

1 DAVID B. BAYLESS (SBN 189235)
E-mail: dbayless@cov.com
2 TAMMY ALBARRAN (SBN 215605)
E-mail: talbarran@cov.com
3 STEVEN D. SASSAMAN (SBN 258021)
E-mail: ssassaman@cov.com
4 COVINGTON & BURLING LLP
One Front Street
5 San Francisco, CA 94111
Telephone: 415-591-6000
6 Facsimile: 415-591-6091

7 Attorneys for Defendant Michael W. Perry

8
9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION
12

13 WAYMAN TRIPP and SVEN
14 MOSSBERG, Individually and On
Behalf of All Others Similarly
Situating,

15 Plaintiff,

16 v.

17 INDYMAC BANCORP, INC., and
18 MICHAEL W. PERRY,

19 Defendants.
20
21
22

Case No.: 2:07-cv-1635-GW (VBK)

**DECLARATION OF STEVEN D.
SASSAMAN IN SUPPORT OF
DEFENDANT MICHAEL W.
PERRY'S MEMORANDUM IN
OPPOSITION TO LEAD
PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION**

Date: November 14, 2011

Time: 8:30 a.m.

Ctrm.: 10

Judge: Hon. George H. Wu

1 I, STEVEN D. SASSAMAN, hereby declare:

2 1. I am an attorney licensed to practice law in the State of California and
3 am admitted to practice before this Court. I am an associate in the San Francisco
4 office of Covington & Burling LLP, counsel of record for Defendant Michael W.
5 Perry ("Mr. Perry"). I submit this Declaration in support of Mr. Perry's
6 Opposition to Plaintiff's Motion for Class Certification. I make this Declaration
7 based on personal knowledge and, if called as a witness, I could and would testify
8 thereto.

9 2. On August 25, 2001, I spoke with Stacey Kaplan and John Gross of
10 Kessler Topaz Meltzer & Check, LLP concerning scheduling of depositions.
11 They informed me at that time that Wayman Tripp would be withdrawing as a
12 lead plaintiff in this litigation for health reasons.

13 3. On September 22, 2011, I deposed Lead Plaintiff Sven R. Mossberg
14 ("Mr. Mossberg") in Philadelphia, Pennsylvania. This location was selected by
15 Lead Plaintiff as an accommodation of his health issues that would make travel to
16 California burdensome.

17 4. Attached hereto as **Exhibit 1** is a true and correct copy of portions of
18 the transcript of Mr. Mossberg's deposition.

19 I declare under penalty of perjury under the laws of the United States that
20 the foregoing is true and correct. Executed at San Francisco, California, on
21 October 13, 2011.

22
23 DATED: October 13, 2011

COVINGTON & BURLING LLP

24
25 By: 
26 STEVEN D. SASSAMAN

27 Attorneys for Defendant Michael W. Perry

Exhibit 1

SVEN R. MOSSBERG

September 22, 2011

1

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

WAYMAN TRIPP and SVEN : CASE NO.:
 MOSSBERG, : 2:07-cv-1635-GW (VBK)
 Individually and On :
 Behalf of All Others :
 Similarly Situated, :
 Plaintiffs, :
 :
 v. :
 :
 INDYMAC BANCORP, :
 INC., and MICHAEL W. :
 PERRY, :
 Defendants. :

September 22, 2011

Oral deposition of SVEN R. MOSSBERG,
taken pursuant to notice, held in the
offices of Esquire Deposition Solutions,
Four Penn Center, Suite 1250,
Philadelphia, Pennsylvania 19103,
commencing at 9:58 a.m., on the above
date, before Victoria A. Bramnick, a
Professional Court Reporter and Notary
Public in Pennsylvania, New Jersey and
Delaware.

ESQUIRE DEPOSITION SOLUTIONS
Four Penn Center, Suite 1210
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103
(215) 988-9191



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

SVEN R. MOSSBERG

September 22, 2011

6

1 (It is hereby stipulated and
2 agreed by and among counsel that sealing,
3 filing and certification are waived; and
4 that all objections, except as to the form
5 of questions, be reserved until the time
6 of trial.)

7 - - -
8 SVEN R. MOSSBERG, after
9 having been duly sworn, was examined and
10 testified as follows:

11 - - -
12 EXAMINATION
13 - - -

14 BY MR. SASSAMAN:

15 Q. Good morning, Mr. Mossberg.
16 My name is Steven Sassaman. I'm from the
17 law firm of Covington and Burling in
18 San Francisco.

19 Could you please state your
20 full name and your address for the record?

21 A. Sven Richard Mossberg, 65-A
22 Cambridge Circle, Manchester, New Jersey
23 08759.

24 Q. And are you represented by



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 3

SVEN R. MOSSBERG

September 22, 2011

13

1 daughter and a son, and whoever was first,
2 I don't know.

3 Q. What did you and your
4 daughter speak about?

5 A. The same thing as I told you,
6 as I mentioned, coming here for a
7 deposition.

8 Q. All right. Was that the same
9 conversation that you had with your son?

10 A. Basically, yes.

11 Q. When were you born? What is
12 your date of birth?

13 A. September 28, 1923.

14 Q. And where were you born?

15 A. Stockholm, Sweden.

16 Q. When did you come to the
17 United States?

18 A. The first time in 1940.

19 Q. Was that for a visit?

20 A. No, I was a seaman.

21 Q. When did you move to the
22 United States?

23 A. When did I -- the best way I
24 can explain it, since I don't know of my



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 4

SVEN R. MOSSBERG

September 22, 2011

27

1 A. Mr. Wu, I think it is, W-U.

2 Q. Do you know what court will
3 hear this lawsuit?

4 A. What?

5 Q. Do you know which court will
6 hear this lawsuit?

7 A. It's a court in San
8 Francisco. In San Francisco, I believe.

9 Q. Do you know what that court
10 is called?

11 A. No. I'd have to refresh my
12 memory, but I have seen it often enough.

13 Q. So then, in your own words,
14 could you tell me what you're asking the
15 court to do in this lawsuit?

16 A. I would say the court would
17 order some form of restitution for the
18 individuals and the FDIC who lost a lot of
19 money because of unlawful actions.

20 Q. Anything else?

21 A. Nothing I can think of at the
22 moment.

23 Q. So if you're successful in
24 this lawsuit, what do you think will



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 5

SVEN R. MOSSBERG

September 22, 2011

28

1 happen?

2 A. I think that there will --
3 there should be -- I think there would be
4 a financial judgment to be divided among
5 the various people that lost money on the
6 deal.

7 Q. Anything else?

8 A. Nothing I can think of at the
9 moment.

10 Q. Have you attended any of the
11 hearings at the court in this lawsuit?

12 A. No.

13 Q. Have you had the opportunity
14 to attend any of them?

15 A. I probably had the
16 opportunity, if I had asked, or if it was
17 needed; though, I doubt very much that I
18 would run off to San Francisco just to
19 attend the hearing when I can get the full
20 report from my attorney.

21 Q. So are you aware that
22 Mr. Perry filed a petition in the Ninth
23 Circuit Court of Appeals requesting that
24 an appellate court review one of the



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 6

SVEN R. MOSSBERG

September 22, 2011

29

1 decisions in this lawsuit?

2 A. I don't quite understand the
3 question.

4 Q. Okay. Did you know that
5 Mr. Perry, my client, filed a petition
6 with the appellate court, the appeals
7 court asking the court to review one of
8 the decisions that Judge Wu had made in
9 your lawsuit?

10 A. I have seen that in the
11 report, yes.

12 Q. Do you know what the Ninth
13 Circuit was asked to review?

14 A. I don't remember.

15 Q. Do you know if that request,
16 Mr. Perry's request, was successful?

17 A. Apparently not.

18 Q. Do you know beyond that what
19 the outcome of the appeal was?

20 A. I think it was returned to
21 the lower court.

22 Q. Do you know whether there's
23 been any discussions or mediation efforts
24 to settle this lawsuit?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 7

SVEN R. MOSSBERG

September 22, 2011

30

1 A. Yes, there were.

2 Q. When did you first hear about
3 them?

4 A. When -- the date I can't
5 remember; whenever my attorney sent me the
6 papers on it.

7 Q. So you were told about the
8 mediation before it happened?

9 A. I can't tell you that. In
10 other words, I don't remember the date,
11 whether it was before or after.

12 Q. Okay. Were you present at
13 any of the mediation sessions?

14 A. No.

15 Q. Were you given an opportunity
16 to attend the mediation sessions?

17 A. I don't think that was even
18 discussed. Apparently, there was no need
19 for it.

20 Q. Okay. Do you have any desire
21 to attend them?

22 A. No, not really.

23 Q. When did you first consider
24 filing a lawsuit against Mr. Perry?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 8

SVEN R. MOSSBERG

September 22, 2011

31

1 A. There was a letter from my
2 attorneys about the case and later on, and
3 here again, I don't have the date in my
4 memory, request that I would stand up as
5 to -- what the heck is the term again?
6 Stand up as to -- what the heck is the
7 name? As a representative of a class, if
8 one was formed.

9 Q. Okay. You say that this was
10 because you received a letter from your
11 attorney. So your attorneys contacted you
12 first about the lawsuit?

13 A. The lawsuit was already
14 underway by the time they contacted me.

15 Q. That was the first you had
16 heard of the litigation?

17 A. I may have heard about it
18 before. I most likely have read about it
19 in the paper.

20 Q. What motivated you to get
21 involved with the lawsuit?

22 A. No particular motivation.
23 Asked if I would be interested to serve,
24 and I have a problem not saying no too



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 9

SVEN R. MOSSBERG

September 22, 2011

32

1 often.

2 Q. Do you remember when you
3 became actively involved in the lawsuit?

4 A. I don't remember the date.
5 No, I would have to look at papers at
6 home.

7 Q. Did you talk to anyone other
8 than your attorneys about the lawsuit
9 before you decided to get involved?

10 A. No.

11 Q. Before you got involved with
12 this lawsuit, had you made any efforts to
13 get involved in other litigation
14 concerning your IndyMac investments?

15 A. No.

16 Q. Which counsel was this letter
17 from that started your involvement in the
18 case?

19 A. Which individual?

20 Q. Which individual or which law
21 firm?

22 A. The law firm, the same one
23 that is now handling the case. It was a
24 different name at the time, presently



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 10

SVEN R. MOSSBERG

September 22, 2011

33

1 Kessler Topaz Meltzer Check.

2 Q. Do you know if they contacted
3 anyone else about becoming involved in the
4 lawsuit?

5 A. They must have, since there
6 was another person involved.

7 Q. Okay. So I'm going to ask
8 several questions about the lawsuit here.
9 When I talk about the current lawsuit, I'm
10 talking about, you know --

11 A. Of course.

12 Q. -- this lawsuit just to make
13 sure you understand.

14 So I'm going to read some
15 names to you and ask you if you recognize
16 them. We can talk about each one of them.

17 So do you recognize the name
18 Kessler Topaz Meltzer & Check, LLP?

19 A. That was one of the earlier
20 names of the firm.

21 Q. Did you know anyone that
22 worked for that law firm before you became
23 involved with this lawsuit?

24 A. No.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 11

SVEN R. MOSSBERG

September 22, 2011

34

1 Q. To the best of your
2 knowledge, did anyone that you know have
3 communications with this law firm before
4 you became involved with the lawsuit?

5 A. Not that I know of.

6 Q. So do you recognize the name
7 Barroway Topaz Kessler Meltzer & Check,
8 LLP?

9 A. Again, one of the former
10 names of the current firm.

11 Q. Did you know anyone that
12 worked for that law firm before you became
13 involved with this lawsuit?

14 A. No.

15 Q. To the best of your
16 knowledge, does anyone else that you know
17 work at that law firm?

18 A. No.

19 Q. Do you recognize the name
20 Glancy Binkow & Goldberg LLP?

21 A. Not offhand, no.

22 Q. Okay.

23 A. I have seen it someplace.

24 Q. Do you recognize the name



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 12

SVEN R. MOSSBERG

September 22, 2011

35

1 Schiffrin Barroway Topaz Kessler, LLP?

2 A. Again, another name for the
3 same firm.

4 Q. Did you talk to anyone at
5 that firm before you became involved with
6 the lawsuit?

7 A. No.

8 Q. To the best of your
9 knowledge, does anyone else that you know
10 talk to anyone at that firm before you
11 became involved with this lawsuit?

12 A. Nope.

13 Q. Do you recognize the name
14 Cohen Milstein Sellers & Toll PLLC?

15 A. Not that I can recall at the
16 moment.

17 Q. Do you recognize the name
18 Peter A. Binkow?

19 A. The name sounds familiar but
20 I can't place it.

21 Q. So you never had any
22 communication with Mr. Binkow?

23 A. No.

24 Q. To the best of your



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 13

SVEN R. MOSSBERG

September 22, 2011

36

1 knowledge, does anyone that you know
2 have -- other than counsel, had
3 communications with Mr. Binkow?

4 A. No.

5 Q. Do you recognize the name
6 Lionel Z. Glancy?

7 A. Again, the name sounds
8 familiar but I can't place it.

9 Q. So you have never had any
10 communication with Mr. Glancy?

11 A. Not that I can recall.

12 Q. To the best of your
13 knowledge, does anyone that you know had
14 communication with Mr. Glancy?

15 A. No.

16 Q. Do you recognize the name
17 Neal A. Dublinsky?

18 A. Same answer. The name sounds
19 familiar. I have seen it someplace.

20 Q. So you have had no
21 communications with Mr. Dublinsky?

22 A. No.

23 Q. To the best of your
24 knowledge, does anyone you know had



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 14

SVEN R. MOSSBERG

September 22, 2011

37

1 communications with Mr. Dublinsky?

2 A. Nope.

3 Q. Do you recognize the name
4 Frederick W. Gerkins, III?

5 A. Same answer. The name sounds
6 familiar but I can't place it.

7 Q. So you have never had any
8 communications with Mr. Gerkins?

9 A. No.

10 Q. To the best of your
11 knowledge, has anyone that you know had
12 communications with Mr. Gerkins?

13 A. No.

14 Q. Do you recognize the name
15 Katherine M. Ryan?

16 A. Again, the same answer. It
17 sounds familiar but I can't place it.

18 Q. How about -- I will read a
19 number of names and you can tell me if you
20 recognize any of them or if you have had
21 communications with any of them or if
22 anyone you know has had communications
23 with any of them.

24 So Katherine M. Ryan?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 15

SVEN R. MOSSBERG

September 22, 2011

38

1 A. No.

2 Q. Christopher L. Nelson?

3 A. No.

4 Q. Steven J. Toll?

5 A. No.

6 Q. Andrew N. Friedman?

7 A. No.

8 Q. Matthew B. Kaplan?

9 A. No.

10 Q. Ramzi Abadou?

11 A. No.

12 Q. Eric D. Peterson?

13 A. No. Again, I have seen the
14 name. I know that he is with the Kessler
15 firm, in the San Francisco office.

16 Q. But you never had
17 communication with him?

18 A. No, except submissions to the
19 court that were signed by me.

20 Q. But you have had no personal
21 or direct communication with him?

22 A. No.

23 Q. Lauren Wagner Peterson?

24 A. No.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

SVEN R. MOSSBERG

September 22, 2011

39

1 Q. John J. Gross?

2 A. Yes.

3 Q. Who is Mr. Gross?

4 A. Pardon?

5 Q. Who is Mr. Gross?

6 A. Mr. Gross is one of the
7 attorneys for the Kessler firm working out
8 of the King of Prussia office.

9 Q. Did you know Mr. Gross before
10 you became involved with this lawsuit?

11 A. No.

12 Q. To the best of your
13 knowledge, does anyone that you know know
14 Mr. Gross?

15 A. No.

16 Q. And Stacey M. Kaplan?

17 A. I met her -- Stacey I met a
18 few months ago for the first time.

19 Q. And how do you know her?

20 A. Through meeting her together
21 with Mr. Gross.

22 Q. Did you know Ms. Kaplan
23 before you became involved with this
24 lawsuit?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 17

SVEN R. MOSSBERG

September 22, 2011

40

1 A. No.

2 Q. To the best of your
3 knowledge --

4 A. No.

5 Q. Let me finish the question.
6 To the best of your
7 knowledge, does anyone that you know know
8 Ms. Kaplan?

9 A. No.

10 Q. So since you agreed to become
11 a lead plaintiff in this lawsuit, have you
12 met with your attorneys in person?

13 A. No.

14 Q. You have never met with your
15 attorneys in person since you became --
16 agreed to become a lead plaintiff?

17 A. Afterwards.

18 Q. Yes. So since you agreed to
19 become a lead plaintiff in the lawsuit --

20 A. Yes.

21 Q. -- do you know how many times
22 you met with them in person?

23 A. Twice, before today.

24 Q. Have you spoken with them on



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

SVEN R. MOSSBERG

September 22, 2011

43

1 extent, you mean personally?

2 Q. I mean personally involved.

3 A. No.

4 Q. To the best of your
5 knowledge, has your son ever been a
6 plaintiff in a lawsuit?

7 A. I have no idea.

8 Q. Okay. So you understand that
9 currently you're the only potential class
10 representative in this lawsuit?

11 A. I understand that.

12 Q. Do you know why Mr. Tripp is
13 no longer a class representative?

14 A. I understand he is afflicted
15 with Alzheimer's.

16 Q. Did you ever discuss this
17 lawsuit with Mr. Tripp?

18 A. No.

19 Q. Have you ever met Mr. Tripp?

20 A. No.

21 Q. So you didn't discuss his
22 reasons for withdrawing from the lawsuit
23 with Mr. Tripp before he did so?

24 A. No.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 19

SVEN R. MOSSBERG

September 22, 2011

49

1 Q. When was the last time you
2 traveled by air?

3 A. Two, three years ago.

4 Q. Is there any particular
5 reason that you haven't traveled by air in
6 the last two or three years?

7 A. It's personal, but I think I
8 can tell you that I'm afflicted with a
9 prostate problem, and when the urge comes
10 on, I got to go now. And I can't stand
11 and wait outside the toilet on the plane
12 for more than half a minute.

13 Q. Have you ever been to
14 California?

15 A. Yes.

16 Q. How many times?

17 A. Probably three or four times.

18 Q. When was the last time you
19 were in California?

20 A. This goes back 20 years ago,
21 before I retired.

22 Q. Okay. So it's been more than
23 20 years?

24 A. Oh, yeah.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 20

SVEN R. MOSSBERG

September 22, 2011

50

1 Q. So other than the trip to
2 Atlanta, I guess, during the last five
3 years, what was the longest trip that you
4 took away from home?

5 A. Probably no more than three
6 weeks away.

7 Q. Do you remember when that
8 was?

9 A. No, I can't remember what
10 year.

11 Q. But it was within the last
12 five years?

13 A. Oh, yes.

14 Q. Do your health issues that
15 you mentioned prevent you from staying
16 away from home for a long period of time?

17 A. No, not if I have a quick
18 access to where I got to go.

19 Q. Do those health issues create
20 problems for you to sit through a long
21 proceeding?

22 A. Yes, I would say yes.

23 Q. Could you elaborate?

24 A. Pardon?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 21

SVEN R. MOSSBERG

September 22, 2011

51

1 Q. Could you elaborate?

2 A. If I need -- if I have the
3 urge to go, I have to go, period.

4 Q. What do you personally hope
5 to get out of this lawsuit?

6 MR. GROSS: Objection.

7 THE WITNESS: I think I can
8 refer to an earlier answer and say that I
9 would expect, assuming the lawsuit is
10 successful, some form of restitution to
11 the class members.

12 BY MR. SASSAMAN:

13 Q. Anything else?

14 A. No.

15 Q. Have you discussed this
16 lawsuit with people other than your
17 attorneys?

18 A. No.

19 Q. No one?

20 A. I mentioned perhaps to my
21 family that I'm involved with this thing.
22 That's all.

23 Q. But no more than mentioning
24 that you are involved?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 22

SVEN R. MOSSBERG

September 22, 2011

64

1 Q. How many Complaints your
2 attorneys have filed in this lawsuit.

3 A. You mean like the Amended
4 Complaints?

5 Q. Complaints or Amended
6 Complaints.

7 A. I think it's a total of six.

8 Q. Have you reviewed each one
9 before it was filed?

10 A. I don't think that they were
11 sent to me before filing. That, I don't
12 know.

13 Q. So you don't remember if you
14 reviewed any of these Complaints or
15 Amended Complaints before they were filed?

16 A. No.

17 Q. Do you remember providing any
18 comments or edits on a Complaint or an
19 Amended Complaint before it was filed?

20 A. I think there might have been
21 a couple of times there when Mr. Gross
22 talked about them. Now, whether this was
23 before or after they were actually filed,
24 I don't remember.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 23

SVEN R. MOSSBERG

September 22, 2011

65

1 Q. Do you remember asking any
2 questions about any of the Complaints or
3 Amended Complaints?

4 A. I have asked some questions
5 on occasion, yes.

6 MR. SASSAMAN: I'm going to
7 ask the reporter to mark this as
8 Exhibit 4.

9 (Exhibit No. Mossberg-4,
10 Sixth Amended Class Action Complaint for
11 Violations of Sections 10(b) and 20(a) of
12 the Securities Exchange Act of 1934, was
13 marked for identification.)

14 BY MR. SASSAMAN:

15 Q. Have you ever seen Exhibit 4
16 before?

17 A. Yes.

18 Q. What is it?

19 A. It's the Sixth Amended Class
20 Action Complaint for Violations of Section
21 10(b) and 20(a) of the Securities Exchange
22 Act of 1934.

23 Q. Do you remember if you
24 reviewed this before it was filed?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 24

SVEN R. MOSSBERG

September 22, 2011

66

1 A. No, I didn't.

2 Q. No, you don't remember or no,
3 you did not review it?

4 A. I'm trying to think. I don't
5 believe I saw it before it was filed. No,
6 I did not review it before February 16.

7 Q. So you had no comments or
8 edits before this Sixth Amended Complaint
9 was filed?

10 A. No.

11 Q. Were you sent a copy of
12 Exhibit 4 after it was filed?

13 A. I don't remember what date I
14 received -- this was a year and a half ago
15 and so I cannot say when I received it.

16 Q. But you did receive a copy of
17 it?

18 A. Yes.

19 Q. Could you turn to page eight
20 and look at paragraph 26. If you can read
21 that to yourself.

22 A. Yes.

23 Q. Is paragraph 26 accurate --

24 A. Yes.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 25

SVEN R. MOSSBERG

September 22, 2011

67

1 Q. -- to the best of your
2 knowledge?

3 A. Yeah.

4 Q. Okay. If you could turn to
5 page 12, and I would like you to read
6 paragraphs 43 through 51 to yourself,
7 that's pages 12 through 15. And take your
8 time.

9 A. (Witness reading document.)
10 Through how far?

11 Q. Through paragraph 51.

12 A. Okay.

13 Q. Do you see references to a
14 Confidential Witness Number 1 in these
15 paragraphs in this Complaint?

16 A. In paragraph?

17 Q. So in paragraphs 43 to 51, do
18 you see where it references to a
19 Confidential Witness Number 1?

20 A. Yes.

21 Q. Do you know the identity of
22 the individual described as Confidential
23 Witness Number 1?

24 A. No.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 26

SVEN R. MOSSBERG

September 22, 2011

68

1 Q. Have you ever encountered any
2 of the statements attributed to
3 Confidential Witness Number 1 outside of
4 the Sixth Amended Complaint?

5 A. It may have been referred to
6 in newspaper articles I read, but I cannot
7 remember when or the details.

8 Q. So you don't remember in
9 particular?

10 A. No.

11 Q. So let's go back to page 15,
12 and if you could now read paragraphs 52
13 through 58, that's pages 15 through 16, 52
14 through 58.

15 A. (Witness reviewing document.)
16 Okay.

17 Q. And then if you could also
18 look on page 21 and look at paragraph 73.

19 A. Yes.

20 Q. Do you see references to a
21 Confidential Witness Number 2, in these
22 paragraphs of the Complaint?

23 A. No.

24 Q. Do you know the identity of



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 27

SVEN R. MOSSBERG

September 22, 2011

69

1 the individual described as Confidential
2 Witness Number 2?

3 A. No.

4 Q. Have you ever encountered any
5 of the statements attributable to
6 Confidential Witness Number 2 outside of
7 this or any other Complaints in this
8 action?

9 A. Again, I may have read about
10 it in the newspaper.

11 Q. But you don't remember in
12 particular having seen them?

13 A. Not in particular, but like I
14 said, I can't go into detail exactly what
15 those articles said. I don't remember.

16 Q. So it's possible but you
17 don't remember a particular?

18 A. Oh, yes.

19 Q. So let's go back to page 16,
20 and if you could read paragraphs 59
21 through 61. It's on pages 16 and 17.

22 A. Through 61?

23 Q. Yes.

24 A. Okay. Yes, I got it. Okay.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 28

SVEN R. MOSSBERG

September 22, 2011

70

1 Q. Do you see the references to
2 Confidential Witness Number 3, in those
3 paragraphs of the Complaint?

4 A. I do.

5 Q. Do you know the identity of
6 the individual referred to as Confidential
7 Witness Number 3?

8 A. No.

9 Q. Have you ever encountered any
10 of the statements attributed to
11 Confidential Witness Number 3 outside of
12 this or any other Complaint in this
13 action?

14 A. Again, I may have read about
15 them in the newspaper.

16 Q. But you don't have any
17 particular memory?

18 A. No.

19 Q. Then starting on page 17, if
20 you could read paragraphs 62 and 63, which
21 crosses over to page 18.

22 A. Yes, I got them. That's
23 okay. I got it. Go ahead.

24 Q. And then if you look at page



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 29

SVEN R. MOSSBERG

September 22, 2011

71

1 20. If you could read paragraph 72. That
2 crosses onto page 20.

3 A. I have got that.

4 Q. So you read it?

5 A. Yeah.

6 Q. Do you see the references to
7 Confidential Witness Number 4 in those
8 paragraphs of the Complaint?

9 A. I thought it was Number 5.

10 MR. GROSS: We are up to
11 four.

12 BY MR. SASSAMAN:

13 Q. So let's look at 62, for
14 example, let's look at paragraph 62,
15 starting on page 17.

16 A. Sorry. Sorry.

17 Q. Do you see the references to
18 Confidential Witness Number 4, in those
19 paragraphs of the Complaint?

20 A. Yes, I do.

21 Q. Do you know the identity of
22 the individual described as Confidential
23 Witness Number 4?

24 A. No.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 30

SVEN R. MOSSBERG

September 22, 2011

72

1 Q. Have you ever encountered any
2 of the statements attributed to
3 Confidential Witness Number 4 outside of
4 this or any other Complaint in this
5 action?

6 A. As before, I think I may have
7 read it in the newspaper or other
8 information.

9 Q. But no particular memory of
10 having encountered them?

11 A. No.

12 Q. If we look at page 19 --
13 excuse me. If we look at page 18, if you
14 could read paragraphs 64 and 65.

15 A. I have got that.

16 Q. Have you had a chance to read
17 them?

18 A. Yes, I got it.

19 Q. On page 21, if you could read
20 paragraph 75.

21 A. All right.

22 Q. And then on page 22,
23 paragraph 78, if you could read that as
24 well.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 31

SVEN R. MOSSBERG

September 22, 2011

73

1 A. Yes.

2 Q. Do you see the references to
3 Confidential Witness Number 5 in these
4 paragraphs of the Complaint?

5 A. Yes.

6 Q. Do you know the identity of
7 the individual described as Confidential
8 Witness Number 5?

9 A. No.

10 Q. Have you ever encountered any
11 of the statements attributed to
12 Confidential Witness Number 5, outside of
13 this or any other Complaint in this
14 action?

15 A. I may have read about them in
16 the paper.

17 Q. But nothing in particular?

18 A. Yes. Correct.

19 Q. Then on page 19, if you
20 could, starting there onto page 20, read
21 paragraph 67 through 69.

22 A. (Witness reading document.)
23 I got that. Yes.

24 Q. Do you see the references to



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 32

SVEN R. MOSSBERG

September 22, 2011

74

1 Confidential Witness Number 6, in those
2 paragraphs?

3 A. I do, yes.

4 Q. Do you know the identity of
5 the individual described as Confidential
6 Witness Number 6?

7 A. No.

8 Q. Have you ever encountered any
9 of the statements attributed to the
10 Confidential Witness Number 6 outside of
11 this Complaint or any other Complaint in
12 this action?

13 A. Only in the newspaper or
14 other information.

15 Q. But no particular
16 recollection of having encountered them?

17 A. No particular recollection,
18 no.

19 Q. And then, if you could turn
20 to page 23 and read paragraphs 80 through
21 82.

22 A. Yes, I read them.

23 Q. Do you see the references to
24 Confidential Witness Number 7, in those



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 33

SVEN R. MOSSBERG

September 22, 2011

75

1 paragraphs?

2 A. Yes.

3 Q. Do you know the identity of
4 the individuals described as Confidential
5 Witness Number 7?

6 A. No.

7 Q. Have you ever encountered any
8 of the statements attributed to
9 Confidential Witness Number 7 outside of
10 this or any other Complaint in this
11 action?

12 A. Only in the newspaper, and no
13 specific thing that I can remember.

14 Q. So no particular recollection
15 of having seen them?

16 A. Correct.

17 MR. SASSAMAN: I'm going to
18 ask the reporter to mark this as
19 Exhibit 5.

20 (Exhibit No. Mossberg-5,
21 Memorandum of Points and Authorities in
22 Support of The Tripp Group to be Appointed
23 Lead Plaintiff and For Approval of Lead
24 Counsel and Liaison Counsel, was marked



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 34

SVEN R. MOSSBERG

September 22, 2011

76

1 for identification.)

2 BY MR. SASSAMAN:

3 Q. Do you recognize this
4 document?

5 A. No.

6 Q. Have you seen this before?

7 A. I may have, but I have to
8 look back at my old files and see if I --

9 MR. GROSS: You can read
10 through it obviously.

11 THE WITNESS: What?

12 MR. GROSS: You're allowed to
13 read through it --

14 MR. SASSAMAN: Yes, if you
15 could read through it.

16 MR. GROSS: -- if that will
17 help you.

18 THE WITNESS: I can't
19 remember seeing it. I would have to check
20 my own file and see if I still have it.

21 BY MR. SASSAMAN:

22 Q. All right. So do you
23 remember if you reviewed this before it
24 was filed?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 35

SVEN R. MOSSBERG

September 22, 2011

77

1 A. I can't remember if I
2 received it.

3 Q. Okay. So other than exhibits
4 we have just looked at, have you reviewed
5 any other documents that have been filed
6 by either defendant or by your attorneys
7 in this case?

8 MR. GROSS: Objection.

9 THE WITNESS: I can't
10 remember.

11 BY MR. SASSAMAN:

12 Q. Do you recall reviewing any
13 documents that your attorneys filed before
14 they -- in this case before they were
15 filed?

16 A. I do not believe that I
17 received the various -- the various
18 Complaints before they were filed.

19 Q. How about oppositions to
20 motions?

21 A. How about?

22 Q. So, for example, your
23 attorneys have filed oppositions to
24 various motions in this case. Have you



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 36

SVEN R. MOSSBERG

September 22, 2011

78

1 received any of those before they were
2 filed to review?

3 A. I don't believe so, no.

4 Q. Do you remember providing any
5 comments or edits to something that your
6 attorneys were planning to file in this
7 case?

8 A. I may have called Mr. Gross
9 at some point, but that I have -- I needed
10 clarification on, but as far as that went.

11 Q. But do you remember if that
12 was with a document that was a draft
13 document before it was filed or if it was
14 a document that had already been filed?

15 A. As I believe I said before, I
16 do not think that I got any of these
17 documents before they were filed.

18 Q. But you have asked questions
19 about documents that you have received
20 after they were filed?

21 A. Yeah, to understand them.

22 Q. Have you ever received any
23 copies of the orders that the Judge has
24 issued in this case?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 37

SVEN R. MOSSBERG

September 22, 2011

79

1 A. I don't recall if I got the
2 specific orders. Again, I would have to
3 check my file at home.

4 Q. So you have no specific
5 recollection of having seen any of the
6 orders?

7 A. No.

8 MR. SASSAMAN: I will ask the
9 court reporter to mark this as Exhibit 6.

10 (Exhibit No. Mossberg-6, Lead
11 Plaintiff's Notice of Motion and Motions
12 for Class Certification: Memorandum of
13 Points and Authorities in Support Thereof,
14 was marked for identification.)

15 BY MR. SASSAMAN:

16 Q. So why don't you take a
17 minute to look at Exhibit 6.

18 A. (Witness reviewing document.)
19 Okay.

20 Q. Have you seen this document
21 before?

22 A. Yes.

23 Q. What is it?

24 A. It's the notice of the



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 38

SVEN R. MOSSBERG

September 22, 2011

80

1 motion, motion for class certification.

2 Q. Did you review this document
3 before it was filed?

4 A. I cannot recall that I did.

5 Q. Looking at it now, is there
6 anything that you would want to change in
7 it now?

8 A. No.

9 Q. Were you sent a copy of
10 Exhibit 6 after it was filed?

11 A. I received a copy of it. And
12 as far as I can recall, I received it
13 after it was filed.

14 Q. Did you have any comments to
15 your attorneys on this exhibit?

16 A. No.

17 MR. SASSAMAN: I will ask the
18 court reporter to mark this as Exhibit 7.

19 (Exhibit No. Mossberg-7,
20 Defendant Michael W. Perry's First Set of
21 Requests for Production to Lead Plaintiff
22 Sven Mossberg, was marked for
23 identification.)

24 BY MR. SASSAMAN:



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 39

SVEN R. MOSSBERG

September 22, 2011

81

1 Q. And why don't you take a
2 minute to look at Exhibit 7.

3 A. (Witness reviewing document.)
4 Okay.

5 Q. Do you recognize Exhibit 7?

6 A. No, I don't believe I have
7 seen it before.

8 Q. So if you look through
9 Exhibit 7, starting on page four and going
10 through to page 13, you will see these
11 requests for production.

12 A. What page?

13 Q. Still page 13.

14 MR. GROSS: Start on four.

15 BY MR. SASSAMAN:

16 Q. Start at four through page
17 13. So it's a basic request for
18 production number one through number 52.

19 A. Okay.

20 Q. Do you recall looking for
21 documents in connection with this case at
22 the request of your attorneys?

23 A. I recall that the attorneys
24 requested certain documents.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 40

SVEN R. MOSSBERG

September 22, 2011

82

1 Q. So could you describe the
2 process you went through to look for the
3 documents your attorneys requested?

4 A. My records of purchases. I
5 think that was about it.

6 Q. How did you look for those
7 documents?

8 A. I have my file.

9 Q. So you went through your
10 files?

11 A. Right.

12 Q. Are those files you have at
13 home?

14 A. Right.

15 Q. In an office?

16 A. At home.

17 Q. Okay. Did you look for
18 files -- or did you look for documents
19 anyplace else?

20 A. No.

21 Q. So just in your files at
22 home?

23 A. That's correct.

24 Q. Do you keep documents on a



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 41

SVEN R. MOSSBERG

September 22, 2011

83

1 computer?

2 A. No.

3 Q. Do you keep files anyplace
4 other than your home?

5 A. No.

6 Q. Is there anyplace else that
7 you can think of that you might have
8 documents that could be connected to this
9 case?

10 A. Any other place?

11 Q. Do you think there is
12 anyplace, other than the files you have at
13 home, where there might be documents of
14 yours that are connected to this case?

15 A. No. May I correct that.
16 Possibly with the brokerage that I used at
17 the time.

18 Q. So with your brokers. Who
19 were your brokers?

20 A. At that time -- at that time,
21 either Waterhouse or AmeriTrade. I don't
22 know if AmeriTrade had taken over yet, or
23 I can't recall if they had taken over.

24 Q. But you don't believe you



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 42

1 have any other documents in your
2 possession that are connected to this case
3 that you haven't given to your attorneys?

4 A. Anything that the attorney
5 asked for, I have given them.

6 MR. SASSAMAN: I will ask the
7 reporter to mark this as Exhibit 8.

8 (Exhibit No. Mossberg-8, Lead
9 Plaintiffs' Objections and Responses to
10 Defendant Michael W. Perry's First Set of
11 Requests for Production to Lead
12 Plaintiffs, was marked for
13 identification.)

14 BY MR. SASSAMAN:

15 Q. So why don't you take a
16 minute to look over Exhibit 8.

17 A. (Witness reviewing document.)
18 Yes.

19 Q. Have you seen Exhibit 8
20 before?

21 A. Yes.

22 Q. When did you see it?

23 A. Whenever I received it.

24 Q. Do you recall if you reviewed



1 Exhibit 8 before it was served?

2 A. Yes.

3 Q. So you reviewed the draft of
4 Exhibit 8?

5 A. Probably not.

6 Q. So you think the first
7 time -- was the first time that you saw
8 this exhibit after it had been served on
9 my client?

10 A. I believe that's correct.

11 Q. Do you recall if you had any
12 comments to your attorneys about this
13 document after you saw it?

14 A. Not on this.

15 Q. If you could flip through it
16 and look at the objections here, do you
17 believe that what it says in here is
18 accurate?

19 A. Yes.

20 Q. I'm going to give you a copy
21 of the Third Amended Complaint, and one
22 for you as well. Could you look at page
23 one of this document, which is the Third
24 Amended Complaint, and read paragraph one?



SVEN R. MOSSBERG

September 22, 2011

86

1 A. (Witness reviewing document.)
2 Paragraph one on page one?

3 Q. Paragraph one on page one.

4 A. Yes.

5 Q. Okay. Do you see where it
6 defines the class period as being from
7 January 26, 2006 through January 25, 2007?

8 A. Yes.

9 Q. Okay. I'm going to give you
10 a copy of the Fourth Amended Complaint.
11 If you could also look on page one of this
12 document, paragraph one, and read that to
13 yourself.

14 A. (Witness reviewing document.)
15 Yes.

16 Q. Do you see that the Fourth
17 Amended Complaint here defines a class
18 period as being from March 1st, 2006
19 through January 25, 2007?

20 A. I see the difference.

21 Q. Do you know why the start of
22 the class period in the Third Amended
23 Complaint and the start of the class
24 period in the Fourth Amended Complaint are



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 45

1 different?

2 MR. GROSS: Let me just lodge
3 an objection here just to the relevance of
4 what are essentially dead documents.

5 These have been superseded numerous times
6 by now, but you can go ahead and continue.

7 THE WITNESS: Do I know any
8 reason?

9 BY MR. SASSAMAN:

10 Q. Yes. Do you know the reason
11 why the start dates of the class periods
12 in the Third and Fourth Amended Complaint
13 are different?

14 A. No.

15 Q. Then let's go back to
16 Exhibit 4, which is the Sixth Amended
17 Complaint, and if you look on page one of
18 that paragraph one, you'll see there's
19 another series of dates given there.

20 A. (Witness reviewing document.)

21 Okay. I see the difference.

22 Q. You see here in the Sixth
23 Amended Complaint that period is defined
24 as running from March 1st, 2006 through



1 March 1st, 2007, correct?

2 A. Yes.

3 Q. Do you know why the end of
4 this class period is different from the
5 end of the class period given in the
6 Fourth Amended Complaint?

7 A. No.

8 Q. So let's keep the Sixth one
9 here, the Fourth aside and look at the
10 Third Amended Complaint on page 58. If
11 you could just look through, there's a
12 section seven here that begins, the class
13 period ends and the truth emerges. That
14 starts on page 58 --

15 A. Yes.

16 Q. -- and runs through page 63.
17 And if you could just take a moment to
18 look at those pages of the allegations
19 there?

20 MR. GROSS: The same
21 objections to this whole line. You're
22 talking about, again, superseded documents
23 involving legal theories that really have
24 no relevance to what is the operative



SVEN R. MOSSBERG

September 22, 2011

89

1 Complaint.

2 With that objection, you can
3 answer his next question.

4 THE WITNESS: Okay. Would
5 you --

6 BY MR. SASSAMAN:

7 Q. Well, first I just wanted you
8 to look at those, that paragraph.

9 A. Yes.

10 Q. So it's paragraph 205 through
11 214.

12 A. Okay. I have looked at the
13 pages.

14 Q. And then let's look at
15 Exhibit 4, the Sixth Amended Complaint.
16 And if you look at page 66 of the Sixth
17 Amended Complaint, particularly paragraphs
18 202 and 203.

19 A. Page 66?

20 Q. Page 66.

21 MR. GROSS: Now, that's --
22 start up here. That's a copy. It starts
23 over again.

24 BY MR. SASSAMAN:



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 48

SVEN R. MOSSBERG

September 22, 2011

90

1 Q. The first page 66.

2 A. Right.

3 Q. The paragraphs 202 and 203.

4 A. Yeah.

5 Q. So why did you initially
6 contend that in the Third Amended
7 Complaint that the truth was fully
8 revealed on January 25th, 2007 and then
9 later say that the truth was not fully
10 revealed until March 1st, 2007, as it
11 states in the Sixth Amended Complaint?

12 MR. GROSS: Objection.

13 THE WITNESS: Again, I don't
14 recall the particular reason why these
15 dates were changed.

16 MR. GROSS: You've answered.

17 BY MR. SASSAMAN:

18 Q. So let's talk a little bit
19 about sort of investing and investments.

20 How long have you been making
21 investments for yourself or for your
22 family?

23 A. Probably since the '50s.

24 Q. How did you get started



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 49

SVEN R. MOSSBERG

September 22, 2011

117

1 this Dessauer letter?

2 A. I would think, so.

3 Q. And that's where you got the
4 advice about making this?

5 A. It was still recommended by
6 him.

7 Q. In addition to that letter,
8 to the Dessauer letter, do you recall any
9 other sources that you relied upon in
10 deciding to make this?

11 A. No.

12 Q. Did you discuss this purchase
13 with anyone before you made it?

14 A. No.

15 Q. To the best of your
16 knowledge, did you make any other
17 purchases of IndyMac stock between the
18 1999 purchase that's shown on Exhibit 9
19 and this September 2006 purchase that's
20 shown on the top half of Exhibit 10?

21 A. There might have been, but I
22 would have to go back and look at my
23 records at home to give you details.

24 Q. So no specific recollection?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 50

SVEN R. MOSSBERG

September 22, 2011

118

1 A. No.

2 Q. So let's look at the trade
3 confirmation on the lower half of
4 Exhibit 10.

5 A. Yes.

6 Q. Do you know, is this also
7 from AmeriTrade?

8 A. Yes.

9 Q. You're sure it doesn't
10 actually say on here?

11 A. No, if it hadn't blacked out
12 the account number, I would have been
13 sure, but it looks like AmeriTrade.

14 Q. Okay.

15 A. It's shaded a little bit.

16 Q. You have no reason to think
17 this isn't AmeriTrade?

18 A. Correct.

19 MR. GROSS: That was me,
20 Mr. Mossberg. I'm sorry.

21 BY MR. SASSAMAN:

22 Q. That's to protect your
23 sensitive information.

24 A. Oh, I understand that.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 51

SVEN R. MOSSBERG

September 22, 2011

119

1 Q. Okay. So I just want to
2 verify that he was looking at the trade
3 dated on this lower confirmation as
4 December 19, 2007; is that correct?

5 A. Yep.

6 Q. And am I correct that this
7 also shows a purchase of 1,000 shares of
8 IndyMac stock?

9 A. Correct.

10 Q. Do you have any reason to
11 believe that this document here, the
12 second trade confirmation, is inaccurate
13 in any way?

14 A. No reason.

15 Q. And I see there's some
16 handwriting here. Does this also say
17 joint account?

18 A. Correct.

19 Q. Okay. Do you recall whether
20 you made any other purchases of IndyMac
21 stock between the September confirmation
22 that's shown on the top half of the
23 document and the December 2007
24 confirmation that's shown on the bottom



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 52

SVEN R. MOSSBERG

September 22, 2011

120

1 half of the document?

2 A. Probably not, but again, I
3 have to go search my records at home.

4 Q. Okay. So no specific
5 recollection?

6 A. (Witness indicates.)

7 Q. Why did you decide to
8 purchase these 1,000 shares in December
9 of 2007?

10 A. Still the same thing.
11 Dessauer was still recommending the stock.

12 Q. Do you recall any other
13 advice or documents that you relied upon
14 in making the decision to purchase these
15 shares?

16 A. No.

17 Q. Did you discuss this purchase
18 with anyone before you made it?

19 A. No.

20 Q. Do you recall whether you
21 purchased any other IndyMac stock after
22 the trade that is shown here on
23 December 19?

24 A. Probably not.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

SVEN R. MOSSBERG

September 22, 2011

121

1 Q. So no specific recollection?

2 A. No.

3 Q. Let's go back to Exhibit 4,
4 the Sixth Amended Complaint.

5 A. Okay.

6 Q. So let's look at page 54.

7 A. 54.

8 Q. At paragraph 176.

9 A. 54 is in the first section.

10 MR. GROSS: Yes.

11 BY MR. SASSAMAN:

12 Q. Yes, down at the bottom. So
13 paragraphs 176 --

14 A. Okay.

15 Q. -- through 178.

16 A. Okay.

17 Q. So do you see a reference
18 here to a press release that was dated
19 January 16, 2007?

20 A. Yes.

21 Q. Am I correct that that press
22 release was issued before you made the
23 purchase shown on the bottom half of
24 Exhibit 10?



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 54

SVEN R. MOSSBERG

September 22, 2011

122

1 A. Okay.

2 Q. That's correct?

3 A. I think it must be it. I
4 would have to look at the other dates.

5 MR. GROSS: Look at the dates
6 he's asking. It's a temporal question.

7 BY MR. SASSAMAN:

8 Q. So why don't we grab a copy
9 of Exhibit 10?

10 A. Oh, okay.

11 Q. So the question is, there's a
12 press release that's discussed here in the
13 Sixth Amended Complaint that's dated
14 January 16, 2007. So the question is
15 whether that was issued before the trade
16 shown on the bottom half of Exhibit 10?

17 A. Yes.

18 MR. GROSS: Wait, you're
19 talking about paragraph 176.

20 MR. SASSAMAN: Yes.

21 MR. GROSS: Okay.

22 THE WITNESS: The press
23 release was January 16th.

24 MR. GROSS: Okay. I got it.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 55

SVEN R. MOSSBERG

September 22, 2011

123

1 Now, I see where we're going. I got you.
2 Sorry.

3 BY MR. SASSAMAN:

4 Q. And then let's look at page
5 57 of the Complaint, the Sixth Amended
6 Complaint.

7 A. Yes.

8 Q. If you could look at
9 paragraphs 184 and 185.

10 A. Yeah.

11 Q. Do you see a reference there
12 to a press release dated January 25, 2007?

13 A. Right.

14 Q. And am I correct that that
15 press release was also issued before the
16 trade that is shown on the bottom half of
17 Exhibit 10?

18 A. Correct.

19 Q. And then if you look at page
20 62, paragraph 192.

21 A. Yes.

22 Q. Do you see a reference to
23 January 25, 2007 analyst conference call?

24 A. Right.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 56

SVEN R. MOSSBERG

September 22, 2011

124

1 Q. Am I correct that conference
2 call also took place before you made the
3 trade shown on the bottom half of
4 Exhibit 10?

5 A. Right.

6 Q. And then finally, let's look
7 at page 62, at paragraphs 202 and 203.

8 A. Yes.

9 Q. Do you see a reference to
10 March 1st, 2007 press release?

11 A. Correct.

12 Q. Am I correct that that was
13 also made, excuse me, that this press
14 release here was also issued before the
15 trade you made shown on the bottom of
16 Exhibit 10?

17 A. Right.

18 Q. So you see above paragraph
19 202 and the Sixth Amended Complaint
20 there's a heading that says, The market
21 learns the truth about IndyMac's deficient
22 underwriting guidelines and risk
23 management. And that indicates that that
24 took place in March of 2007; is that



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 57

SVEN R. MOSSBERG

September 22, 2011

125

1 correct?

2 A. Right.

3 Q. So is it fair to say that you
4 made the purchase shown on the bottom of
5 Exhibit 10 after the market had learned
6 the truth about IndyMac's deficient
7 underlying guidelines and risk management?

8 MR. GROSS: Objection.

9 THE WITNESS: Well, I must
10 have read these things in the papers
11 without getting any copies of the
12 announcement, et cetera.

13 BY MR. SASSAMAN:

14 Q. Well -- so my question is,
15 okay, here in the Complaint. You see this
16 heading that says "The market learns the
17 truth about IndyMac deficient underwriting
18 guidelines and risk management." Do you
19 see that?

20 A. Yes.

21 Q. And beneath that there's a
22 discussion of a March 1st, 2007 press
23 release?

24 A. Right.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 58

SVEN R. MOSSBERG

September 22, 2011

126

1 Q. So is it fair to say that the
2 Complaint suggests that the market learned
3 the truth about IndyMac's deficient
4 underwriting guidelines and risk
5 management on or about March 1st, 2007?

6 A. That sounds correct, yes.

7 Q. So would it also be fair to
8 say that because the market learned the
9 truth on March 1st, 2007, that the
10 purchase that you made shown on the bottom
11 half of Exhibit 10 was made after the
12 market learned the truth about IndyMac's
13 deficient underwriting guidelines and risk
14 management?

15 A. Yes.

16 Q. Did you consider IndyMac to
17 be a bad investment risk in December
18 of 2007?

19 A. Again, I still relied on
20 Mr. Dessauer's comments and still -- I
21 still felt this was a good investment. So
22 my purchase at that time could have
23 been -- in retrospect, could be considered
24 as one bringing down the average basis for



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

SVEN R. MOSSBERG

September 22, 2011

128

1 whether it was before or after March 1st,
2 2007?

3 A. No, as I said, I can't recall
4 the date.

5 Q. Did you ever sell any IndyMac
6 stock?

7 A. No, I don't think so.

8 Q. So all the shares that you
9 purchased you still have?

10 A. Yep.

11 MR. SASSAMAN: Okay. Why
12 don't we take a break for lunch, or at
13 least a break.

14 MR. GROSS: Okay.

15 MR. SASSAMAN: I don't have a
16 great deal more. Do you have questions
17 you want to ask or --

18 MR. GROSS: Not yet. I mean,
19 I certainly -- unless something comes up,
20 I can't imagine I will.

21 (Discussion held off the
22 record.)

23 (Recess taken from
24 12:25 p.m. to 12:43 p.m.)



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 60

SVEN R. MOSSBERG

September 22, 2011

129

1 BY MR. SASSAMAN:

2 Q. Okay. So Mr. Mossberg, if
3 this lawsuit goes to trial, do you intend
4 to attend the trial personally?

5 A. If I'm physically able.

6 Q. Do you have any reason to
7 believe that you wouldn't be physically
8 able to attend the trial?

9 A. Well, it is a matter of
10 getting there. I would not fly in my
11 current condition.

12 Q. So you would --

13 A. Unless you give me a Learjet
14 and take me away.

15 Q. So if you couldn't fly, how
16 else would you get to the trial?

17 A. I also go by train. That
18 would take quite a few days back and
19 forth. It's questionable. If I can avoid
20 it, I would try to avoid it.

21 Q. Okay.

22 A. Things could change between
23 now and next October.

24 Q. Correct.



ESQUIRE
an Alexander Gallo Company

Toll Free: 800.770.3363
Facsimile: 415.591.3335

Suite 1100
44 Montgomery Street
San Francisco, CA 94104
www.esquiresolutions.com

EXHIBIT 1
PAGE 61