give your money to a bank in Antigua is because you  
12 think it's backed by something more than a piece of  
13 paper, and the something more was purchases of covered  
14 securities on the market. So --

15 JUSTICE GINSBURG: Even if you're right  
16 about that, Mr. Clement, they also said there was a  
17 representation that this is insured by Lloyds. And  
18 there was another claim that they made. So even -- even  
19 if you are right, wouldn't the answer be, okay, drop  
20 anything that has to do with "in connection with the  
21 sale or purchase of securities." We have -- oh, we have  
22 a claim about the insurance, and we also have a claim  
23 that both Antigua and United States were heavily  
24 regulated. Those were false.

25 Why couldn't they have a complaint shorn of

1 the incorrect premise and based on the insurance and the  
2 regulated aspects?

3 MR. CLEMENT: If I can answer. First of  
4 all, I think that Mr. Goldstein was quite prudent to not  
5 defend the Fifth Circuit's rationale. So the fact that  
6 there are other misrepresentations should not mean that  
7 a misrepresentation in connection with the purchase or  
8 sale of covered securities is somehow okay. SLUSA makes  
9 clear that any misrepresentation is enough.

10 Now, the other thing I would say, very  
11 briefly, is that they may have an opportunity to try to  
12 replead. That in a sense is the next case. I assure  
13 you that we would be arguing here, where the essence of  
14 their claim is to hold the petitioners secondarily  
15 liable for the underlying misrepresentations, they have  
16 to sort of have to take them all. But that's the next  
17 case.

18 Thank you, Your Honor.

19 CHIEF JUSTICE ROBERTS: Thank you, counsel.

20 The case is submitted.

21 (Whereupon, at 12:01 p.m., the case in the  
22 above-entitled matter was submitted.)

23

24

25

<b>A</b>	<p><b>adopting</b> 47:1</p> <p><b>adopts</b> 30:5</p> <p><b>advocated</b> 30:12 30:13</p> <p><b>affect</b> 9:24 10:21 12:7 24:5,7 27:16,21 41:6 44:24 52:13</p> <p><b>affirm</b> 49:24</p> <p><b>affirming</b> 30:5</p> <p><b>ago</b> 42:14</p> <p><b>agree</b> 5:1 9:13 13:7 20:4 23:23 35:9 49:12,12 51:11</p> <p><b>agreed</b> 27:11</p> <p><b>agreement</b> 9:12 9:13</p> <p><b>aid</b> 12:11,18 22:5</p> <p><b>aimed</b> 28:10</p> <p><b>air</b> 42:21</p> <p><b>AL</b> 1:6,10,13,19</p> <p><b>Alito</b> 12:20 13:8 14:4,21 27:7,10 31:19,22 32:1,5 32:22 47:22 48:4 49:5,9,19 49:22 50:24</p> <p><b>Alito's</b> 47:15</p> <p><b>allegation</b> 14:5 14:10 32:9 42:17,18 43:22</p> <p><b>allege</b> 4:15</p> <p><b>alleged</b> 10:5 15:9 18:2 27:12,13 47:6</p> <p><b>allowed</b> 36:24 46:8</p> <p><b>amicus</b> 2:7 3:7 19:25 46:3,4</p> <p><b>amount</b> 27:11</p> <p><b>analogous</b> 11:7 21:25</p> <p><b>answer</b> 6:3 8:1 45:16,23 49:2,9</p>	<p>55:19 56:3</p> <p><b>answering</b> 11:25</p> <p><b>Antigua</b> 55:10,11 55:23</p> <p><b>anybody</b> 16:12 16:15</p> <p><b>anymore</b> 4:24</p> <p><b>anyway</b> 23:14 35:10 40:12 46:15</p> <p><b>apologize</b> 46:17</p> <p><b>apparently</b> 14:5</p> <p><b>appeals</b> 50:8</p> <p><b>appear</b> 47:21</p> <p><b>APPEARANC...</b> 2:2</p> <p><b>Appendix</b> 5:14</p> <p><b>application</b> 7:1</p> <p><b>applies</b> 17:17 32:2</p> <p><b>apply</b> 17:15 27:8 52:4</p> <p><b>appropriate</b> 38:9</p> <p><b>apt</b> 53:21</p> <p><b>argued</b> 45:21 46:4</p> <p><b>arguing</b> 26:5 56:13</p> <p><b>argument</b> 1:25 3:2,5,9,12 4:4,7 19:24 29:25 33:2,3 44:1 48:17 52:18</p> <p><b>articulate</b> 38:1 47:16</p> <p><b>articulated</b> 27:11 51:12,13</p> <p><b>aside</b> 37:11</p> <p><b>asked</b> 30:11 32:15</p> <p><b>asking</b> 52:4</p> <p><b>asks</b> 51:16</p> <p><b>aspects</b> 56:2</p> <p><b>asset</b> 12:23 13:4</p> <p><b>assets</b> 5:23 7:13</p>	<p>8:14 12:12,15 12:22 13:17 37:11,14 43:9 43:19,23 48:12 48:16,24 49:4</p> <p><b>Assistant</b> 2:5</p> <p><b>associated</b> 10:5 11:10</p> <p><b>assume</b> 39:13</p> <p><b>assumed</b> 17:3 48:15</p> <p><b>assuming</b> 20:14 45:15</p> <p><b>assumption</b> 4:25 5:2 32:6</p> <p><b>assure</b> 56:12</p> <p><b>assured</b> 50:20</p> <p><b>attachment</b> 5:14</p> <p><b>authority</b> 35:4,13 45:13 47:12</p> <p><b>available</b> 25:21</p> <p><b>a.m</b> 2:1 4:2</p>	<p><b>behalf</b> 2:3,10 3:4 3:11,14 4:8 16:18 30:1 52:19</p> <p><b>belabor</b> 5:5</p> <p><b>believe</b> 14:9 24:24 49:14</p> <p><b>believed</b> 38:8</p> <p><b>beneficial</b> 8:20</p> <p><b>benefit</b> 9:5 19:19 20:8,11,19 21:6 24:16 30:19 31:8 32:20 39:4 44:4 50:15</p> <p><b>best</b> 14:21 35:12 37:12,24 50:6</p> <p><b>Bethesda</b> 2:9</p> <p><b>better</b> 11:21,25 14:1,20 15:16</p> <p><b>big</b> 11:13</p> <p><b>bigger</b> 11:1</p> <p><b>billion</b> 8:4 48:23</p> <p><b>billions</b> 7:11,21</p> <p><b>bit</b> 26:16</p> <p><b>books</b> 12:15</p> <p><b>bought</b> 31:9,10 31:14 42:9,9 43:1,8,18 44:2</p> <p><b>Breyer</b> 7:8 8:2 8:11 11:14,22 11:24 21:8,14 21:22 22:8,11 24:4 27:15 40:5 40:16,21,23 41:4,10,13</p> <p><b>bridge</b> 10:3 17:20</p> <p><b>brief</b> 12:5 33:2 33:25 34:8 35:2 35:8 36:1 39:18 46:3,4 50:5 52:25</p> <p><b>briefing</b> 33:25</p> <p><b>briefly</b> 56:11</p> <p><b>briefs</b> 11:1 30:14</p>
			<b>B</b>	
			<p><b>back</b> 21:7 22:6 23:4 27:7 36:12 41:15 44:4</p> <p><b>backed</b> 36:4 54:6 55:12</p> <p><b>backing</b> 43:24</p> <p><b>bad</b> 47:11</p> <p><b>bank</b> 6:21 18:10 40:1,1,3 49:3 54:22 55:10,11</p> <p><b>Bankers</b> 11:9 18:19</p> <p><b>banks</b> 5:10 6:14</p> <p><b>bar</b> 46:14</p> <p><b>based</b> 9:8 56:1</p> <p><b>basically</b> 14:14</p> <p><b>basis</b> 18:16 46:20 47:7 49:20 50:25</p> <p><b>bear</b> 4:14</p> <p><b>beginning</b> 16:16</p>	

<p>46:2,3  <b>bring</b> 26:4 45:2,4  45:11 46:8,9,19  47:5  <b>bringing</b> 21:11  <b>broad</b> 20:10 47:1  47:3  <b>brochure</b> 54:5  <b>brochures</b> 13:24  54:12  <b>broker</b> 21:14  22:2 24:19  35:15,24 39:9  39:17 53:23  54:17  <b>brokerage</b> 39:22  <b>brokers</b> 29:12  <b>broker/dealer</b>  15:1 16:5  <b>brought</b> 7:9 9:6  21:10 45:1 47:9  <b>bulwark</b> 33:15  <b>bunch</b> 12:16  29:12  <b>buy</b> 7:15,16,18  8:16,17 9:15,25  14:15 21:15,20  22:8,12,21,22  24:8,15,20 27:2  27:3,4 30:18  35:15 36:15,15  36:25 37:10  38:15 39:1 40:7  40:8,9,18,18  48:8 53:24  <b>buyer</b> 18:20  <b>buying</b> 5:20 21:1  27:3 37:13  39:25</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>C</b> 2:9 3:1,10 4:1  <b>calculated</b> 23:5  <b>called</b> 6:13 37:20  43:2</p>	<p><b>capacious</b> 52:7  <b>carriage</b> 40:6  <b>carved</b> 51:17  <b>case</b> 4:4,14,24  5:3,6 6:4,12,16  8:11,18 11:14  11:15,20,25  12:1,4,5,8 13:6  13:19 14:21  15:1,8,13 16:12  16:15 18:18  19:17 20:5,11  21:8,23,25,25  23:14,17 29:20  30:14 31:11,12  31:13 32:5  33:25 35:25  36:3,10 37:7,25  38:13,21 41:16  42:12,23 43:8  44:5,13,22 45:1  45:3,9,12,19  46:5,7,23,24  47:5,8,14 49:14  49:17,20 50:1  50:12,23,24  51:3,23 52:23  53:2,4 56:12,17  56:20,21  <b>cases</b> 4:5 7:9,24  8:6,12,21,23  9:5 10:6,11  15:5,6 16:5  17:23 18:18  19:9 21:10  23:12,20,23  37:7 38:2,5,11  41:23 42:7,10  42:16,18 46:11  46:11,25 49:3  50:6,11 52:25  <b>cash</b> 28:1  <b>categorically</b>  44:5  <b>categorization</b></p>	<p>15:7  <b>causation</b> 53:18  <b>caution</b> 41:25  <b>CD</b> 25:11 31:10  54:4  <b>CDs</b> 4:21 9:25  14:1,2 19:7  28:1 32:6 36:4  36:4,12 37:16  38:8,15,16,17  43:24 44:4  51:17,22 52:3  <b>cert</b> 33:25 34:11  46:3  <b>certain</b> 29:13  <b>certainly</b> 5:1  15:14 23:24  27:20 39:12  40:13 48:3  51:11  <b>Chadbourne</b> 1:3  4:4  <b>chance</b> 45:16  <b>Chief</b> 4:3,9 5:22  6:2 18:9,15,17  18:23 19:2,22  20:2 25:17 26:2  29:23 30:2 34:4  34:10 43:13,16  43:21 44:7,11  52:16 56:19  <b>children</b> 22:3  <b>church</b> 25:4  <b>circuit</b> 38:1,9  42:15 52:24  53:7,14  <b>circuits</b> 20:16  <b>Circuit's</b> 37:20  56:5  <b>circumstances</b>  8:8 9:6  <b>cite</b> 52:24  <b>cited</b> 12:4  <b>claim</b> 18:15  55:18,22,22</p>	<p>56:14  <b>claimed</b> 48:24  <b>class</b> 46:15  <b>classic</b> 20:9  <b>clear</b> 8:23 15:7  20:18 39:11,15  49:5 56:9  <b>clearly</b> 4:12 17:2  19:1 43:7 48:24  51:23  <b>Clement</b> 2:3 3:3  3:13 4:6,7,9 5:1  6:2,10,23 7:23  8:5,22 9:17  10:2,16,24  11:19,23 12:3  13:7 14:12,23  15:19 16:1 17:8  17:13 18:1,6,14  18:17,25 19:8  19:16 20:5  26:25 27:10  31:11 45:16,24  52:17,18,20  53:4,8,15 55:16  56:3  <b>clever</b> 12:9  <b>client</b> 16:6 21:15  <b>close</b> 11:20  <b>closest</b> 11:16,17  11:24 12:1  <b>coincide</b> 16:3  17:2  <b>colleagues</b> 34:8  <b>college</b> 12:10  22:3  <b>COLORADO</b>  1:9  <b>combatting</b> 45:9  <b>come</b> 6:6  <b>comes</b> 11:15,17  20:11 40:10  <b>coming</b> 45:24  <b>common</b> 15:21  <b>companies</b> 5:10</p>	<p><b>company</b> 19:11  54:20,23,25  <b>complaint</b> 5:3,15  37:22 54:21  55:9,25  <b>complaints</b> 4:14  <b>completely</b> 15:17  33:16 37:16  40:25 42:5  50:23  <b>complicated</b>  41:20 50:2  <b>comport</b> 30:20  <b>concede</b> 13:2  <b>concern</b> 47:15  <b>concerned</b> 44:10  44:23  <b>concession</b> 35:1  <b>confidence</b> 24:12  24:12 25:20  26:3,9 27:16,22  28:6,8 37:4  <b>confident</b> 44:16  <b>confidential</b> 10:9  19:11  <b>conform</b> 30:23  <b>Congress</b> 31:5  31:15 32:15  40:4 51:17 52:7  <b>connected</b> 33:11  <b>connection</b> 6:17  6:25 7:3,6  11:12 12:6  13:11 14:8  15:20,24 19:20  28:15,22,24  29:2,14,16 30:9  31:6 32:8,24  33:8 35:5 36:21  39:3,19 44:23  47:1,4,23 48:2  52:6,9 53:11,19  55:20 56:7  <b>consensus</b> 26:22  <b>consequence</b></p>
---	---	---	--	--

<p>46:22  <b>consequences</b>                  28:14 30:22  <b>considered</b>6:17  <b>consistent</b> 29:9                  42:11 53:1  <b>consistently</b>                  29:19  <b>consolidated</b>4:5  <b>constructive</b>                  6:18  <b>consummated</b>                  29:6,8,15  <b>contemplated</b>                  29:1  <b>contends</b> 43:8,18  <b>contested</b>5:7  <b>contesting</b> 48:14  <b>context</b> 16:10  <b>continue</b> 25:25  <b>contract</b> 29:16  <b>control</b> 33:17  <b>core</b> 38:6 42:17                  50:11  <b>corporations</b> 5:9                  11:3,4  <b>correct</b> 4:25 24:3                  35:22,23 38:9                  43:20 54:8  <b>correctly</b> 54:17  <b>counsel</b> 19:22                  29:23 52:16                  56:19  <b>couple</b> 5:24                  17:13 52:21  <b>course</b> 15:5                  18:12 32:18,18                  41:25 44:9 45:9                  54:16  <b>court</b> 1:1,25 4:10                  6:4,12 10:3                  11:11 16:23                  17:19 20:3                  23:18 30:3,15                  33:7,18 35:20</p>	<p>38:8,13 41:25                  43:11 44:10,20                  49:14 50:4,8,8                  50:8,9,16,17                  53:5  <b>courts</b> 5:3 26:22                  29:18 32:16                  48:15 49:3                  52:22 53:7  <b>Court's</b> 17:23                  26:14 36:21  <b>cover</b> 17:6  <b>coverage</b> 17:17  <b>covered</b>4:13,17                  4:23 5:4,25                  6:11,16,19,21                  7:7,13,18 8:14                  9:3,4,9,15                  10:22 12:6,8,13                  13:1,1,5,22                  14:6,8,17 15:10                  15:21,23 16:13                  16:17 17:5,6,15                  18:2 19:7,19                  20:6 21:4 24:8                  24:13,15 25:12                  25:14 27:6                  28:16 30:9,18                  30:24 31:6,7,13                  31:25 32:4,7,10                  32:13,19,21,23                  33:4 34:16                  35:16,25 36:11                  36:15,25 37:10                  37:12,17 38:4                  38:18 40:2,13                  42:3,16,18 43:6                  43:23 45:10                  47:17 52:23                  54:15,18,20                  55:1,2,4,6,9,13                  56:8  <b>critical</b> 36:7 37:6                  48:10  <b>crossed</b> 10:3</p>	<p><b>crux</b> 37:21  <b>curiae</b> 2:7 3:7                  19:25</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D</b> 2:3 3:3,13 4:1                  4:7 52:18  <b>da</b> 45:25,25,25                  45:25,25  <b>Dabit</b> 19:9  <b>day</b> 9:18 15:8  <b>deal</b> 33:10 45:11  <b>dealers</b> 54:18  <b>debatable</b> 45:14                  45:15,18  <b>decades</b> 50:21  <b>deceived</b>42:19  <b>decide</b> 6:4 19:17                  37:24 38:9                  49:16,19  <b>decided</b>5:3                  16:25 50:24                  52:22  <b>decision</b> 9:25                  24:7 45:21 50:8                  51:8  <b>decisions</b> 26:14  <b>defend</b> 37:23                  56:5  <b>defendant</b> 22:20  <b>defending</b> 37:19  <b>deference</b> 24:1  <b>defined</b>31:1,25                  32:13  <b>definition</b> 33:8                  36:7,19 45:22  <b>defrauded</b> 17:10                  19:10 53:25  <b>Department</b> 2:6  <b>depend</b> 6:3  <b>derivative</b> 38:10  <b>described</b>36:11  <b>despite</b> 46:20  <b>details</b> 5:12  <b>determination</b></p>	<p>37:20  <b>determine</b> 27:19                  28:2 35:4  <b>developed</b>54:11  <b>dictum</b> 16:23  <b>difference</b> 8:7                  13:18 15:11,13                  34:24 36:7 37:6  <b>different</b> 13:8                  14:15 20:22,24                  24:13 25:22                  36:3 37:7 50:23  <b>difficulty</b> 37:11  <b>diminished</b>25:20  <b>direct</b> 11:16  <b>directly</b> 8:23                  18:21 21:17,19                  41:19  <b>disagree</b> 10:16  <b>discover</b>45:24  <b>dissented</b>44:12  <b>distinct</b> 9:10  <b>distinguishing</b>                  16:5  <b>district</b> 50:8  <b>diverse</b> 41:24  <b>dividing</b> 52:11  <b>documents</b> 29:13  <b>doing</b> 47:10  <b>domestic</b> 11:4,6  <b>draw</b> 14:14 33:12  <b>drives</b> 40:6  <b>drop</b>55:19  <b>D.C</b> 1:21 2:3,6</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>E</b> 3:1 4:1,1  <b>earlier</b> 14:13                  26:17 28:4 51:3  <b>easily</b> 33:15                  49:14 51:24  <b>economic</b> 28:14  <b>economy</b> 46:12  <b>effect</b> 10:4 21:18                  24:11 26:8</p>	<p>27:21 33:18,23                  34:2,16 35:7                  36:22 44:15                  46:9,23 50:13                  51:1,6,21  <b>effectively</b> 43:5  <b>egregious</b> 27:1                  29:20  <b>either</b>8:8 12:7                  15:9 30:24  <b>ELAINE</b> 2:5 3:6                  19:24  <b>element</b> 18:9  <b>Eleventh</b> 52:24  <b>embezzle</b> 16:9  <b>emphasis</b> 44:14  <b>employer</b> 15:2  <b>enforceable</b> 37:1  <b>enforcement</b>                  35:4 50:22  <b>engage</b> 24:25  <b>engaged</b>42:5,20                  43:5  <b>engages</b> 42:2  <b>entirely</b> 42:11  <b>ESQ</b> 2:3,5,9 3:3                  3:6,10,13  <b>essence</b> 56:13  <b>essential</b> 47:18                  48:5 49:10,11                  50:21  <b>essentially</b> 53:5  <b>estate</b> 29:11  <b>ET</b> 1:6,10,13,19  <b>events</b> 16:11,14  <b>eventually</b> 6:9  <b>everybody</b> 32:5  <b>evil</b> 25:5  <b>exact</b> 45:16  <b>exactly</b> 27:12                  41:5 44:21 45:5  <b>example</b> 10:1,6                  15:22 16:22                  31:4 35:2 36:13                  37:16 38:4 48:6</p>
---	---	---	---	--

<p><b>exchange</b> 5:16 5:21 7:19 10:7 21:16 31:2 48:17,19 <b>exchanges</b> 5:11 <b>excluded</b> 31:15 40:4 <b>excuse</b> 33:2 <b>expected</b> 7:21 <b>expert</b> 23:25 <b>explain</b> 37:25 <b>extend</b> 8:25 <b>extent</b> 25:19 26:3 <b>extraordinary</b> 30:21 <b>extremely</b> 47:3</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>face</b> 49:3 <b>fact</b> 5:24 6:15,24 9:23 19:4 26:2 32:13 40:9 50:15 56:5 <b>factor</b> 4:20 <b>facts</b> 23:9 <b>failure</b> 50:9 <b>fair</b> 48:25 <b>fall</b> 7:20 <b>falls</b> 29:15 51:23 <b>false</b> 9:4 18:3 19:18 20:6 30:6 55:24 <b>falsely</b> 38:5 <b>far</b> 9:19 36:22 46:5 <b>favor</b> 47:16 48:22 49:16 <b>feature</b> 39:23 47:17 48:5,12 <b>features</b> 9:21 50:12 <b>Federal</b> 17:11,14 <b>feeder</b> 20:25 21:3 43:2 54:2</p>	<p><b>felony</b> 46:19 <b>fewer</b> 14:16 <b>Fifth</b> 37:20 38:1 38:8 56:5 <b>figuring</b> 28:13 <b>filed</b> 46:2,3,4 <b>financial</b> 12:11 12:18 22:5 <b>fine</b> 26:7 <b>first</b> 9:19 17:14 31:20 35:21 40:24,25 41:3 43:12 44:20 46:2 47:19 52:21 56:3 <b>Fisk</b> 40:6,21 <b>fit</b> 15:6,6 <b>fits</b> 45:22 <b>fixed</b> 39:2 <b>flaw</b> 31:17,20,23 34:18 36:9 <b>flaws</b> 30:20 <b>flees</b> 35:17 <b>flexible</b> 33:9 38:11 <b>focus</b> 32:16 48:13 <b>focuses</b> 17:21 <b>following</b> 30:5 41:24 48:23 <b>forbid</b> 7:10 <b>foregoing</b> 47:14 <b>foreign</b> 40:3 <b>foresee</b> 12:1 <b>forgot</b> 45:24 <b>formal</b> 23:25 <b>formulation</b> 19:13 20:4 <b>fortiori</b> 12:24 <b>forward</b> 27:14 <b>found</b> 46:5 <b>four</b> 12:17 23:4 52:17 <b>fraud</b> 4:12,12 7:5 7:7,10 8:6,7,19</p>	<p>10:5,8,9,19 11:1,10 13:20 13:25 15:16,21 15:23 16:11,14 18:10,21 19:1,6 20:7,9 24:6,17 31:11,13,14 33:23 34:16 35:18 36:18 37:2 38:5,6,19 39:20 40:12 42:2,3,6,19,21 44:15 45:9 46:21 47:18 48:6 50:13 52:8 52:8,12,14 53:21,22 55:4,5 <b>frauds</b> 11:12 12:6 27:1 29:20 33:10,17 36:22 <b>fraudster</b> 47:8 <b>fraudulent</b> 5:25 16:20 <b>friends</b> 33:21 43:11 44:20 <b>front</b> 46:5 50:1 <b>function</b> 37:3 39:24 <b>fund</b> 21:3 38:6 42:4,9,9 43:4 54:2,3 <b>funds</b> 16:9 20:25 31:4 41:19 43:2 <b>further</b> 27:21 44:9,13 52:15 <b>future</b> 32:10 45:20</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>G</b> 4:1 <b>gather</b> 29:12 <b>General</b> 2:6 <b>General's</b> 33:22 <b>generation</b> 42:8 <b>getting</b> 32:12</p>	<p>33:16 <b>Ginsburg</b> 15:19 37:18 46:13,17 48:14,23 55:15 <b>give</b> 12:13 15:22 21:15 22:5,6 25:12 33:9 34:5 35:15 37:12,15 39:1,2,18 52:7 53:23 55:10,11 <b>given</b> 23:3,7 39:10 <b>giving</b> 22:19 49:17 <b>gnat</b> 47:2 <b>go</b> 8:8 10:1 12:10 14:17 19:6 21:3 24:18,19 29:11 29:21 41:15 51:14 <b>goes</b> 24:21 28:4 <b>going</b> 6:8 7:24 8:7 9:14,23 11:3 12:13 16:9 16:25 17:16 18:3 20:8 21:3 21:5,6,18 22:3 23:3,7,9 24:15 24:16 25:1,1,12 26:12 27:2,3,14 27:25 28:1 29:11 33:12,12 36:3,8,9,25 38:15 40:7,8,11 40:18,18 45:8 45:23 47:13,15 47:24 48:13 49:2,3 51:21 52:1 53:16 55:7 55:8,9 <b>gold</b> 13:5 <b>Goldenberg</b> 2:5 3:6 19:23,24 20:2,13,18,23 21:13,21,24</p>	<p>22:10,24 23:16 23:19,21,24 24:2,10 25:6,24 26:7 27:9 28:3 28:13,17,20 29:5 45:7 <b>Goldstein</b> 2:9 3:10 29:24,25 30:2 31:21,24 32:2,15,25 34:6 34:11,22,25 35:11,18 36:6 37:18,23 39:5 39:14 40:14,20 40:22,25 41:8 41:12,14,17,22 43:15,20,25 44:8 46:1,16 48:1,20 49:8,11 49:21,25 51:9 54:16 55:3 56:4 <b>good</b> 16:17 30:15 33:1 47:10 <b>goodness</b> 7:8 <b>Google</b> 9:14 <b>govern</b> 38:2 42:1 <b>government</b> 38:22 <b>grant</b> 11:16 <b>great</b> 6:12 15:3 <b>Grippe</b> 52:23 <b>ground</b> 37:24 49:25 <b>grounds</b> 42:11 <b>guess</b> 7:20 40:17 <b>gun</b> 46:12 <b>guys</b> 54:13</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>half</b> 43:12 44:20 <b>half-hour</b> 35:21 <b>hamper</b> 45:8 <b>hampered</b> 45:19 <b>hang</b> 46:12 <b>hanky</b> 27:24</p>
---	---	--	--	--

<p><b>happen</b> 25:1  <b>happened</b> 30:17  <b>happening</b> 22:1  35:24  <b>happens</b> 15:21  36:12,13  <b>happy</b> 7:25  <b>hear</b> 4:3  <b>heard</b> 25:4  <b>heart</b> 37:21  <b>heavily</b> 55:23  <b>held</b> 6:12 41:19  <b>helpful</b> 27:14  <b>helps</b> 16:3  <b>hold</b> 7:14,14  22:23 24:8  36:25 51:2  56:14  <b>holder</b> 8:25 10:9  <b>holders</b> 19:9  <b>holding</b> 36:21  39:12 51:5  <b>holdings</b> 9:1  16:20,22  <b>home</b> 5:23 9:15  27:1  <b>honest</b> 25:9  <b>honestly</b> 25:11  <b>Honor</b> 5:2 6:11  8:22 10:2 14:12  17:13 22:1,24  23:16 28:17  29:5 33:1 52:20  53:9 56:18  <b>hope</b> 35:12  <b>horribles</b> 12:1  <b>horse</b> 40:6  <b>hour</b> 43:12 44:20  <b>house</b> 29:12,14  47:6  <b>hypothetical</b>  11:17 12:21  16:2 36:11  39:16  <b>hypothetically</b></p>	<p>45:3  <b>hypotheticals</b>  43:11 44:19,21</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>IBM</b> 11:18  <b>idea</b> 44:3 51:18  51:18 55:3  <b>identified</b> 46:24  <b>illustrate</b> 16:3  <b>illustrative</b> 50:2  <b>imagine</b> 11:2  25:9 33:23 34:3  36:24 46:7  <b>imagining</b> 13:9  <b>imbue</b> 13:21  <b>immune</b> 15:17  <b>implicated</b> 23:2  <b>implications</b>  42:12  <b>important</b> 4:20  13:22 36:20  38:24 50:17  <b>Improvements</b>  51:19  <b>include</b> 15:20  <b>included</b> 4:12  48:16,18,24  <b>includes</b> 36:19  <b>including</b> 13:12  38:4  <b>INCORPORA...</b>  1:10  <b>incorrect</b> 56:1  <b>independent</b>  16:11,14 37:17  <b>independently</b>  16:25  <b>indicated</b> 14:13  <b>indirect</b> 42:8,15  <b>information</b>  10:10 19:11  44:18  <b>inquiry</b> 17:21  <b>inspire</b> 26:3</p>	<p><b>insurance</b> 55:22  56:1  <b>insured</b> 55:17  <b>integrity</b> 26:9  <b>intend</b> 8:15 36:14  37:10  <b>intended</b> 26:19  26:23 29:7  <b>intends</b> 40:10  <b>intent</b> 16:16,20  17:1 41:5  <b>intention</b> 41:23  <b>intentions</b> 16:7  <b>interest</b> 5:20  21:5 23:4,11  30:8 32:20 37:1  37:1,15,16 38:6  38:17 39:10  43:4 54:3  <b>interested</b> 12:10  21:9  <b>interesting</b> 54:24  <b>interests</b> 9:10  <b>intermediate</b>  21:7  <b>international</b>  5:10  <b>interpreted</b> 32:9  51:4  <b>interrupted</b> 26:6  <b>invest</b> 12:16 25:5  25:15 36:4  <b>invested</b> 4:17  25:13 38:3 42:4  43:3  <b>investment</b>  39:10 54:20,22  54:23,25  <b>investments</b> 4:19  4:20 38:10 54:6  54:15  <b>investor</b> 24:11  24:12 26:8  27:22  <b>investors</b> 5:17</p>	<p>27:16 41:19  <b>involve</b> 15:21  31:3  <b>involved</b> 17:7  33:17 41:24  52:4  <b>involves</b> 12:25  20:6  <b>involving</b> 15:23  52:9  <b>irrelevant</b> 12:22  12:24  <b>issue</b> 5:8 8:9,25  20:5 26:15,17  40:2 49:6,22  <b>issued</b> 47:7  <b>issues</b> 40:3  <b>it'll</b> 46:1</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>J</b> 2:5 3:6 19:24  <b>Jay</b> 40:6,21  <b>Jett</b> 14:25  <b>joining</b> 41:19  <b>Joint</b> 5:14  <b>Judge</b> 42:14  53:13,17  <b>jumping</b> 31:22,24  <b>Justice</b> 2:6 4:3,9  4:22 5:22 6:3,7  6:19 7:8 8:2,11  9:11,20 10:11  10:18 11:14,17  11:22,24 12:20  12:20,20 13:8  14:4,21 15:19  17:3,9,24 18:4  18:9,15,17,23  19:2,12,22 20:2  20:10,14,21  21:8,14,22 22:8  22:11 23:14,17  23:20,22 24:2,4  25:3,17 26:2  27:7,10,15</p>	<p>28:12,18,22  29:23 30:2  31:19,22 32:1,5  32:22 34:4,10  34:19,23 35:9  35:14,21 36:2  37:6,18 38:21  38:23 39:6,13  40:5,16,21,23  41:4,10,13,15  41:18 43:13,16  43:21 44:7,11  44:11,12 45:5  46:13,17 47:15  47:22 48:4,14  48:23 49:5,9,19  49:22 50:24  52:16 53:2,6,13  53:20 55:15  56:19</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>KAGAN</b> 6:7  9:11,20 10:11  10:18 24:2  41:15,18  <b>Kagan's</b> 11:17  12:21  <b>keep</b> 8:15 28:1  <b>Kennedy</b> 4:22  19:12 25:3  35:14 36:2 37:6  45:5  <b>Kennedy's</b> 53:20  <b>key</b> 39:16,23  <b>kids</b> 12:10  <b>kill</b> 47:2  <b>kind</b> 10:20,25  11:8 16:8 24:4  24:14 27:25  44:14 46:24  47:1 51:14 52:7  <b>know</b> 6:2 8:2,3  8:16,17,22  13:17 15:2 16:8</p>
---	--	--	--	--

16:23 27:17,19 27:24 28:5,8,11 29:3 37:11 38:23 42:5 47:24 50:19 51:5 53:8 <b>knowing</b> 40:8 <b>knows</b> 49:1	21:25 22:2,25 23:2,8,12 33:12 35:25 38:21 43:8 44:9 45:14 45:18,20 52:11 <b>lines</b> 24:3 <b>Line's</b> 23:14 <b>liquid</b> 37:11 38:16 48:10,12 49:4 <b>liquidity</b> 13:23 47:8 <b>list</b> 5:24 8:18 <b>listen</b> 51:2 <b>listing</b> 7:13 8:14 <b>little</b> 26:16 <b>Lloyds</b> 55:17 <b>LLP</b> 1:3,16 <b>loaded</b> 46:12 <b>loan</b> 5:23 6:8,25 8:13 36:17 47:7 48:6,7,9 <b>loans</b> 7:11 <b>lodge</b> 54:12 <b>longer</b> 12:17 <b>longstanding</b> 53:1 <b>look</b> 5:13 11:2 13:16,23 14:14 15:2,3 16:12 25:9 36:24 37:8 38:13 42:15,16 42:17 <b>lose</b> 12:2 21:10 47:14 54:14 <b>lost</b> 42:19 <b>lot</b> 27:24 53:9 <b>lots</b> 8:5 25:4 36:14 <b>lower</b> 5:3 26:22 49:3	20:25 38:4,5 41:16,23 42:2,5 42:7,9,20 43:3 43:4 54:3 <b>major</b> 5:10 24:11 <b>making</b> 10:21 13:15 39:25 48:17 <b>manipulation</b> 40:15 <b>margin</b> 23:13 36:13 37:3 <b>market</b> 10:14,20 10:22 11:6,9 12:16 13:24 22:21 23:5 24:20 27:17 33:19,24 34:2 34:17 35:7 36:23 37:2 39:24 40:14 41:1 44:15 50:14 51:2,7 52:13 54:12 55:14 <b>markets</b> 24:22 25:8,14,20 26:9 28:7 51:19 <b>marriage</b> 9:14 <b>married</b> 10:1 <b>marry</b> 11:18 <b>Maryland</b> 2:9 <b>massive</b> 4:11 31:11,12 <b>material</b> 4:12,18 30:8 32:3 44:18 48:3 55:5 <b>materiality</b> 13:12 53:11,18 <b>matter</b> 1:24 13:4 14:4,11,12 53:25 56:22 <b>mattress</b> 28:1 <b>mean</b> 5:13 6:12 6:20 7:9 9:19	16:2 25:3 26:2 28:24 32:9 37:25 56:6 <b>means</b> 8:24 <b>mechanism</b> 24:22 25:7 28:5 <b>members</b> 44:10 <b>mentioned</b> 21:12 <b>merely</b> 20:19 50:15 <b>merits</b> 46:2,4 <b>messes</b> 41:1 <b>met</b> 27:18 32:8 <b>metaphysical</b> 51:14 <b>metaphysically</b> 33:11 <b>mind</b> 34:9 <b>mine</b> 12:12 <b>minutes</b> 52:17 <b>misappropriate</b> 39:21 <b>misrepresenta...</b> 4:18 6:22,25 7:6 9:1,9,22 10:21 13:15 18:12 19:18 30:8 32:3,17,23 32:24 33:4 37:21 56:7,9 <b>misrepresenta...</b> 4:13,16 9:2 16:13 37:9 52:13 55:5 56:6 56:15 <b>misrepresented</b> 43:23 <b>mistake</b> 53:10 53:18 <b>mistakes</b> 13:10 <b>moment</b> 16:21 22:25 26:21 34:13 <b>Monday</b> 1:22 <b>money</b> 4:15,16	12:16 14:2 16:6 16:9 20:7 21:2 21:15,17 22:4,5 22:6,19 23:4 24:19 25:12,14 27:5 36:15 37:9 38:15 39:1,9 42:19 53:23 55:7,10,11 <b>morning</b> 4:4 <b>mortgages</b> 7:10 <b>move</b> 44:13 <b>multinational</b> 5:9 11:3 <b>multiple</b> 13:12 34:7 <b>mutual</b> 31:4
<hr/> <b>L</b> <hr/>				<hr/> <b>N</b> <hr/>
<b>lack</b> 28:8 <b>language</b> 52:2,5 <b>late</b> 44:11 <b>law</b> 6:16 15:21 17:11 <b>laws</b> 7:10,21 9:16 17:4,14 23:1 26:10 28:10 44:25 <b>lawyers</b> 26:4 <b>lay</b> 42:1 <b>layer</b> 21:7 <b>lead</b> 5:19 22:13 22:15 <b>leave</b> 51:22 <b>led</b> 22:20 <b>legally</b> 39:4 <b>lending</b> 46:10 <b>lenity</b> 46:20 <b>letter</b> 5:16 <b>let's</b> 20:16,17 39:13 <b>liable</b> 56:15 <b>lie</b> 14:18 24:21 54:18 <b>lies</b> 24:14,17 54:20 <b>life</b> 11:9 18:19 29:10 <b>light</b> 19:12 <b>limit</b> 33:13 <b>limitations</b> 26:13 <b>limited</b> 45:10 <b>line</b> 12:4,9 14:14 17:22 21:11,14				<b>N</b> 3:1,1 4:1 <b>name</b> 45:1,3 <b>narrow</b> 20:4,15 45:13 <b>narrower</b> 35:13 44:23 47:16 <b>narrowest</b> 19:16 <b>national</b> 5:11 31:2 51:19 <b>nature</b> 13:17 27:20 <b>necessarily</b> 8:24 10:18 48:18 <b>need</b> 8:3 14:3 16:8 38:11 47:12 50:3 <b>needed</b> 12:11 26:18 <b>negatively</b> 52:14 <b>neither</b> 18:19 22:18 41:10 42:11 <b>never</b> 14:18 28:23 30:12,13 30:14 37:4 38:7 47:8,12 53:24
	<hr/> <b>M</b> <hr/>			
	<b>Madoff</b> 14:17 15:5,6 20:22,24			

<p><b>New</b> 5:16,21  <b>nobody's</b> 55:9  <b>non</b> 35:3 41:9  <b>noncovered</b> 9:8              13:20 25:19              43:9 51:20 52:3  <b>Nonexistent</b>              18:4  <b>nonpublic</b> 44:18  <b>non-covered</b>              17:15,18 21:1              40:3 42:24              43:19  <b>non-security</b>              47:6  <b>normal</b> 11:8 14:2  <b>notion</b> 48:4  <b>notwithstanding</b>              47:14  <b>not-covered</b>              17:10  <b>novel</b> 33:10  <b>number</b> 15:6              42:13  <b>NYSE</b> 48:25</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O</b> 3:1 4:1  <b>observation</b>              53:21  <b>obviously</b> 17:14  <b>occurred</b> 11:6              28:23  <b>October</b> 1:22  <b>offered</b> 14:1  <b>office</b> 29:13              33:22  <b>oh</b> 19:4 34:10              55:21  <b>okay</b> 19:10 31:21              34:10,23 36:6              38:24 39:5,14              40:23 41:10,13              41:22 45:1              55:19 56:8</p>	<p><b>ones</b> 11:13 18:11              33:17 41:25              43:23  <b>one's</b> 30:7  <b>one-off</b> 46:24              50:25  <b>opening</b> 52:24  <b>open-ended</b>              47:24  <b>operate</b> 24:22              25:8  <b>opinion</b> 19:14              30:4 39:8,11              42:14 48:22              49:23  <b>opponents</b> 22:17  <b>opportunity</b>              56:11  <b>opposed</b> 26:4  <b>opposite</b> 33:24              51:12  <b>option</b> 16:24 17:1  <b>oral</b> 1:24 3:2,5,9              4:7 19:24 29:25              33:3  <b>orally</b> 46:4  <b>order</b> 28:6,6              49:16,17  <b>ordinary</b> 29:10  <b>outright</b> 40:11  <b>owners</b> 23:10  <b>ownership</b> 20:19              21:5 23:10  <b>O'Hagan</b> 10:6              19:10 33:19              44:12,14 50:18</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>P</b> 4:1  <b>Pacific</b> 40:8,8  <b>page</b> 3:2 5:14              12:5 14:24 34:5              34:12 39:19              50:5  <b>pages</b> 34:11</p>	<p><b>panky</b> 27:25  <b>paper</b> 8:14 27:24              55:13  <b>paradigmatic</b>              53:22  <b>paragraph</b> 5:18  <b>Parke</b> 1:3 4:5  <b>part</b> 9:12 39:16  <b>particular</b> 25:7              26:8 28:9 54:17              54:19  <b>particularly</b> 5:21              7:25 9:3 11:20              20:24 39:19  <b>party</b> 9:13 19:10              53:25  <b>passed</b> 21:7 23:4  <b>PAUL</b> 2:3 3:3,13              4:7 52:18  <b>pay</b> 6:8  <b>payments</b> 16:8  <b>people</b> 8:19,20              9:11 12:9 20:25              24:14,18,24              25:5,13,15              26:12 28:6,8              40:9,17 42:8              44:16  <b>perfectly</b> 11:7              48:25  <b>perform</b> 16:25  <b>performance</b>              54:10  <b>person</b> 17:12              22:13,13,18              25:1 30:7 44:17  <b>persons</b> 39:9  <b>perspective</b>              53:25  <b>Petitioner</b> 1:4,17              28:11  <b>petitioners</b> 1:11              2:4,8 3:4,8,14              4:8 20:1 47:16              52:19 56:14</p>	<p><b>phrase</b> 29:10              52:6  <b>picking</b> 50:17  <b>piece</b> 55:12  <b>place</b> 11:8 16:21              26:21  <b>plain</b> 7:5  <b>plaintiff</b> 22:14  <b>plaintiffs</b> 4:15              5:19 9:5 16:18              19:1,19 30:25              31:14 37:15              44:6 45:2  <b>plaintiff's</b> 4:20              17:20,25  <b>play</b> 41:22  <b>please</b> 4:10 20:3              30:3 34:13  <b>pledge</b> 6:14              37:14  <b>pledged</b> 36:12  <b>pledging</b> 6:20              36:19,20 38:17  <b>pockets</b> 35:16  <b>podium</b> 33:22              39:7  <b>point</b> 5:5,18 8:23              11:1 12:14              13:15,19 20:20              31:23,24 33:1              35:21 36:9              46:16,16 48:15              50:7,10 51:3,9              51:11 52:6  <b>pointed</b> 33:14              50:6  <b>points</b> 52:21  <b>Ponzi</b> 4:11  <b>portfolio</b> 48:18              54:10  <b>portrayed</b> 41:18  <b>position</b> 22:14,16              22:21 29:19              31:17 33:6              35:14,20 49:6</p>	<p>49:12 50:19,21              53:1  <b>positive</b> 13:21  <b>possibility</b> 34:1  <b>possible</b> 22:19  <b>potential</b> 10:13              16:6  <b>practically</b> 26:20  <b>precedent</b> 27:14  <b>precedents</b>              52:10  <b>precluded</b> 26:5              51:25  <b>preclusion</b> 31:15  <b>preclusive</b> 51:21  <b>premise</b> 10:17              56:1  <b>prenuptial</b> 9:12              9:12 46:11  <b>present</b> 22:18,18              41:11 50:12  <b>pressed</b> 50:1  <b>prevail</b> 35:23              45:3  <b>prevent</b> 21:11              47:10  <b>prevented</b> 52:12  <b>previously</b> 50:14              51:6  <b>principal</b> 12:18              54:14  <b>priorities</b> 50:22  <b>private</b> 8:19,20              11:15  <b>privately</b> 11:23  <b>probably</b> 6:10              7:11,11 9:17              12:3  <b>problem</b> 4:23              28:9,13 29:22              33:6 48:21  <b>problems</b> 54:17              54:19  <b>proceeding</b>              30:13</p>
--	--	--	--	--

<p><b>proceedings</b> 50:7  <b>proceeds</b> 12:19              32:6 39:22  <b>proclaims</b> 55:3  <b>product</b> 32:17,20  <b>profit</b> 23:7  <b>promise</b> 16:17              19:18 20:6              21:18 22:12,12              30:6,18 38:14              48:8  <b>promised</b> 28:25  <b>promises</b> 9:4              18:3 39:25  <b>promising</b> 21:19  <b>prosecute</b> 8:6  <b>prosecuted</b> 8:18  <b>prosecution</b>              46:19  <b>PROSKAUER</b>              1:16  <b>prospect</b> 34:15  <b>protect</b> 17:4,12  <b>protection</b> 37:5  <b>providing</b> 36:16  <b>prudent</b> 56:4  <b>PSLRA</b> 26:13  <b>pump</b> 25:14  <b>purchase</b> 9:4              11:3,4 14:8              15:24 16:17              19:2,6,9,18              20:6 21:4,19              26:18,19,24              28:15,18,21,23              28:25,25 29:1,2              29:4,6 30:6,9              31:6 32:4,18              35:6,24 36:4,5              36:8,19 38:18              39:3 43:5 44:5              47:4 48:2,3              49:7,13,23 50:9              55:21 56:7  <b>purchased</b> 14:10</p>	<p>30:25 38:3 39:4              43:3 47:6  <b>purchaser</b> 10:13              17:6,9 41:6              42:15  <b>purchasers</b> 17:5              25:11 42:8  <b>purchases</b> 14:6              14:19 15:9,10              16:11,14 17:21              18:2,3,4,8,11              19:5 21:6 24:23              24:25 32:10              55:6,13  <b>purchase/sale</b>              28:5  <b>purchasing</b> 43:22  <b>purest</b> 16:6  <b>purported</b> 26:19              26:23 28:21              29:7 52:23  <b>purpose</b> 17:4              26:11,14 30:20  <b>purposes</b> 23:1              26:10  <b>put</b> 7:16 8:14,17              21:3 25:12              43:11 44:20,25  <b>putting</b> 37:11  <b>p.m</b> 56:21</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>qua</b> 35:3 41:9  <b>qualify</b> 15:24  <b>qualities</b> 13:21  <b>quality</b> 38:16  <b>question</b> 6:3              10:13 12:23              13:14 17:16              20:9 25:22 32:7              32:16 38:13              44:25 45:17              49:1,18  <b>questions</b> 52:15  <b>quickly</b> 40:9</p>	<p><b>quite</b> 21:9 56:4  <b>quote</b> 34:14              45:13  <b>quoted</b> 34:7</p> <hr/> <p style="text-align: center;"><b>R</b></p> <hr/> <p><b>R</b> 4:1  <b>raised</b> 26:17  <b>Rakoff</b> 42:14  <b>rate</b> 23:5 37:16              39:2  <b>rationale</b> 56:5  <b>reach</b> 9:11 13:6              51:22  <b>reaches</b> 36:22  <b>reacting</b> 41:7  <b>reaction</b> 21:9  <b>read</b> 5:17 23:8              27:23 28:24              35:2  <b>reading</b> 44:23              47:1,4 52:8  <b>real</b> 17:16 29:11  <b>reality</b> 54:21  <b>realize</b> 33:21              43:12 44:20  <b>really</b> 8:9 11:13              12:22 13:3,25              15:11 16:4              20:11 24:25              33:1,8 35:9              36:20 40:10              45:23 46:22              50:25 54:10  <b>reason</b> 5:7 13:9              14:13 26:24              36:18 47:2 51:7              55:10  <b>reasons</b> 28:4              30:15 54:24  <b>REBUTTAL</b>              3:12 52:18  <b>recognize</b> 35:2  <b>recognized</b> 33:18  <b>record</b> 5:13</p>	<p>54:11  <b>reference</b> 5:15              6:5  <b>referred</b> 5:4,9  <b>registered</b> 54:25  <b>regulate</b> 51:20  <b>regulated</b> 33:19              33:24 34:2 35:6              35:7 36:23              50:14 52:13              55:24 56:2  <b>regulation</b> 51:23  <b>reinvest</b> 55:8  <b>related</b> 21:18              38:12  <b>relevant</b> 10:14  <b>Rembrandt</b> 13:5  <b>remember</b> 48:11              50:5  <b>removed</b> 9:19,20              27:21  <b>repay</b> 48:9  <b>repeatedly</b> 39:17  <b>replead</b> 56:12  <b>reply</b> 46:2 52:25  <b>representation</b>              24:5 37:13              55:17  <b>representations</b>              55:7  <b>represented</b>              15:11  <b>required</b> 19:20  <b>requirement</b> 7:4              13:13 32:8              53:19  <b>requirements</b>              13:12 26:13              53:12  <b>requiring</b> 17:20  <b>reserve</b> 19:21  <b>resolved</b> 42:10              42:25 49:15  <b>respect</b> 7:23 10:2              10:16 24:13</p>	<p>25:18 26:11  <b>respond</b> 25:2  <b>Respondent</b>              39:21  <b>Respondents</b>              2:10 3:11 30:1  <b>restricted</b> 20:19  <b>result</b> 15:15  <b>return</b> 12:13,18              22:24 37:17              39:2 54:1  <b>returning</b> 44:19  <b>returns</b> 54:9,13  <b>Reuben</b> 6:13  <b>Richard</b> 12:4  <b>right</b> 6:20,22,23              8:4 15:15 18:5              18:14,17,24              19:3 23:22 32:1              34:23 41:12              47:20 55:15,19  <b>riskier</b> 27:3  <b>risky</b> 27:2  <b>ROBERTS</b> 4:3              5:22 18:9,15,23              19:2,22 25:17              26:2 29:23 34:4              34:10 43:13,16              43:21 44:7              52:16 56:19  <b>ROSE</b> 1:16  <b>rule</b> 30:5,11              37:24 38:2 42:1              44:3 46:7,9,18              46:20 47:16              49:2  <b>rules</b> 50:3  <b>run</b> 27:1 40:9</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>S</b> 3:1 4:1  <b>sale</b> 6:18 14:8              15:24 19:3              21:19 26:18,19              26:24 27:25</p>
--	--	--	---	--

28:16,19,23,25 28:25 29:1,2,4 29:7,14,15,17 30:9 31:6 32:4 32:19 35:6 39:3 43:5 44:6 47:4 48:2,3 49:7,13 49:23 52:23 55:21 56:8 <b>sales</b> 14:6 17:21 18:11,22,22 19:5,6 24:23,25 32:10 <b>SAMUEL</b> 1:6,13 1:19 <b>satisfy</b> 16:4 24:9 35:12 <b>saying</b> 6:24 27:2 27:12 35:8,24 40:17 45:17,24 46:9,10 <b>says</b> 14:7,7,14 16:23 21:9,15 27:3 28:15 29:2 31:11 32:23 35:15 37:8 40:7 42:3,15,17 47:17 49:4,23 51:10 53:5,23 54:1,3,17,21 <b>Scalia</b> 6:19 17:3 17:9,24 18:4 23:14,17,20,22 28:12,18,22 34:19,23 35:9 38:23 44:11 <b>Scalia's</b> 35:21 <b>scenario</b> 41:24 <b>scheme</b> 4:11 25:13,16 27:23 <b>SEC</b> 8:12 9:5,10 11:15,20 14:24 15:17 23:19 25:18,20,25 26:22 29:18	30:12 33:9 35:22 39:12,15 39:17 44:14,21 44:22,25 45:7,8 45:21 46:3,7 47:2 49:12 50:20,25 51:6 51:10 <b>second</b> 17:19 31:17 34:18 36:8 39:14 40:24 41:1 42:15,25 45:6 54:16 <b>secondarily</b> 56:14 <b>seconds</b> 43:16 <b>Section</b> 50:22 <b>securing</b> 4:20 <b>securities</b> 4:14 4:17,23 5:4,8 6:14,16,18,20 6:21 7:7,20 8:7 8:19 9:2,3,4,9 9:16,23,24 10:14 12:7,8,23 12:25 14:7,15 14:19 15:10,22 15:23,25 16:13 16:17 17:4,5,10 17:11,14,15,16 17:18 18:2 19:7 19:19 20:7,9,20 21:1,4,16,20 22:12 23:1,8,10 24:8,13,16,20 24:22 25:8,13 25:14,19,20 26:10 27:4,17 27:25 28:7,10 28:16 30:6,10 30:18 31:2,13 31:14 32:7,11 32:13 33:4 34:16 35:16,18	35:25 36:5,12 36:15,18,25 37:2,10,12,17 38:4,5,6,7,19 38:25 39:1,3,11 39:20,21,22 40:1,2,4,18,18 42:2,3,6,18,20 42:24 43:6 44:25 45:10 46:21 47:18 51:2,7,19,20 52:3,8,9 53:22 53:24 54:2,6,15 54:18,20 55:1,1 55:4,6,9,14,21 56:8 <b>security</b> 4:19 7:6 7:7,13,17 8:15 9:8 12:14 13:5 13:20,22 14:9 16:11 17:7 18:19,22,22 21:19 30:24 31:1,7,7,25 32:4,19,21,23 35:6 36:16 38:19 45:11 51:18 55:2 <b>SEC's</b> 11:24 23:25 35:19 39:8 46:19 50:18 53:1 <b>see</b> 7:21 24:14 36:2 <b>self</b> 30:7 <b>sell</b> 7:15,17 8:16 9:7,14 11:18 14:16 19:9 22:22,22 24:8 29:12 37:14 38:14,25 40:11 48:9 <b>seller</b> 10:14 17:6 18:20 41:6	<b>sellers</b> 17:5 <b>selling</b> 6:8 39:25 42:21,21 43:22 <b>sense</b> 7:2 44:3 56:12 <b>separate</b> 42:10 <b>serious</b> 48:21 <b>seriously</b> 45:8 <b>sermon</b> 25:4 <b>shares</b> 9:14 <b>sheet</b> 7:12 8:14 <b>shorn</b> 55:25 <b>show</b> 29:13 <b>shows</b> 12:5 <b>SIB</b> 37:8 38:7 42:23 44:2,7 48:11,24 <b>side</b> 30:11 43:7 44:17 48:21 <b>side's</b> 33:2 <b>Siegel</b> 53:17 <b>significant</b> 44:9 44:13 <b>similar</b> 53:22 <b>simplest</b> 19:13 19:16 <b>simply</b> 8:13 14:18 52:22 53:23,23 54:9 55:4 <b>sine</b> 35:3 41:9 <b>sir</b> 34:6 43:25 44:8 51:9 <b>situation</b> 13:3,6 20:15,22,24 23:2 27:6 29:3 <b>situations</b> 8:25 <b>Sixth</b> 53:14 <b>slightly</b> 13:8 23:9 <b>slip</b> 53:19 <b>SLUSA</b> 7:3 9:10 25:23 26:11,12 31:16 32:2 33:5 42:16,16 44:2 44:22 46:14,18	46:23,25 51:21 51:24 52:4 56:8 <b>SLUSA's</b> 17:17 <b>sneak</b> 53:11 <b>sold</b> 14:10 16:24 38:6,7,8 42:23 <b>Solicitor</b> 2:5 33:22 <b>somebody</b> 8:13 10:12,18,19 13:16 18:23,24 24:5,7 27:23 <b>somebody's</b> 17:25 24:7 45:21 <b>something's</b> 24:25 <b>sorry</b> 26:6 43:13 <b>sort</b> 13:17,23 22:25 56:16 <b>Sotomayor</b> 20:10 20:14,21 38:21 39:6,13 53:2,6 53:13 <b>sparse</b> 23:9 <b>specific</b> 10:4 11:15 13:17 <b>specifically</b> 4:15 5:4,5 24:12 31:15 40:4 <b>sprinkler</b> 7:17,18 <b>stage</b> 16:7 34:1 46:3 <b>standard</b> 19:20 <b>stands</b> 36:1 38:13 <b>Stanford</b> 4:11 16:16 25:10 40:17 54:22 <b>start</b> 12:4 14:24 16:1 51:16 53:20 <b>State</b> 7:10 51:23 <b>statement</b> 22:13 22:21 41:7 47:7
---	---	--	---	--

54:1,2	<b>suggested</b> 27:15	<b>term</b> 31:1,25	26:20 27:8 28:3	<b>translated</b> 5:16
<b>States</b> 1:1,25 2:7	<b>suggesting</b> 22:1	32:14 38:11	29:7,9,18 30:15	<b>tremendous</b>
3:7 6:13 19:25	25:18	<b>test</b> 16:4 19:13	32:25 34:12	29:21 44:15
51:20 55:23	<b>suggests</b> 13:14	19:14 20:15	35:11,12,13	<b>tried</b> 8:13 43:10
<b>statute</b> 13:11	<b>sullied</b> 10:8	24:3,9 27:8,10	36:7 37:24	<b>trigger</b> 9:9 33:5
14:7 28:15	<b>supporting</b> 2:7	27:15 37:20	38:11,12,23	44:2
30:21,24 47:20	3:8 20:1	53:7,16,17	39:2,7 45:6,20	<b>Troice</b> 1:6,13,19
47:23,25 51:17	<b>suppose</b> 6:7 24:2	<b>text</b> 28:14 29:8	46:8 47:14,19	4:5
52:2	40:5	30:23 47:20,22	48:1,15,25 52:4	<b>troubles</b> 28:12
<b>step</b> 44:9	<b>supposed</b> 14:15	47:25 51:24	53:9,15,18	<b>true</b> 15:16 17:22
<b>stick</b> 29:3	14:16	<b>textual</b> 30:20	55:12 56:4	19:8 25:24 29:5
<b>stock</b> 5:16,19,21	<b>supposedly</b> 38:3	31:17,20 34:18	<b>Thomas</b> 2:9 3:10	33:19,20 40:5
9:14 11:18	<b>Supreme</b> 1:1,25	36:8	29:25 44:11	47:9 48:6 51:10
31:10 41:1,6,7	<b>sure</b> 5:18 16:1	<b>Thank</b> 19:22	<b>thought</b> 15:11	54:9
41:20	18:25 27:9	29:23 52:16,20	41:20 43:21	<b>try</b> 11:22 26:12
<b>stockbroker</b>	32:12 40:22	56:18,19	<b>three</b> 8:17 46:2,2	56:11
39:25	<b>surprise</b> 6:12	<b>theory</b> 8:24 19:4	50:7	<b>trying</b> 5:23 38:22
<b>stockbrokers</b>	<b>surprising</b> 7:2	30:17 42:13	<b>throw</b> 22:23	42:1 50:2
39:21	<b>Sutton</b> 53:13,17	<b>thing</b> 11:2 14:18	<b>till</b> 33:2	<b>turn</b> 7:25 43:2
<b>stockholdings</b>	<b>swallowing</b> 52:12	15:18 16:24	<b>time</b> 19:21 29:14	<b>turns</b> 18:7 42:4
6:5,8	<b>swept</b> 29:8	27:2,3 28:9,10	46:2	<b>two</b> 8:9 16:5
<b>stocks</b> 5:20,24	<b>system</b> 7:17,18	33:16 39:14	<b>times</b> 34:7 36:14	30:19,24 33:8
19:5 36:15,16		41:5 47:11,11	<b>today</b> 33:22	37:7 39:5 42:10
36:20 37:1 42:4		48:4,9 54:8,16	50:20 51:1,13	54:24
48:5,8,16,25		56:10	<b>told</b> 15:2 19:4	<b>typical</b> 40:12
<b>stood</b> 50:20	<b>T</b>	<b>things</b> 7:9 8:9,17	20:8 21:2 23:3	
<b>stop</b> 26:12	<b>T</b> 3:1,1	11:21 12:7	23:6 32:16	<b>U</b>
<b>stops</b> 33:16	<b>take</b> 7:4 12:11	17:13 28:8 29:8	38:22 39:7 51:1	<b>unclear</b> 39:8
<b>Street</b> 40:7	13:20 22:13,15	29:16 33:8 37:3	54:4	<b>underlying</b> 4:19
<b>stretch</b> 52:1,5	22:21 25:18	39:5 46:11	<b>tools</b> 25:21,25	13:23 56:15
<b>strong</b> 5:9 39:19	27:7 37:9,18	51:22 54:13	<b>tracks</b> 36:21	<b>understand</b>
<b>stronger</b> 36:10	38:15 55:7	<b>think</b> 4:22,24 5:6	<b>trade</b> 10:9 44:17	22:11 30:13
<b>structural</b> 9:21	56:16	5:7,8,13,18,19	<b>traded</b> 5:11,20	31:19 39:23
<b>structured</b> 7:3	<b>taken</b> 29:19	6:4,10,11,24	31:2 48:16,19	<b>understanding</b>
<b>submitted</b> 56:20	50:21	7:24,25 8:3,3	<b>trades</b> 15:2,3,4	46:22
56:22	<b>takes</b> 7:12 16:21	9:17 10:3,17	<b>trading</b> 9:24	<b>understood</b> 35:1
<b>subset</b> 31:1	<b>talk</b> 26:16	11:11,19,20,23	<b>transaction</b> 6:1	<b>undertook</b> 38:1
<b>substantial</b> 15:6	33:7	12:3 13:7,9	10:4,7,20,25	<b>Union</b> 40:7,8
<b>substantially</b>	<b>talking</b> 13:3	14:23 15:8 16:3	11:5,8 16:21	<b>United</b> 1:1,25 2:7
15:10,12	<b>tangentially</b>	16:12 18:6	23:8 32:18	3:7 6:13 19:25
<b>sufficient</b> 6:6	38:12	20:13,18,23	<b>transactions</b>	55:23
26:20,24	<b>tell</b> 6:14 8:11	21:22,24 23:12	4:13 9:3 10:22	<b>unregistered</b>
<b>sufficiently</b>	13:16 46:6	23:25 24:3,10	11:7 15:18	54:19,23
11:10	54:13	24:11,18 25:8	18:19,20 39:20	<b>unremedied</b>
<b>suggest</b> 15:14	<b>telling</b> 24:15	25:24 26:1,7,14	<b>transfer</b> 6:18	29:21
	<b>tells</b> 38:25 54:5			

<p><b>untrue</b> 42:5  <b>use</b> 7:18 29:10          36:15  <b>U.S</b> 5:11</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>v</b> 1:5,12,18 4:5  <b>valuable</b> 6:15  <b>vane</b> 55:2  <b>variable</b> 54:9,14  <b>verbatim</b> 34:15  <b>version</b> 25:9          37:12  <b>versus</b> 37:12  <b>victim</b> 10:8,19          24:6  <b>victims</b> 20:7 22:2          23:3 24:18  <b>view</b> 23:25 35:19  <b>violation</b> 6:1</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> 34:19  <b>Wall</b> 40:7  <b>want</b> 5:5,13          14:14,24 22:4,4          38:20,20 45:3          47:5 48:7 49:19          49:22 54:11  <b>wants</b> 11:11 47:3          47:3  <b>warrant</b> 24:1  <b>Washington</b> 1:21          2:3,6  <b>wasn't</b> 6:16          42:21 48:3  <b>way</b> 5:17 7:2 8:8          9:10 10:24          14:17 19:14,16          20:7 23:11 25:8          29:9 40:2 42:25          47:13 48:23          55:2  <b>ways</b> 24:13 30:24  <b>wealth</b> 13:16</p>	<p><b>weeks</b> 42:14  <b>went</b> 19:7 25:3          26:21  <b>weren't</b> 14:9 15:4          16:25 29:20,20  <b>we'll</b> 34:12  <b>we're</b> 11:3 33:12          45:19 48:13          55:7,8  <b>Wharf</b> 16:19,20          16:22  <b>whatsoever</b>          50:14  <b>white</b> 19:12  <b>willing</b> 13:2          24:24  <b>Willis</b> 1:9 5:15  <b>win</b> 34:21 45:8          49:14,16  <b>word</b> 20:10  <b>words</b> 41:4 45:7          47:20 55:8  <b>work</b> 13:11 28:7  <b>world</b> 22:15,15  <b>worried</b> 12:17          45:12  <b>worry</b> 7:14,15,16  <b>wouldn't</b> 20:15          25:5 45:9 46:14          51:4,6 55:19  <b>write</b> 19:14 30:4  <b>wrong</b> 34:20          52:22 55:4  <b>wrote</b> 35:8</p> <hr/> <p style="text-align: center;"><b>X</b></p> <hr/> <p><b>x</b> 1:2,7,8,14,15          1:20</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>Yeah</b> 6:10 43:15  <b>year</b> 7:12 9:13  <b>years</b> 12:17 22:6          23:4 45:2 47:11  <b>York</b> 5:16,21</p>	<p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>Zandford</b> 11:9          15:20 16:2,4,10          16:19 18:21          33:20 35:3          39:18 50:18          53:2,4  <b>zero</b> 15:12</p> <hr/> <p style="text-align: center;"><b>\$</b></p> <hr/> <p><b>\$100,000</b> 35:15          48:8  <b>\$7</b> 48:23</p> <hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>10b</b> 27:13 50:22  <b>10b-5</b> 27:13          33:16  <b>10(b)</b> 7:2 13:6  <b>10(b)(5)</b> 6:1 7:3          17:17 52:12  <b>10(B)5</b> 37:5  <b>11:06</b> 2:1 4:2  <b>12</b> 34:12  <b>12-79</b> 1:4 4:4  <b>12-86</b> 1:11  <b>12-88</b> 1:17  <b>12:01</b> 56:21  <b>19</b> 3:8</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2013</b> 1:22  <b>21</b> 12:5 14:24          50:5  <b>23</b> 39:19  <b>29</b> 3:11</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>30</b> 43:16  <b>33</b> 26:21  <b>34</b> 26:21</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4</b> 3:4</p> <hr/> <p style="text-align: center;"><b>5</b></p>	<p><b>52</b> 3:14</p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p><b>7</b> 1:22  <b>746</b> 5:14</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>80</b> 45:2 47:11</p>
---	--	--	---