

P R O C E E D I N G S

(Previous proceedings not transcribed herein.)

ROBERT SCHOPPE, GOVERNMENT WITNESS, DULY SWORN

DEPUTY CLERK: Be seated. State your full name and spell your last name.

THE WITNESS: It's Robert Schoppe. Last name S-C-H-O-P-P-E.

THE COURT: Ms. Eggers?

DIRECT EXAMINATION

BY MS. EGGERS:

Q. Who do you work for?

A. I'm with the Federal Deposit Insurance Corporation.

Q. And how long have you worked with the FDIC?

A. Approximately 28 years.

Q. What position do you currently hold there?

A. I'm assistant director of the Strategic Operations Department.

Q. And how long have you been the assistant director of the Strategic Operations Department?

A. Approximately five years.

Q. If you would, go ahead and explain to the Court or describe your duties and responsibilities in that position as assistant director.

A. Strategic Operations is the department which is responsible for setting up the bank closings. During -- so we

1 put together a team. We have a receiver-in-charge, a closing
2 manager, various other people that are actually responsible for
3 going into a bank when it's declared insolvent. And we
4 hopefully have an assuming bank, which this time, we do. And
5 during the bank closing, we would split up the assets and
6 liabilities, giving certain assets and liabilities to an
7 assuming bank, and the receiver would keep certain assets and
8 liabilities. So it's basically we are the people that go into
9 the bank and close the bank over a weekend.

10 Q. Now, approximately -- during this most recent financial
11 crisis that we've had the last four years, approximately how
12 many financial institutions have been closed by the FDIC?

13 A. A little over 450.

14 Q. Were you involved in the closure of Washington Mutual, also
15 known as WAMU?

16 A. Yes, I was.

17 Q. If you would, go ahead and tell the Court the nature of
18 your involvement, what your title and position was with respect
19 to WAMU and its closure, and your duties and responsibilities in
20 its closure.

21 A. I was, and still am, the receiver-in-charge for the
22 Washington Mutual. My duties involved -- I got involved with
23 the process a couple weeks before the bank actually failed.
24 This was an unusual bank. It happened very quickly. So I
25 gathered a small team together. You might think it was a large

1 team for a bank of that size; it was actually a very small team.
2 Together we went into -- met with the Thrift Supervision, who is
3 the regulatory agency, we declared the bank insolvent, and then
4 they turned it over to us.

5 And my responsibilities on that, Washington Mutual, was the
6 same as any other bank: Would be gather the assets and
7 liabilities. We had an assuming bank, JPMorgan Chase, and so we
8 worked with them in order to make sure the bank was able to open
9 up again the very next day, actually.

10 Q. As the receiver-in-charge of the closure of Washington
11 Mutual, had there been a bigger bank that failed?

12 A. This is the largest bank ever to fail in the history of the
13 United States.

14 Q. And you were the receiver-in-charge of it?

15 A. Yes, I am.

16 Q. So as the receiver-in-charge, after that day that you-all
17 closed and it opened up the very next day, what are your duties
18 and responsibilities currently? I mean, how does that continue?

19 A. I work closely with the group of people to carry out the
20 duties under what's known as the Purchase and Assumption
21 Agreement. That's an agreement between FDIC's receiver,
22 Washington Mutual, and JPMorgan Chase, the assuming bank. There
23 are various duties and responsibilities under that agreement.

24 Very early in the receivership, I was in Seattle for six
25 months working with JPMorgan Chase and carrying out the duties

1 of the receiver while on-site in Seattle. Since then, I moved
2 the operation back to Dallas and still continue to work closely
3 on the Purchase and Assumption Agreement.

4 Q. So how do you originally -- or how and when were you
5 originally tasked to be the receiver-in-charge of the closure of
6 Washington Mutual?

7 A. As I said, it occurred about two weeks, maybe three weeks
8 before the actual closing on September 25th, 2008. I received a
9 phone call -- goes back a long time -- from my boss or my boss's
10 boss saying they wanted me to be the receiver-in-charge.

11 Q. Had you ever before been the receiver-in-charge of a
12 closure of a large bank -- obviously not this large, but -- any
13 other large financial institution?

14 A. Yes, I have. Prior to this, I would guess I was probably
15 the receiver-in-charge at least 25 times, probably attended --
16 physically attended bank closings, about a hundred bank
17 closings, maybe not always as the receiver-in-charge, but
18 various duties. And since then, during this banking crisis,
19 I've probably been the receiver-in-charge six or eight times on
20 various individual banks. Going back to my original job with
21 Strategic Operations, all 450 banks that have closed during this
22 banking crisis have my fingerprints on them someplace.

23 Q. Well, you said that the assuming bank in this case was
24 JPMorgan Chase?

25 A. Yes.

1 Q. Is that correct?

2 A. That's correct.

3 Q. And JPMorgan Chase, they were chosen as the assuming bank
4 prior to the actual closing of WAMU?

5 A. That is correct.

6 Q. Okay. And so you mentioned an agreement called a Purchase
7 and Assumption Agreement. Explain to us what -- you sort of hit
8 on it, but explain to us what a Purchase and Assumption
9 Agreement is, and are there different types of Purchase and
10 Assumption Agreements?

11 A. Sure. The name is rather telling what it is. It's when an
12 assuming bank purchases certain assets from us and they assume
13 certain liabilities. So it's called a Purchase and Assumption
14 Agreement, and that transfers the assets, the agreed-upon
15 assets, and there's various ways to agree on which assets are
16 transferred.

17 So the Purchases and Assumption Agreement transfers the
18 assets to them, and then the bank will assume liabilities.
19 Liabilities may be deposits -- those are usually the largest
20 liabilities of any bank -- could be the bonds, the other debts
21 to the bank, could be certain trade creditors. All that
22 transfers to the assuming bank based on the agreement itself.

23 Q. And are there different types of Purchases and Assumption
24 Agreements that have been used in these 450 closures?

25 A. There is about eight standards agreements. They vary from

1 a Clean Bank Purchase and Assumption Agreement, we call it, and
2 that's where all of the good assets transfer to the assuming
3 bank: The bank's agreed loans, the securities, the bank
4 buildings. There's really a no-risk transaction for an assuming
5 bank, because they're transferring all of the good assets to the
6 assuming bank. The receiver will retain the bads assets: The
7 substandards, the doubtful, and the loss loans. So that's one
8 end of the spectrum.

9 The other end of the spectrum might be what we refer to as
10 a loss share arrangement where, again, we will transfer all of
11 the assets to assuming bank; but the bad assets, if I may call
12 them that, the substandard, the doubtful, the loss is an
13 accounting term that's used.

14 MS. REYNOLDS: Judge, I hate to interrupt. Can I
15 object as to the relevancy of all the types of agreements and
16 ask that he -- I believe that the actual agreement in this case
17 is already a part of the record.

18 MS. EGGERS: Your Honor, I'm just laying a foundation.
19 There's been a claim made in the related case, number one, and
20 also based upon the defendant's objection and suggesting the
21 FDIC paid some amount to the loan. This is to explain this is a
22 unique Purchase and Assumption Agreement. I'm getting there.

23 MS. REYNOLDS: Is he referring to the -- are you
24 admitting this document, 63-1, as the assumption agreement
25 that's already a part of the record, submitted as an exhibit by

1 the Government? Is that --

2 MS. EGGERS: I have not done that yet, and I'm going
3 to do that when we get to it.

4 THE COURT: You may proceed.

5 BY MS. EGGERS:

6 Q. There's a range?

7 A. Yes. I think I was talking about the first one, what we
8 call a clean bank; and the other is a loss share where we
9 transfer, again, the bad assets to the assuming bank, but we
10 agree that we will share the loss in those assets. Typically
11 that arrangement is FDIC will absorb 80 percent of the loss, and
12 the assuming bank will absorb 20 percent of the loss. And then
13 in between, there is another six or so variations you might
14 have. I'm giving you the two extremes.

15 Q. In this particular case, was there a loss share agreement
16 between FDIC as receiver and JPMorgan Chase when JPMorgan Chase
17 acquired or -- acquired Washington Mutual?

18 A. No, there is no loss share agreement.

19 Q. Now, I'm going to show you what is been previously marked
20 for identification purposes as Government's Exhibit Number 9.
21 Excuse me, Number 9 -- Government's Exhibit D, as in David,
22 lower case D. Do you recognize Government's Exhibit D?

23 A. Yes, I do. That appears to be the actual Purchase and
24 Assumption Agreement for the FDIC and JPMorgan Chase.

25 MS. EGGERS: Your Honor, may I approach the witness?

1 THE COURT: Yes, ma'am.

2 BY MS. EGGERS:

3 Q. I'm going to bring up a copy, because it's a few pages. If
4 you would flip through Government's Exhibit D, just to confirm
5 that it is the Purchase and Assumption Agreement between FDIC as
6 receiver of WAMU and JPMorgan Chase?

7 A. Yes, it is.

8 MS. EGGERS: Your Honor, at this time I'd ask to
9 introduce Exhibit D, as in David?

10 MS. REYNOLDS: Judge, could I just inquire of the
11 Government, is that the same document that was filed previously
12 as 63-1?

13 MS. EGGERS: (Nodding head.)

14 MS. REYNOLDS: No objection.

15 THE COURT: It's admitted.

16 (GOVERNMENT EXHIBIT D: Received in evidence.)

17 MS. EGGERS: Defense counsel has a copy of this
18 marked. I gave a copy of this marked exhibit this morning as
19 well.

20 BY MS. EGGERS:

21 Q. Mr. Schoppe, looking at Government's Exhibit D, as in
22 David, does this document contain any provisions as to what
23 is -- who is entitled to any restitution payments for loans --
24 for restitution ordered for loans that were originally -- strike
25 all that.

1 Does this document have any provisions in it concerning
2 loans that were originated by WAMU in which criminal restitution
3 is subsequently ordered?

4 A. Yes, it does.

5 Q. Okay. And where would we find that provision of the whole
6 bank?

7 A. It's in the back part of it. I believe it's Schedule 3.5,
8 if I'm not mistaken. Yes, that is it.

9 Q. And is it -- does it say "Schedule 3.5" at the top.

10 A. Yes, it does.

11 Q. And what's the title of Schedule 3.5?

12 A. Certain Assets Not Purchased.

13 Q. And Item Number 4, is identified as what?

14 A. Criminal restitution orders issued in favor of the Failed
15 Bank.

16 Q. And the failed bank in this case being Washington Mutual;
17 is that correct?

18 A. Yes, that is correct.

19 Q. Had this -- are you familiar, obviously as the
20 receiver-in-charge, with this document, Government's Exhibit D?

21 A. Quite familiar. Work with it quite often.

22 Q. Had this type of agreement been used before in the closure
23 of any other bank, financial institutions?

24 A. Well, it's one of the agreements that we took off the
25 shelf, if I can use that term, but it's been changed quite a bit

1 because of the transactions. So it is -- it's unusual. It is
2 probably the only agreement -- this is the only agreement like
3 this particular agreement. No other bank was closed in this
4 manner.

5 Q. And again you said there is no loss share agreement
6 provision in this when JPMorgan Chase acquired?

7 A. There is no loss share agreement.

8 Q. Are there any provisions in the Purchase and Assumption
9 Agreement that talks to who's going to keep all the records,
10 who's going to maintain the records if they're needed down the
11 road?

12 A. Yes, there is.

13 Q. Okay. Explain that to us.

14 A. There is a continuing cooperation clause in there which
15 basically says, in layman's terms, whoever has the records, if
16 the other party needs them, we can get them.

17 Q. And so in this case, who maintains the records for all of
18 the WAMU-originated loans?

19 A. JPMorgan Chase holds all those records.

20 Q. What if FDIC, as receiver, is identified as a victim
21 pursuant to that 3.5 provision, if they're identified as a
22 victim and they're asked for their restitution information for a
23 victim impact statement or that type of thing, where does FDIC,
24 as receiver, go to get the information from?

25 A. We would go to JPMorgan Chase. Under the continuing

1 cooperation clause, they would give that to us.

2 Q. So if the Government went directly to JPMorgan Chase and
3 obtained the outstanding principal balance on a loan from
4 JPMorgan Chase, would FDIC be relying upon the number that
5 JPMorgan Chase provided to the Government?

6 A. Yes, we would.

7 Q. And if JPMorgan -- if the Government went to -- excuse me.

8 If the Government went to Washington Mutual to get
9 information about the foreclosure on a property and the
10 subsequent sale on a property, would FDIC rely upon whatever
11 information that JPMorgan Chase gave the Government?

12 A. I'm not sure you asked the question correctly. You said
13 would we go to WAMU.

14 Q. I'm sorry.

15 A. We would go to JPMorgan Chase. Yes, we would.

16 Q. Would y'all rely upon whatever information JPMorgan Chase
17 provided to the Government?

18 A. Yes, we would.

19 Q. So in this instance, there's been information that the
20 Government obtained loss and restitution figures from JPMorgan
21 Chase. Would that mean that FDIC, as receiver, would be relying
22 upon those numbers?

23 A. Yes, we would.

24 Q. Under the Purchase and Assumption Agreement, did it provide
25 that y'all were going to get like a list of all the loans or

1 anything like that? Is there some kind of list that y'all have
2 at FDIC, as receiver?

3 A. The agreement does call for us to get a list of the loans.
4 We agreed that we would not get them. There were tens of
5 hundreds of thousands of loans. We had no way of actually
6 getting and -- we usually -- every other bank, we will get a
7 download of all the loans. They number in the thousands. Here,
8 they were numbering in the millions, I believe, tens of
9 millions, and we simply didn't have capacity to download that
10 information, store it someplace where we could get it. So we
11 agreed with JPMorgan that we would not take a download. If we
12 needed the information, we would just get it from them.

13 Q. And so if, for instance, a loan was originated between the
14 time frame of April 30th of 2007 to March 14th, 2008, and the
15 loan was originated from Washington Mutual, would FDIC, as
16 receiver, be the party that's entitled to the restitution under
17 the Whole Bank Purchase and Assumption Agreement?

18 A. Yes, we would be.

19 Q. Let me ask you this: Are there any other hidden agreements
20 out there?

21 A. There are no other agreements between JPMorgan Chase and
22 us.

23 Q. In a related co-conspirator case, the defense attorney
24 filed a pleading, attached to it had a purported deposition from
25 a man by the name of Jeffrey Thorn. In Mr. Thorn's deposition,

1 he alluded to some other type of hidden agreement. Is there any
2 other agreement out there?

3 A. Before I answer that, can I go back to my previous
4 question --

5 Q. Yes.

6 A. -- previous answer?

7 Because -- this is the only agreement. I just want to
8 state, though, the agreement has certain statements in it where
9 parties have to do things, and we did extend some of those
10 dates. A good example would be within ten business days,
11 JPMorgan Chase had to notify, by mail, all of its depositors. I
12 think there was 62 million depositors. They couldn't physically
13 do that, so we extended that for 30 days.

14 The agreement is the same. I just want to clarify there
15 are some, maybe six, dates in here where Chase had to do
16 something, and we had to extend those dates. Because as I
17 testified earlier, the actual agreement is an off-the-shelf
18 agreement not designed for a 300-billion-dollar bank, so we
19 simply had to extend some dates to allow Chase to be in
20 compliance with the Purchase Assumption Agreement. So I just
21 wanted to clarify that previous answer.

22 Q. So other than date extensions, the --

23 A. There's no other agreements.

24 Q. Okay. And then Jeffrey Thorn's deposition in which he's
25 indicated that there's a hidden agreement, that is untrue; is

1 that correct?

2 A. It is false.

3 Q. This Jeffrey Thorn individual, was he employed by
4 Washington -- I mean, by the FDIC?

5 A. He's never been directly employed by FDIC.

6 Q. Have you done some research upon being provided a copy of
7 that other pleading to see if he's ever worked for any
8 contractor or subcontractor?

9 A. Yes, we did. He's been a subcontractor for one of our
10 contractors on two small banks that failed during this banking
11 crisis: One was in Louisiana, and one was in Georgia, if I'm
12 not mistaken. But he was never directly employed by FDIC, but
13 he was a subcontractor of one of our contractors that did those
14 two banks.

15 Q. And have you searched your records and were you able to
16 find -- you know, you said the Georgia bank and Louisiana bank,
17 have you been able to find out whether or not he had any
18 involvement whatsoever as a subcontractor to a contractor with
19 the closure of Washington Mutual?

20 A. He had no involvement whatsoever with WAMU at any
21 capacity -- with the WAMU receivership, let me clarify that.

22 Q. And so if restitution is ordered by the Court for loans
23 that were originated from Washington Mutual between
24 April 30th, 2007, and March 14th, 2008, that if the Court orders
25 restitution, that restitution would be due and payable to FDIC

1 as receiver; is that correct?

2 A. That is correct.

3 Q. Let me ask you this, a question had come up: Did FDIC when
4 it closed Washington Mutual, did it pay Washington Mutual any
5 money?

6 A. No. What happens when a bank closes, much like a bank --
7 we're much like a bankruptcy trustee. We actually step into the
8 shoes of the failed bank, and we are the failed bank. So, no,
9 we don't pay anything to the bank that's failed. We simply
10 become the bank. It's closed by the regulatory agency, and then
11 we sell off the assets and try and gather up enough money that
12 we can pay all the liabilities.

13 MS. EGGERS: Nothing further, Your Honor.

14 THE COURT: Ms. Reynolds?

15 **CROSS-EXAMINATION**

16 BY MS. REYNOLDS:

17 Q. Good morning, Mr. Schoppe.

18 A. Good morning.

19 Q. Shelley Reynolds.

20 Can you tell me, this Purchase and Assumption Agreement is
21 dated September the 25th of 2008. Is that the date that
22 JPMorgan assumed the loans for Washington Mutual?

23 A. Is that the date they received the loans?

24 Q. Yes.

25 A. Yes, they would be the assuming bank on that date and had

1 ownership of all the loans.

2 Q. So it's your testimony that these loans that are listed
3 here on -- by the Government are now owned by or the property of
4 the FDIC; is that right?

5 A. That was not my testimony.

6 Q. Okay. In fact, you said that you don't have a list of the
7 loans that the FDIC kept; is that right?

8 A. Let me clarify: FDIC kept no loans; all of the loans went
9 to JPMorgan Chase. And subsequently we have not acquired any
10 loans back from JPMorgan Chase. All the loans are Chase's
11 loans.

12 Q. Okay. But you said there's no loss share agreement. What
13 does that mean?

14 A. Simply means if there's a loss on any of the loans that
15 JPMorgan purchased from us, it's their loss, that we're not
16 sharing in any loss-share. We have no arrangement to reimburse
17 them for any losses on their loans.

18 Q. Okay. So they assume the risk of the loss on those loans,
19 right?

20 A. From the book value of the loss, correct, if there's any
21 loss on the book value.

22 Q. So if they own the loans and own the loss, why are you the
23 victim, or the FDIC?

24 A. As I testified earlier, there are certain assets which did
25 not transfer to Chase, and those are listed on Schedule 3.5,

1 which we talked about earlier. And under 3.5, Number 4 are the
2 criminal restitutions. Those do not pass. So there is a
3 difference between the loan actually passing to them and any
4 restitution orders that come from the loans. We're splitting
5 those off, and that is standard in all bank closings.

6 Q. Okay. So you testified as to the restitution, the
7 restitution would go to you?

8 A. Correct.

9 Q. Okay. Can you tell me with regard to any of the loans that
10 were from WAMU, what the FDIC losses were?

11 A. The FDIC losses on the loans? Was that your question?

12 Q. Right. Not what restitution is due but what losses
13 there -- you incurred?

14 MS. EGGERS: I'm going to object to this. If counsel
15 would clarify what she means by loss to the FDIC. I mean --

16 THE COURT: Sustained. I'm not sure what the question
17 is myself.

18 MS. REYNOLDS: Okay.

19 BY MS. REYNOLDS:

20 Q. Well, for example, do you have a copy of the Government's
21 Exhibit -- does he have a copy of A5?

22 MS. EGGERS: No, he does not.

23 MS. REYNOLDS: Okay.

24 MS. EGGERS: Ms. Reynolds, he's never seen this
25 document before.

1 MS. REYNOLDS: Okay. All right. Let me see if I have
2 an extra.

3 Can you see it okay? Let me see if I can -- I'm afraid
4 that if I make it so --

5 THE WITNESS: I saw it better before.

6 MS. REYNOLDS: Okay. Let me see if I have an extra
7 copy.

8 BY MS. REYNOLDS:

9 Q. Have you had a chance to look at it?

10 A. I glanced at it, yes.

11 Q. Okay. Well, the Government has submitted this as a summary
12 of the losses to the FDIC as the victim here. You're saying
13 that you've never seen the document before?

14 A. I don't believe I have.

15 Q. Okay. So are you familiar with any of the properties and
16 the documents associated with those properties?

17 A. No, I wouldn't have any idea what they are.

18 Q. Okay. Would you be able to testify then whether or not the
19 FDIC transferred these particular properties to JPMorgan Chase?

20 A. They were tens of millions of loans on the WAMU books. All
21 of them transferred. I believe I've testified to that before.
22 So I certainly don't look at these 12 loans and --

23 Q. Is it your --

24 A. -- they were part of tens of millions. But they all
25 transferred to answer your question. So if they were active,

1 they would have transferred to Chase.

2 Q. Okay. And did Chase pay money to assume these loans?

3 MS. EGGERS: We're mixing -- Government is going to
4 object. Assuming loans, transferring -- we're sort of mixing
5 terms here, and I want to make sure we're on the same page, Your
6 Honor. So the form the question is my objection.

7 MS. REYNOLDS: I'll rephrase the question.

8 BY MS. REYNOLDS:

9 Q. So when JPMorgan Chase took over or bought these purchases,
10 do they pay something for this Purchase and Assumption
11 agreement?

12 A. Again, I think -- I tried to explain it. Perhaps I didn't
13 do a very good job, so let me do that again.

14 They assumed all of the assets, and they also assumed which
15 assets were -- round numbers, please don't quote me on that -- I
16 think it was about \$330 billion. They also assumed, I believe
17 it was about \$300 billion worth of liabilities.

18 Q. Was there any money that changed hands for them to get the
19 right for these liabilities and assets?

20 A. For the privilege of assuming the assets and liabilities
21 and obtaining the franchise, as we call it, they did pay the
22 FDIC \$1.9 billion, round figures. But I hate to attribute that
23 to the purchase of any loans. It's part of the transaction for
24 taking all the assets -- most of the assets, I should say, and
25 most of the liabilities.

1 Q. So do you have any way of determining what, sort of, outlay
2 of funds JPMorgan would have made in order to get any one of
3 these properties?

4 A. That is not the way the transaction works.

5 Q. So they buy them in a bulk?

6 A. They buy them in bulk, and they also assume a bunch of
7 liabilities. And the net effect, they also -- general press
8 release, I believe they wrote off about \$20 billion worth of
9 assets in the first couple months. So the net effect was sort
10 of a wash, I think, the assets and the liabilities.

11 Q. So you wouldn't have any idea of whether or not they made
12 money or lost money on any one of these loans, right?

13 A. I would have no idea.

14 Q. When you say that you would recover any restitution,
15 criminal restitution, can you tell this Court what losses the
16 FDIC incurred, if any, with regard to any individual loan?

17 MS. EGGERS: Your Honor, I'm going to object because
18 under Title 12, United States Code, Section 1821(d)(2)(A)(i),
19 the FDIC, as receiver of a failed financial institution,
20 succeeds to all rights, titles, powers, privileges, and assets
21 of the failed institution and is therefore entitled to all
22 restitution awarded to the failed institution.

23 I just make that objection because I don't know where we're
24 going with this.

25 THE COURT: All right. Go ahead, Ms. Reynolds.

1 MS. REYNOLDS: Well, Your Honor, the Government has
2 submitted that the FDIC is entitled to loss as the victim or
3 stand-in for the victim, but in order to determine the amount of
4 restitution due, it's my understanding that you have to
5 determine what loss there was to the victim.

6 THE COURT: Well, the basic question: Why do you care
7 who had a loss? Isn't the issue that there was a loss caused by
8 the actions of your client?

9 MS. REYNOLDS: Well --

10 THE COURT: Isn't that the basic question? And
11 whether it's the Mutual bank, whether it's Morgan Chase or FDIC,
12 what ultimate difference does that make to your client?

13 MS. REYNOLDS: I believe that in reality, a loss can
14 be different as to any given individual. There can be multiple
15 parties involved, and different parties can have different
16 amounts or quantities of loss with regard to any transaction or
17 fraudulent transaction.

18 THE COURT: That's right. So just taking a wild
19 guess, say it's a million dollars worth of loss, and the Mutual
20 bank takes parts of it and Morgan Chase takes another part and
21 FDIC takes another part. What difference does it make to your
22 client? The loss is still a million dollars.

23 MS. REYNOLDS: Well, that's what I'm trying to
24 determine was what the amount of loss is.

25 THE COURT: Isn't that basic math that's determined by

1 the amount of the loan and eventually the foreclosure and the
2 sale price of the loan? And isn't the difference, by law, what
3 the loss is?

4 MS. REYNOLDS: Are we talking about restitution or
5 loss? I think that there -- that it depends whether or not
6 you're talking about restitution, losses.

7 THE COURT: I'm talking about loss. And restitution
8 will be based upon the loss, and who it goes, paid to, does your
9 client care?

10 MS. REYNOLDS: Well, the case law suggests that losses
11 and restitution aren't necessarily the same thing.

12 THE COURT: All right. I'll give you that, but what
13 difference does it make to your client?

14 MS. REYNOLDS: Well, the loss makes a significant
15 difference to her.

16 THE COURT: Did I not state the proper method of
17 figuring the loss?

18 MS. REYNOLDS: Yes, sir.

19 THE COURT: Okay. Doesn't that end the question?

20 MS. REYNOLDS: I'll move on to another question, Your
21 Honor.

22 BY MS. REYNOLDS:

23 Q. So if the FDIC gets the restitution since you -- since this
24 document purports to preserve those rights for the FDIC, what
25 happens to that money?

1 MS. EGGERS: I'd object. That's not relevant, Your
2 Honor.

3 THE COURT: Ms. Reynolds, where are we going? Does it
4 matter that they pay salaries with it or buy something else?

5 MS. REYNOLDS: Well --

6 THE COURT: Pay for his travel down here, or what?

7 MS. REYNOLDS: No, sir, I'm not asking what the FDIC
8 does with their money. I don't mean it like that, but he
9 said -- earlier you said, well, does it matter how the money is
10 divided up.

11 BY MS. REYNOLDS:

12 Q. But isn't it true that, sir, that WAMU and its investors
13 don't get the money that's received from the FDIC; is that
14 correct?

15 A. That is absolutely incorrect. All money which the FDIC
16 receives would go to the creditors of the failed bank. There
17 are some \$13 billion worth of seniors or debt-holders, there is
18 another few million dollars of general trade creditors. And so
19 as the receiver for the failed bank, it is our responsibility to
20 maximize recovery from the bank and pay that money to the people
21 who have lost money. And so the people that get this money will
22 be -- in this situation, can be split to the senior debt-holders
23 of the bank.

24 Q. Now, prior to foreclosing on the loans, wouldn't there have
25 been a charge-off process?

1 A. Could be, but I have no information on these particular
2 loans -- or any loans.

3 Q. Okay. But isn't that standard that they would charge-off
4 the loan prior to foreclosing on it?

5 MS. EGGERS: Your Honor, I'm going to object. Outside
6 the scope of this witness's knowledge.

7 THE COURT: Sustained.

8 BY MS. REYNOLDS:

9 Q. Well, you said that you didn't get this schedule of loans,
10 but along with the schedule that you didn't get, wouldn't the
11 schedule have included the value of the loans?

12 A. It would include the book value, which is different than
13 the value, but it would have been the accounting book value, and
14 I believe the P & A actually covers that. All the loans
15 transfer to Chase at book value.

16 Q. Okay. And how do you determine book value?

17 A. It would be the amount that's listed on the subledgers of
18 the bank, the subledgers for the loans.

19 Q. And where is -- who would have that information?

20 A. Today Chase would have it.

21 Q. And book value is different than the initial loan value,
22 correct?

23 A. Only if they charge some down or --

24 Q. But it's not necessarily the same as the initial loan
25 value; is that correct?

1 A. The initial loan value, they make payments on it. We
2 transfer those loans. Whatever the book value is, which is the
3 original amount of the loan less the payments, less any charge
4 off or charge down, whatever the case may be.

5 Q. So do you have any knowledge as to whether or not JPMorgan
6 actually made money on any of these transactions?

7 A. I would have no way of determining that.

8 Q. Is it possible that they could have sold --

9 MS. EGGERS: I'm going to object, Your Honor.

10 THE COURT: Sustained.

11 MS. REYNOLDS: Thank you, Your Honor. Nothing
12 further.

13 THE COURT: Redirect?

14 **REDIRECT EXAMINATION**

15 BY MS. EGGERS:

16 Q. Sir, did you come here today to explain the receivership
17 process of Washington Mutual?

18 A. I thought that's what I was coming here for.

19 Q. Okay. You didn't come here to testify about the accounting
20 principles of JPMorgan Chase, right?

21 A. No, I did not.

22 Q. And their charge-off procedure and that type of thing?

23 A. No, I did not come here for that purpose.

24 Q. And so if JPMorgan Chase told the federal government that
25 it sold a piece of property for X dollars down the road, would

1 you have to rely upon whatever JPMorgan Chase says? You have no
2 knowledge of any of that, right?

3 A. I'm not sure I follow your question. I'm sorry.

4 Q. If JPMorgan Chase provided the federal government --
5 meaning a federal agent -- information about how much it sold a
6 piece of property for, would you have to rely upon whatever they
7 told the federal government? You don't have any knowledge?

8 A. I would rely on whatever Chase said, that's correct.

9 MS. EGGERS: Nothing further. Thank you.

10 THE COURT: And you may step down, sir.

11 THE WITNESS: Thank you, Your Honor.

12 (Witness excused.)

13 THE COURT: Anything further we need necessarily to do
14 today?

15 MS. EGGERS: No, Your Honor.

16 THE COURT: All right. Well, given the amount of time
17 this took, I'm going to up the schedule of our hearing tomorrow
18 morning to 8:45. So we'll resume at 8:45 tomorrow with the
19 sentencing.

20 (Proceedings adjourned at 11:35 a.m.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Any redaction of personal data identifiers pursuant to the Judicial Conference Policy on Privacy are noted within the transcript.



1/25/2013

Julie A. Wycoff, RPR
Official U.S. Court Reporter

Date

I N D E X

<u>Government Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
ROBERT SCHOPPE	2	16	26

GOVERNMENT EXHIBITS

<u>Exhibit</u>	<u>Description</u>	<u>Marked</u>	<u>Admitted</u>
D	Purchase and Assumption Agreement between FDIC and JPMorgan	9	9