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	<p>8. Q. . Okay. Did Mr. Brock ever supply you 9. with any offering documents related to the Vendetta 10. investment opportunity? 11. A. I believe so, yes.</p>	10
	<p>21. Q. I -- I can. Did he supply to you a 22. private placement memorandum? 23. A. I believe so, yes. 24. Q. Okay. Did you review that? 25. A. No, I did not.</p>	10
	<p>13. Q. Right. And Clovis did not exist at the 14. time that you were initially introduced to the 15. opportunity? 16. A. No, we established Clovis for the -- I 17. should say Avery Chapman established Clovis for the 18. purpose of investing in Vendetta.</p>	11
	<p>19. Q. Okay. And were you individually a 20. member of Clovis? 21. A. Not individually, but through an 22. entity. 23. Q. Through an entity. And what entity was 24. that? 25. A. I believe it was called Cambrian 1. Royalties.</p>	11-12
	<p>21. Q. Okay. Did you conduct any sort of 22. investigation into the Vendetta investment 23. opportunity on behalf of Clovis? 24. A. Yes.</p>	12
	<p>25. Q. Okay. Did you control Clovis' actions? 1. A. No. 2. Q. Okay. Who did? 3. A. All the actions were controlled by our 4. attorney, Avery Chapman.</p>	13
	<p>22. Q. Okay. Going back to our discussion of 23. --- of you and Mr. Brock's interactions regarding 24. Vendetta and before the formation of Clovis, did 25. the -- the offering documents -- I asked if you 1. received a private placement memorandum. You 2. received that from Mr. Brock; is that correct? 3. A. That's correct. 4. Q. And you didn't review it? 5. A. No.</p>	13-14

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	<p>·6· Q. ·Okay.· Did you --</p> <p>·7· A. ·I'm not a lawyer, so I -- I -- you</p> <p>·8· ·know, I don't bring any added value to reviewing</p> <p>·9· ·legal documents.</p> <p>10· Q. ·Okay.· Did Mr. Brock ever represent to</p> <p>11· ·you the terms of the investment that would be made</p> <p>12· ·into Vendetta?</p> <p>13· A. ·No, he did not.</p> <p>14· Q. ·Did he ever represent to you any</p> <p>15· ·information about Vendetta that came from the</p> <p>16· ·private placement memorandum?</p> <p>17· A. ·Seeing as I haven't read it, I wouldn't</p> <p>18· ·know.</p> <p>19· Q. ·Okay.· Did he supply you with a limited</p> <p>20· ·partnership agreement?</p> <p>21· A. ·I don't remember.</p> <p>22· Q. ·Okay.· Did he supply you with a</p> <p>23· ·subscription agreement?</p> <p>24· A. ·I don't believe so.</p>	
	<p>8· A. ·I didn't tell him very much.· We</p> <p>·9· ·arranged for a meeting with -- with the Vendetta</p> <p>10· ·folks, so that Avery and myself could -- could go</p> <p>11· ·down to -- to Austin and meet them.</p> <p>12· Q. ·Okay.· Who asked you to go to Austin</p> <p>13· ·and meet with Vendetta and related people there?</p> <p>14· MR. TERPENING:· Objection.· You can</p> <p>15· ·answer.</p> <p>16· THE WITNESS:· I don't understand the</p> <p>17· ·question.</p> <p>18· ·BY MR. GOFORTH:</p>	17
	<p>25· Q. ·Okay.· What was your responsibility in</p> <p>·1· ·regard to any investigation of the Vendetta</p> <p>·2· ·investment opportunity?</p> <p>·3· A. ·I evaluated the materials that we</p> <p>·4· ·received, anything that was a non-legal document</p> <p>·5· ·that we received about the opportunity from</p> <p>·6· ·Janniece and Robert.</p> <p>·7· Q. ·Okay.· And could you describe what</p> <p>·8· ·non-legal documents they gave you?</p> <p>·9· A. ·They had marketing materials.· And --</p> <p>10· ·and through a meeting with them, we discussed the</p> <p>11· ·opportunity of investing and why we thought it</p> <p>12· ·would be advantageous.· And I was responsible for</p>	18-19

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	13. ·putting those thoughts onto paper for us. 14. · Q. · And by us, you mean Clovis? 15. · A. · That's correct.	
	14. · Q. · Okay. · It goes on to state that Phil 15. · has been tasked with the DD effort. · Is Phil a 16. · reference to you, most likely? 17. · A. · I don't know. 18. · MR. TERPENING: · Objection. 19. · BY MR. GOFORTH: 20. · Q. · Okay. · When he says, the DD effort, 21. · does that mean due diligence? 22. · MR. TERPENING: · Objection. 23. · THE WITNESS: · I don't know. 24. · BY MR. GOFORTH: 25. · Q. · Were you ever tasked with due diligence 1. · efforts? · 2. · A. · I was not. · 3. · MR. TERPENING: · Objection. · 4. · BY MR. GOFORTH: · 5. · Q. · Did you ever perform due diligence · 6. · efforts -- · 7. · MR. TERPENING: · Objection. · 8. · BY MR. GOFORTH: · 9. · Q. · --- on behalf of Clovis? 10. · A. · I did not. 11. · Q. · Okay. 12. · A. · But I don't know the true definition of 13. · that. · So -- 14. · MR. TERPENING: · It's a legal term. 15. · THE WITNESS: · I'm going to say I'm -- I 16. · don't think so. 17. · BY MR. GOFORTH: 18. · Q. · Okay. · Is it correct that you were 19. · tasked with investigation efforts on behalf of 20. · Clovis? 21. · A. · It is. 22. · Q. · Okay. · Is it true that you wished to 23. · visit Austin to perform investigative efforts on 24. · behalf of Clovis? 25. · A. · Yes.	21-22
	10. · BY MR. GOFORTH: 11. · Q. · I've placed before you Exhibit 5. 12. · Exhibit 5 is an email from Chelsea Upshaw to you	23-24

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	<p>13. ·and what appears to be Mr. Chapman.· Is that 14. ·Mr. Chapman's email address at the top there?· Or 15. ·was it -- 16. A. ·I believe so. 17. Q. ·-- at the time? 18. A. ·Yes. 19. Q. ·Okay.· And Ms. Upshaw is stating that 20. ·she has added Avery and his emails to the partner 21. ·contact list.· Now, the email below is from you to 22. ·Chelsea Upshaw copying Mr. Chapman.· And you say 23. ·that:· Chelsea, you need to add Avery Chapman to 24. ·all distributions.· He controls Clovis Capital 25. ·Ventures with myself.· What did you mean by that?</p> <p>·1. A. ·That he, the Smith trust, and myself ·2. ·controlled Clovis.· Avery was the legal ·3. ·representative, so he needed to be included in all ·4. ·correspondence between Vendetta and Clovis. ·5. Q. ·Okay.· So you controlled Clovis? ·6. A. ·I did not. ·7. Q. ·Okay.· But you -- ·8. A. ·The three of us together controlled ·9. ·Clovis.</p>	
	<p>13. Q. ·Okay.· Prior to traveling to Austin, 14. ·had you received documents regarding the Vendetta 15. ·opportunity from anyone other than Mr. Brock? 16. A. ·I don't believe so. 17. Q. ·Okay.· Did you ever discuss the -- the 18. ·Vendetta investment opportunity with Mr. Helms 19. ·prior to your first trip to Austin? 20. A. ·I may have met them when they -- 21. ·before -- before we went down to Austin. 22. Q. ·Okay.· And where would that -- 23. A. ·It would have been in New York. 24. Q. ·In New York? 25. A. ·Yeah.</p> <p>·1. Q. ·Would that have been at -- at your ·2. ·offices? ·3. A. ·Yeah, that's right. ·4. Q. ·The same offices -- ·5. A. ·The ones that we shared -- ·6. Q. ·--- that you shared? ·7. A. ·Yeah.</p>	27-28

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	<p>·8· Q. ·Okay.· With Mr. Brock.· Okay.· And at ·9· ·that time, did they speak to you about the Vendetta 10· ·Royalty Partners investment? 11· A. ·Yes.</p>	
	<p>14· Q. ·Did they describe the type of business 15· ·that they were -- 16· A. ·Yes. 17· Q. ·--- running?· And how did they describe 18· ·it to you? 19· A. ·They acquired mineral royalties at high 20· ·free cash flow evaluations, that when aggregated 21· ·demonstrated a stable stream of cash flows that 22· ·could be sold to a financial buyer for a low yield 23· ·in our low interest rate environment.· Hence, 24· ·creating a multiple arbitrage.</p>	28
	<p>16· Q. ·Okay.· All right.· We'll mark Number 8. 17· ·And Exhibit 8 is an email from you to Janniece 18· ·Kaelin copying Mr. Brock.· You, you know, have 19· ·compiled here a list of due diligence requests.· Is 20· ·that accurate? 21· A. ·This was a list that was compiled by 22· ·myself and -- and Avery Chapman.</p>	30
	<p>13· Q. ·Do you recall the -- the person or 14· ·entity that -- 15· A. ·It was represented to us that Resource 16· ·Select was going to be the buyer of the portfolio. 17· Q. ·Okay.· And who represented that to you? 18· A. ·Janniece Kaelin. 19· Q. ·Okay.· Did Mr. Brock represent that to 20· ·you? 21· A. ·Also.</p>	31
	<p>17· Q. ·Okay.· Did you or -- or anyone on 18· ·behalf of Clovis ever speak with Resource Select? 19· A. ·I believe so, yes. 20· Q. ·Was it -- was it you that spoke with 21· ·them? 22· A. ·I believe it was myself and Avery 23· ·Chapman. 24· Q. ·Okay.· And do you recall when in time 25· ·that took place? ·1· A. ·I think it took place during dinner one ·2· ·of the evenings when we were in Austin on this ·3· ·initial trip.</p>	32-33

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	<p>·4· Q· ·Okay· And was that a face-to-face ·5· ·meeting? ·6· A· ·It was a phone conversation. ·7· Q· ·A phone conversation· And other than ·8· ·yourself and Mr. Chapman and any representative of ·9· ·Resource Select, was anyone else on the -- on 10· ·the phone call? 11· A· ·No.</p>	
	<p>12· A· ·There were elements of investigating an 13· ·investment opportunity that I'm proficient at and 14· ·there are those that I am not· The due diligence 15· ·list that was compiled by Mr. Chapman and myself, a 16· ·number of these were elements that fell under 17· ·Mr. Chapman's purview and some mine. 18· Q· ·Okay· Did you ever have any 19· ·conversation with a limited partner in Vendetta 20· ·regarding their status as a limited partner in 21· ·Vendetta? 22· A· ·I did not.</p>	35
	<p>·2· Q· ·Okay· Okay· I'm going to mark ·3· ·Exhibit 9 and place it before the witness· Okay. ·4· ·This is an email from Mr. Brock -- I'm sorry, from ·5· ·Robert Helms at Vendetta to Mr. Brock and Janniece ·6· ·Kaelin· He says, Bill, was on the phone earlier ·7· ·with Phil then later, and at length, with Avery. ·8· ·Will get everything out today· And the email below ·9· ·that, from Mr. Brock to Robert, Mr. Brock states: 10· ·Robert, as we discussed and I mentioned to Janniece 11· ·this afternoon, Phil will need the following items. 12· ·He had hoped to get them today. 13· And then they list the latest copy of 14· ·the private placement memorandum, the latest 15· ·version of the subscription documents, the LPA 16· ·agreement, and a draft of the escrow agreement. 17· ·Did you ever receive those documents from Robert 18· ·Helms? 19· A· ·I don't know· But this request was 20· ·made by me so that I could get them to our attorney 21· ·to review. 22· Q· ·Okay. 23· A· ·I haven't read any of the documents on 24· ·this list.</p>	36
	<p>6· Q· ·Okay· Had you received them, would you ·7· ·have reviewed them prior to forwarding them on to</p>	37

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	<p>·8· ·Mr. Chapman? ·9· A. ·No. I -- I can't interpret legal, 10· ·legal documentation, nor would I want to make an 11· ·attempt to.</p>	
	<p>19· Q. ·Okay. Okay. This document is titled 20· ·investment memorandum. And it states that it was 21· ·prepared by you. Did you prepare this investment 22· ·memorandum? 23· A. ·I typed this investment memorandum. 24· ·The information contained herein was gathered by 25· ·both myself and Mr. Chapman during our initial ·1· ·visit to Austin.</p>	39-40
	<p>7· Who represented to you that the ·8· ·portfolio was expected to be sold in January? ·9· A. ·The Vendetta team. 10· Q. ·Okay. And this is dated November 25th. 11· ·Was it your understanding that Clovis' investment 12· ·into Vendetta was going to be a short-term 13· ·investment? And by short-term, I mean a three 14· ·month investment? 15· A. ·That was how it was represented. 16· MR. TERPENING:· Objection. You can 17· ·answer. 18· THE WITNESS:· That is how it was 19· ·represented.</p>	40
	<p>21· Q. ·Okay. Okay. And further on in that 22· ·same paragraph, you state: As a result we believe 23· ·that we can realize between a 2.5x to 3x ROIC when 24· ·the portfolio sells in January and potentially 25· ·higher. What do you mean by ROIC? ·1· A. ·It's short for return on investment ·2· ·capital. ·3· Q. ·Okay. And by 2.5x to 3x, is that ·4· ·equivalent to saying a 250 percent to 300 percent ·5· ·return on investment -- ·6· A. ·That's right. ·7· Q. ·--- capital? Okay.</p>	40-41
	<p>21· Q. ·Okay. Well, was it your understanding 22· ·that Clovis' sharing ratio was calculated in a 23· ·different manner than other limited partner's 24· ·sharing ratios? 25· A. ·No.</p>	43

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	<p>13. Okay. Was it -- was it your 14. understanding, in writing this, that the investment 15. could yield over 30 percent in a -- in a 16. three-month timeframe? 17. A. I mean, the -- the document says what 18. the document says. 19. Q. I'm asking what your understanding was 20. at the time. 21. MR. TERPENING: Objection. 22. THE WITNESS: Yes.</p>	44
	<p>1. point, consulting profit share agreement. It says: 2. Mr. Gaucher will received a 20 percent profit share 3. for his efforts sourcing, structuring, and 4. executing the transaction with VRP. 5. Explain to me the -- the 20 percent 6. profit share that you were to receive. Were you to 7. receive that 20 percent profit share from Clovis? 8. A. That's correct. 9. Q. Were you to receive the -- any portion 10. of the 20 percent profit share from distributions 11. made prior to the sale of the portfolio? 12. A. No. 13. Q. Was the 20 percent profit share 14. referenced here only in regard to any sale of the 15. portfolio and final distribution from the 16. partnership? 17. A. Correct.</p>	45
	<p>1. Q. Okay. I'm going to mark Exhibit 11. 2. And this is the same exhibit from the prior 3. deposition, Number 4. 4. A. Okay. 5. Q. And Mr. Gaucher, this is a private 6. placement memorandum for the Vendetta Royalty 7. Partners, Limited offering. You stated before that 8. Mr. Brock had sent you a private placement 9. memorandum? 10. A. I believe so. Yes. 11. Q. Okay. And this is a document that was 12. sent by Robert Helms to Avery Chapman on 13. November 27th? 14. A. Yes. 15. Q. The private placement memorandum that 16. you received from Mr. Brock, you stated you did not 17. read it?</p>	46-47

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	<p>18. A. . That's correct. 19. Q. . Okay. Do you know, generally, what a 20. private placement memorandum -- memorandum is? 21. A. . Yep. 22. Q. . Okay. And what is -- 23. A. . I do. 24. Q. . What is your -- what is 25. your understanding of what a private placement 1. memorandum is? 2. A. . I believe it outlines an investment 3. opportunity in a private company.</p>	
	<p>16. Q. . And my question was specifically as to 17. the private placement memorandum that you received 18. from Mr. Brock. 19. A. . Seeing as how I didn't read that, I'm 20. --- I'm not -- I'm not sure I can answer any -- 21. Q. . Okay. 22. A. . --- any questions about its contents. 23. Q. . But did you understand that, having 24. received a private placement memorandum for 25. Vendetta from Mr. Brock, that -- that document 1. would outline the -- the terms of the investment, 2. as you stated in your general understanding of what 3. private placement memorandum were? 4. A. . In theory, but I cannot comment on the 5. document because I didn't read it.</p>	47-48
	<p>6. Q. . Okay. And do you have experience in 7. reviewing private placement investment 8. opportunities? 9. A. . No. Very limited. 10. Q. . Okay. Have you ever, prior to the 11. Clovis deal, have you ever reviewed a -- a private 12. placement opportunity, investment opportunity? 13. A. . Have I reviewed -- reviewed a private 14. placement investment opportunity? 15. Q. . Uh-huh. 16. A. . Yes. 17. Q. . Okay. And you stated earlier that you 18. were -- you were interested in the Vendetta 19. investment opportunity personally, as a personal 20. investor? 21. A. . That's correct.</p>	48-50

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	<p>22. Q. . Okay. And --</p> <p>23. A. . And invested.</p> <p>24. Q. . And you invested personally?</p> <p>25. A. . That's correct.</p> <p>.1. Q. . Okay. Why -- why did you make an</p> <p>.2. . investment without reading the private placement</p> <p>.3. . memorandum for the investment?</p> <p>.4. MR. TERPENING: . Objection.</p> <p>.5. THE WITNESS: . The legal documentation</p> <p>.6. . and understanding these documents was handled by</p> <p>.7. . Clovis' counsel.</p> <p>.8. . BY MR. GOFORTH:</p> <p>.9. Q. . Was he your counsel?</p> <p>10. A. . He was Clovis' counsel, and I was a</p> <p>11. . member of Clovis.</p> <p>12. Q. . Okay. But you stated that you made a</p> <p>13. . personal investment?</p> <p>14. A. . Oh, no. What I meant is my personal</p> <p>15. . investment into Clovis that was then invested into</p> <p>16. . Vendetta.</p> <p>17. Q. . Okay. All right.</p> <p>18. A. . Not -- not personal outside of -- of</p> <p>19. . Clovis.</p> <p>20. Q. . Okay. But did you believe that,</p> <p>21. . because you're personally investing your money into</p> <p>22. . the Vendetta opportunity through Clovis, that you</p> <p>23. . should read the offering documents for the</p> <p>24. . investment?</p> <p>25. MR. TERPENING: . Objection. This has</p> <p>.1. . been asked and answered several times.</p> <p>.2. THE WITNESS: . Like I said, I'm not a</p> <p>.3. . lawyer.</p> <p>.4. MR. GOFORTH: . Okay.</p> <p>.5. THE WITNESS: . I rely on attorney's</p> <p>.6. . counsel.</p>	
	<p>8. Q. . Okay. Prior to the Clovis investment,</p> <p>.9. . did you understand that it was an investment in</p> <p>10. . Class A limited partnership shares?</p> <p>11. A. . No.</p> <p>12. Q. . What was your understanding?</p> <p>13. A. . I didn't know. I didn't have one.</p> <p>14. Q. . You had no understanding of the</p>	50

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	<p>15. ·investment whatsoever? 16. A. ·No, I had no -- 17. MR. TERPENING:· Objection. 18. THE WITNESS:· I had no understanding of 19. ·the class of shares and -- 20. ·BY MR. GOFORTH: 21. Q. ·Okay. 22. A. ·Just that there was an investment 23. ·opportunity.</p>	
	<p>24. Q. ·All right.· Did you have an 25. ·understanding of the risk factors in the investment ·1. ·in Vendetta? ·2. MR. TERPENING:· Objection.· You can ·3. ·answer that, if you -- ·4. ·BY MR. GOFORTH: ·5. Q. ·I'll rephrase it.· I'll rephrase it. ·6. ·What was your understanding of the risks to the ·7. ·investment in Vendetta? ·8. A. ·My understanding was that the price in ·9. ·mineral royalties fluctuated with oil and gas 10. ·prices.· And that, as a result, the value of those 11. ·properties could change.· In addition, seeing as 12. ·how the exit strategy was based on a yield from 13. ·that portfolio, any movement in the risk free rate 14. ·of treasuries would have impacted the valuation of 15. ·the portfolio as well.</p>	50-51
	<p>·9. Q. ·Okay.· This is an agreement of limited 10. ·partnership of Vendetta Royalty Partners, which was 11. ·sent by Robert Helms to Avery Chapman on 12. ·November 28th.· We discussed a limited partner 13. ·agreement previously.· To your knowledge, have you 14. ·ever received this -- this document? 15. A. ·I believe I received it from Avery 16. ·Chapman.· I did not read it.</p>	52
	<p>·5. Q. ·Okay.· Let's go to page 6.· Page -- or ·6. ·Section 3.5 states:· No interest shall accrue on ·7. ·any capital contributions. ·8. ·Did you have an understanding that the ·9. ·investments made by Clovis would not make -- or 10. ·would not bear interest? 11. A. ·Repeat that.· Did I have an 12. ·understanding of what? 13. Q. ·Did you have an understanding that the</p>	53

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	14. ·capital contributions of Clovis into VRP would not 15. ·accrue interest? 16. A. ·Yes.	
	23. ·a different tack. ·What factors do you understand 24. ·contribute to the sharing ratio of a limited 25. ·partner in Vendetta? ·1. A. ·Valuation of the investment and the ·2. ·capital being invested. ·3. Q. ·Okay. ·And when you say, the valuation ·4. ·of the investment, what do you mean? ·5. A. ·I mean valuation. ·6. Q. ·Okay. ·When you say, the investment, to ·7. ·what are you referring? ·8. A. ·I'm referring to Clovis' investment in ·9. ·Vendetta. 10. Q. ·Okay. ·By value, do you mean the amount 11. ·of the investment? 12. A. ·No. I was -- I never said value versus 13. ·valuation -- I said valuation, valuation of the -- 14. ·of the asset, so. 15. Q. ·Okay. ·And what you do you mean by the 16. ·asset? 17. A. ·Assets? ·The investment, Vendetta. 18. Q. ·Okay. ·We may be missing each other 19. ·here. ·Are you distinguishing between the 20. ·investment being made by Clovis into the 21. ·partnership and the investment being made by the 22. ·partnership into underlying assets? 23. A. ·No. ·I'm saying that, I'm talking about 24. ·the value -- you'll have to repeat the question now 25. ·because I've forgotten -- ·1. Q. ·I have to. ·2. A. ·--- but I'm speaking of the -- of the ·3. ·valuation of Vendetta and the value of the ·4. ·investment that Clovis made into Vendetta.	66-68
	5. Q. ·Okay. ·Okay. ·And is it your ·6. ·understanding that the sharing ratios of all ·7. ·limited partners of a similar class, for example, ·8. ·Class A, would be calculated using the same ·9. ·formula? 10. MR. TERPENING: ·Objection. 11. THE WITNESS: ·Can't speculate on what	68

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	<p>12. · would or -- 13. · BY MR. GOFORTH: 14. · Q. · I'm -- I'm not asking you what -- what 15. · happened or -- I'm asking you what your 16. · understanding of -- of the calculation of a sharing 17. · ratio is? 18. · MR. TERPENING: · If you have one. 19. · THE WITNESS: · That would be my 20. · understanding of the operation of the sharing 21. · ratio, yes.</p>	
	<p>21. · Did you receive any commission on the 22. · investments made by Clovis into Vendetta? 23. · A. · I would not call it commission. 24. · Q. · How -- how would you describe it? 25. · A. · I'll describe it. I had an agreement · 1. · with Bill Brock for a finder's fee. · If I brought · 2. · an investor or investors that ended up investing in · 3. · Vendetta, Bill had the Vendetta team wire me our · 4. · agreed amount, which I subsequently invested back · 5. · into the transaction through Clovis, as well as my · 6. · own personal capital. · 7. · Q. · Okay. · So portions of the investments · 8. · that we've previously discussed, attributable to · 9. · you, were reinvestments of what you term a finder's 10. · fee that you received from Mr. Brock? 11. · A. · The receipt, I received it from 12. · Vendetta. · It was sent on Mr. Brock's behalf. 13. · Q. · Okay. 14. · A. · And that's correct.</p>	70-71
	<p>10. · Q. · Okay. · And did you receive one for each 11. · of the three capital contributions -- 12. · A. · That's correct. 13. · Q. · --- that we discussed previously? · Okay. 14. · And how was the amount of your finder's fee 15. · calculated? 16. · A. · It was half of the fee that Bill Brock 17. · was to receive. 18. · Q. · Okay. · And do you recall what that 19. · number was? 20. · A. · I believe it was three percent. 21. · Q. · Okay. · That Mr. Brock received or that 22. · your half was? 23. · A. · That my half was.</p>	73

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	<p>23. Q. . Okay. Was your understanding of the 24. finder's fee agreement with Mr. Brock that you 25. would receive a three percent finder's fee from</p> <p>.1. Vendetta on behalf of Mr. Brock -- on every dollar .2. invested through Clovis into Vendetta? .3. A. It actually wasn't that it was supposed .4. to come from Vendetta. The understanding that .5. Mr. Brock and I had was that he would share in .6. investment -- in his fee, as for -- for my bringing .7. investors. And it never was outlined that it would .8. come from Vendetta. .9. Q. Okay. But was it your understanding 10. that the calculation of your portion of Mr. Brock's 11. fee would be based on every dollar invested through 12. Clovis into Vendetta? 13. A. That's correct.</p>	77-78
	<p>13. (GAUCHER EXH. 27, Clovis Capital 14. Ventures, LLC, correspondence dated November 30, 15. 2012, marked for identification.) 16. BY MR. GOFORTH: 17. Q. This is the side letter, the document 18. title side letter security agreement. And do you 19. recall receiving this document at any time? 20. A. I believe I received it from Clovis' 21. attorney, Avery Chapman. However, I never read it. 22. Q. Okay. Are you familiar with the terms 23. of it? 24. A. I -- I couldn't say. I haven't read 25. it.</p>	87

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Smith		
	<p>16. Q. Okay. So can you tell me when you 17. first became aware of Vendetta Royalty Partners? 18. A. I don't recall the first time, no. 19. Q. Do you recall a general date range of 20. when it was? 21. A. Not really, no. 22. Q. Okay. From whom did you first learn 23. about Vendetta Royalty Partners? 24. A. Not really sure.</p>	8-9

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	<p>25. Q. · Was it Philip Gaucher?</p> <p>·1. A. · That'd be conjecture.</p>	
	<p>·4. Q. · Okay.· And did Philip Gaucher, whether</p> <p>·5. · he was the first or not, did he bring to your</p> <p>·6. · attention the Vendetta Royalty investment</p> <p>·7. · opportunity?</p> <p>·8. A. · To my recall, it was Philip Gaucher and</p> <p>·9. · Avery Chapman.· Which one brought it first, I don't</p> <p>10. · recall.</p>	10
	<p>15. · the formation of -- of Clovis.· Who were the</p> <p>16. · members of Clovis?</p> <p>17. A. · There are three members of Clovis.</p> <p>18. · There is a trust that is the Hughes Family Trust.</p> <p>19. · And then there are two other entities that were</p> <p>20. · formed by Avery Chapman and Philip Gaucher.</p>	11
	<p>·3. Q. · Okay.· The trust you mentioned as --</p> <p>·4. · I'm just going to call it, the trust.· Who's the</p> <p>·5. · trustee?</p> <p>·6. A. · The trustee is not involved in this</p> <p>·7. · proceedings.· And we'll -- and we'll --</p> <p>·8. Q. · If it's a member of Clovis, then it's</p> <p>·9. · well within the scope of this inquiry.</p> <p>10. A. · I don't see why they're --</p> <p>11. Q. · Are you the trustee of the trust?</p> <p>12. A. · I am not the trustee.</p> <p>13. Q. · Are you a beneficiary of the trust?</p> <p>14. A. · Yes.</p> <p>15. Q. · And are you refusing to tell me the</p> <p>16. · name of --</p> <p>17. A. · I --</p> <p>18. Q. · --- the trustee?</p> <p>19. A. · --- don't know the name of the trustee.</p> <p>20. · I'd have to go and look it up.</p>	13
	<p>22. Q. · Okay.· All right.· Who was the -- the</p> <p>23. · day-to-day -- the person in charge of day-to-day</p> <p>24. · operations --</p> <p>25. A. · The attorney.</p> <p>·1. Q. · --- of that Clovis?</p> <p>·2. A. · 100 percent.</p> <p>·3. Q. · One hundred percent.· No one else?</p> <p>·4. A. · One hundred percent.· No one else had</p> <p>·5. · access to the funds.</p>	17-18

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	<p>·6· Q. ·Well, excluding the transfer of funds ·7· ·to and from any IOLTA account. ·8· A. ·The attorney formed the entity.· The ·9· ·attorney had all the details of the formation of 10· ·the entity.· The attorney handled every transaction 11· ·of the entity.· And the attorney handled every 12· ·single dime that went into Clovis, and every single 13· ·dime that -- that came from -- from Vendetta.· No 14· ·one touched the money. 15· MR. TERPENING:· Sorry, Doug.· What 16· ·attorney? 17· THE WITNESS:· Avery Chapman.· No one 18· ·ever touched the money but Avery Chapman.· No one 19· ·else ever even saw the money.· This was totally 20· ·100 percent wholly handled by an attorney.· So I</p>	
	<p>·4· Q. ·Okay.· This attorney, through an ·5· ·entity, was a member of Clovis; is that correct? ·6· A. ·That was kind of an odd thing. ·7· Q. ·And explain why it was odd. ·8· A. ·Well, it was a very straightforward ·9· ·transaction.· I asked the attorney to go and check 10· ·out the potential for this investment, to actually 11· ·get on a plane and go to Austin, I believe it was, 12· ·and make sure this was a -- a legitimate 13· ·opportunity.· Okay?· I don't remember if it was the 14· ·attorney that first brought this to me or Philip 15· ·that first brought this to me.· They had had some 16· ·dialogue.· I honestly just don't remember who first 17· ·brought it to me. 18· But at some point, it sounded 19· ·interesting.· But it needs to be vetted.· So the 20· ·proper person to vet is the attorney.· So the 21· ·attorney, if I'm not mistaken, twice, maybe three 22· ·times -- I honestly don't remember -- two or three 23· ·times, went down to Austin to vet the project.· If 24· ·I'm not mistaken, once the attorney took Phil 25· ·Gaucher and once the attorney took his wife, which</p> <p>·1· ·is also kind of odd. ·2· But after I think the first trip to ·3· ·Austin, the attorney came back to me and -- and -- ·4· ·and he said he had done four things:· That he had ·5· ·looked at bank statements and that they looked ·6· ·legitimate; that he had looked at deposits and that</p>	<p>19-20</p>

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	<p>·7· ·they looked legitimate; that he had looked at deeds ·8· ·and that they looked legitimate; and that he had ·9· ·arranged for a mechanism by which the investment 10· ·coming from Clovis would be -- would be -- would be 11· ·secured.</p>	
	<p>12· ·remember who first brought it to me.· The attorney 13· ·and Philip had had a lot of dialogue.· It did sound 14· ·interesting.· I asked the attorney to vet it.· The 15· ·attorney traveled at least twice, maybe three 16· ·times.· I know Philip went with him at least once. 17· ·And I know his wife went with him at least once. 18· · But after, I believe it was the first 19· ·trip the attorney made to -- to Austin -- I think 20· ·it was the first trip --- the attorney came back 21· ·and -- and said to me that he had looked at bank 22· ·statements, deposits.· And included in the bank 23· ·statement was a -- was a balance.· I don't remember 24· ·the exact amount of the balance, but it was -- it 25· ·was -- it was in the millions, that it looked ·1· ·legitimate.· He had looked at bank statements, ·2· ·deposits, deeds and had set up a -- a mechanism by ·3· ·which the investment coming from Clovis would be -- ·4· ·would be protected.</p>	21-22
	<p>13· A.· ·My -- I never actually read this 14· ·document. 15· Q.· ·Okay. 16· A.· ·My recollection is that -- that I had 17· ·knowledge that this document did exist, and that my 18· ·attorney, Avery Chapman, had reviewed the document, 19· ·and that parts of this were relayed to me verbally. 20· Q.· ·Okay. 21· A.· ·I do recognize some of the wording 22· ·here, yes.</p>	29
	<p>10· Q.· ·And what did he relay to you regarding 11· ·risk factors of the investment? 12· A.· ·Well, some of what I see right in front 13· ·of me here.· Fluctuation in -- in oil and gas 14· ·prices, the estimation of the -- of the reserves. 15· ·The market, could be changes in the market.· Those 16· ·from the ones that I remember. 17· Q.· ·Did you ever discuss the risk factors 18· ·listed on pages 5 through 7 with Philip Gaucher? 19· A.· ·I value Philip's judgement.· And there</p>	35-37

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	<p>20. ·aren't many financial questions that I don't take 21. ·to Philip. 22. · Q. ·Is that a yes? 23. · A. ·So that is a yes.· Because I talk about 24. ·everything financially with Philip.· So if -- 25. ·fluctuation in gas and oil prices, that's -- that's</p> <p>·1. ·-- that's something I would -- I definitely would ·2. ·ask Philip his opinion on.· You know, what do you ·3. ·think's going to happen with oil prices?· What do ·4. ·you think's going to happen with -- with natural ·5. ·gas prices?· What do you think's going to happen? ·6. ·He's got -- he's got -- he's got a pretty good nose ·7. ·for stuff.· He's -- he's -- he's pretty accurate. ·8. · Q. ·Did you ask him those questions in ·9. ·regard to the Vendetta investment? 10. · A. ·After the investment was made, I -- I 11. ·suddenly became very interested in the fluctuation 12. ·of oil and gas prices.· So, yeah.· And it was -- it 13. ·was something that, I mean, if I'm, you know -- he 14. ·-- he was an investor also.· So I'm asking -- I 15. ·would ask him his opinion more along, how do you 16. ·think our investment is going, as opposed to, do 17. ·you think this is a good investment?· I don't -- I 18. ·didn't rely on Philip's judgement for this 19. ·investment.· No.· This is something I made a 20. ·decision, I wanted to get into. 21. · I still would like to find a way to get 22. ·into this type of an investment.· I wish -- damn 23. ·well this one had worked.· So Philip did not enter 24. ·into that.· The only thing that entered into that 25. ·decision was to send the attorney down to see if</p> <p>·1. ·this was a valid investment. ·2. · Q. ·Did you task Mr. Gaucher with any ·3. ·investigation regarding the investment opportunity ·4. ·in Vendetta? ·5. · A. ·No, that -- that's not his role.· It's ·6. ·a role for the attorney to make sure that this is a ·7. ·valid investment.</p>	
	<p>23. · Q. ·Did -- did you task Mr. Gaucher to 24. ·investigate the Vendetta investment opportunity 25. ·prior to Clovis making the investment on it?</p>	37-38

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	<p>·1· A. ·No, I did not.· But I maybe suddenly ·2· ·having a moment of realization here.· Avery was ·3· ·assigned the task of investigating this.· Did he ·4· ·turn it over to Philip? ·5· Q. ·I'm not here to answer questions. ·6· A. ·Is that -- this was Avery's job to do. ·7· ·If he turned that task over to somebody else, he ·8· ·did not have that authority. ·9· Q. ·Does Mr. Chapman have any experience in 10· ·oil and gas related investments? 11· A. ·No.· But that was not his -- his task. 12· ·His task was to make sure that this was a valid 13· ·investment.</p>	
	<p>23· Q. ·Okay.· And you stated earlier -- and 24· ·correct me if I'm wrong -- that -- that 25· ·Mr. Chapman's job wasn't in regard to the -- the ·1· ·oil and gas side of -- of this deal, but it was in ·2· ·regard to the legal side of this deal? ·3· A. ·I'm going to agree with that statement, ·4· ·yes. ·5· Q. ·Okay. ·6· A. ·I actually -- I actually think that's ·7· ·pretty well-phrased. ·8· Q. ·Okay. ·9· A. ·Yes. 10· Q. ·Who in Clovis performed the 11· ·investigation of the oil and gas side of this deal? 12· A. ·Here's -- here's -- here's the way 13· ·it -- it happened.· I made the decision I wanted to 14· ·diversify into oil and gas.· At some point, I -- I 15· ·had awareness of this opportunity.· It -- it 16· ·matched a goal that I had.· Okay?· But as in any 17· ·investment, you would have concerns.· So I did what 18· ·should be a sound and proper mechanism and I went 19· ·to the attorney, Avery Chapman, and said, I'm 20· ·interested in this. 21· You know, do I remember exactly where I 22· ·heard it from?· No.· Did someone talk me into it? 23· ·No.· I wanted to get into oil and gas.· I had a 24· ·hunch it was going to do what it did.· And it did. 25· ·Although I didn't get to participate.· Still ·1· ·disappoints me.· So I did what I thought was a</p>	40-41

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	<p>·2· ·proper thing to do, and it is a proper thing to do. ·3· ·And I think an attorney is the proper person to do ·4· ·this.· It's not, is this a good investment? ·5· · It's that, is this -- is this a sound ·6· ·business?· Oil and gas was a great investment.· I ·7· ·wanted to make sure this was the right business ·8· ·within oil and gas to invest -- invest in.· So I ·9· ·sent the attorney.· He went down, he -- he said he 10· ·spoke to everybody.· Said he -- he had a list of 11· ·people he had met.· I don't think the gentleman you 12· ·mentioned, Bill Brock, was on that list, so that 13· ·one I don't remember. 14· · But he did have another list of people 15· ·that -- that he had met.· There was a father and 16· ·son he had met.· There were the two, the Robert and 17· ·the Janniece, that he met.· He mentioned engineers; 18· ·I don't remember them by name.· That's all.· I 19· ·don't know if I recall any other specifics that he 20· ·-- that he met.· But he went down and met the 21· ·people, looked at the books.</p>	
	<p>19· · . . . Q.· ·Was anyone tasked at Clovis with 20· ·investigating the oil and gas side of the 21· ·investment, in regards to the properties, the 22· ·production of the properties owned by Vendetta? 23· · . . . A.· ·What I wanted to know on -- on -- on 24· ·that side, I wanted to know two things:· I wanted 25· ·to know, did the deeds exist and did they -- did ·1· ·they appear to be valid?· And I also wanted to ·2· ·know, were deposits being made?· Was money coming ·3· ·from these deeds?· And what I was told orally by ·4· ·the attorney, Avery Chapman, was that the deeds ·5· ·looked good, and that the deposits looked good and ·6· ·that the bank, the balance looked good, and that ·7· ·the bank books looked good.</p>	43-44
	<p>11· · . . . Q.· ·Did you -- did you ever -- did you ever 12· ·task any investigative responsibilities to anyone 13· ·with a petroleum engineering background? 14· · . . . A.· ·No.· And that was probably a mistake. 15· · . . . Q.· ·Did you ever task any investigative 16· ·responsibilities to anyone with an investment 17· ·background in oil and gas partnerships? 18· · . . . A.· ·No, and that was probably a mistake. 19· ·And I accept responsibility for that.</p>	45

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	<p>10. Q. . Okay. Were you aware of the Amegy Bank 11. credit facility that was referenced in this -- this 12. section? 13. A. I think so, yes. They owed a line of 14. credit or something. I remember there was 15. something. I remember hearing something about 16. this, yes. 17. Q. Okay. 18. A. I think during the due diligence 19. process that -- that Avery went through, he did 20. come across something about a line of credit that 21. they were paying off. I do seem to have some 22. recall of that, yes.</p>	47
	<p>.6. Q. Were you aware, prior to Clovis' .7. investment into Vendetta Royalty Partners, that .8. there were other limited partners who had invested .9. in Clovis -- 10. A. Yes. 11. Q. --- previously? 12. A. Well, in Clovis or in -- 13. Q. I'm sorry. In Vendetta. 14. A. In Vendetta. Yes. Yes, I was. 15. Q. What's your recollection as to the 16. number of limited partners, either by number or by 17. money? And I can ask that in two questions if 18. you'd like. 19. A. I'll -- and I'll answer it in two 20. answers. This is from memory, which is, which can 21. be a scary thing. But I had it as under 20 -- 22. under 20 who had invested. And I had it in my head 23. as -- as about 31 million. Now, I could have been 24. --- and at some point, it was 31 million. But I 25. remember it as being under 20 people and about .1. \$30 million. Because I remember asking the .2. question, that would make us one of the larger .3. investors? And Avery said, yes.</p>	49-50
	<p>.1. have you ever heard the term sharing percentage .2. before or perhaps sharing ratio? .3. A. Yes. .4. Q. Okay. And what is your understanding .5. of what a sharing percentage -- Is it your .6. understanding that a sharing percentage or a .7. sharing ratio, are those two terms different, in</p>	53

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	<p>·8· ·your mind?· Have you heard one but not the other? ·9· A· ·No· In my mind, those would have been 10· ·the same. ... ·3· Q· ·Okay· Was it your understanding that ·4· ·all sharing ratios within a specific class, for ·5· ·example, Class A, would be calculated in the -- in ·6· ·the same manner relative to the class? ·7· A· ·That'd be my understanding, yes. ... ·5· Q· ·Okay· And is it your understanding ·6· ·that two hypothetical Class A investors who ·7· ·invested the same amount of capital into the ·8· ·partnership would have the same sharing ratio? ·9· A· ·That would have been my expectation.</p>	<p>... 54 ... 55</p>
	<p>12· ·they looked appropriate; and he said he set up a 13· ·mechanism by which the investment coming in from 14· ·Clovis would be safe, even if the -- the investment 15· ·itself did not go well· And that did refer to 16· ·ownership deeds. 17· Q· ·What was your understanding of the 18· ·structure of the investment prior to Mr. Chapman 19· ·coming back to you? 20· A· ·That that -- that -- that a number of 21· ·the deeds secured our investment· His term, not 22· ·mine. 23· Q· ·Okay· And are you aware of any other 24· ·limited partners in Vendetta who receives any 25· ·purported security interests for their investments? ·1· A· ·I -- I have -- I have not. ·2·MR. TERPENING:· Objection. ·3·THE WITNESS:· I am not· But again, I ·4· ·-- no· Wouldn't have known anybody.</p>	<p>57-58</p>
	<p>14· Q· ·All right· If we could turn to Section 15· ·7.4, which is going to be on page 16· This section 16· ·governs the withdrawal and return of capital 17· ·contribution by a limited partner· Did you have 18· ·any understanding as to Clovis' ability to withdraw 19· ·from it, the partnership, after it made its 20· ·investment? 21· A· ·Hesitate at the word withdraw. 22· ·Because, if you're -- again, if you're referring 23· ·back to the -- to the agreement we had where the</p>	<p>58-59</p>

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	<p>24. · deed secured our -- our investment --</p> <p>25. · Q. · I'm not referring back to any other</p> <p>· 1. · agreement. · I'm referring to this -- excuse me --</p> <p>· 2. · this limited partnership agreement specifically.</p> <p>· 3. · A. · My understanding is is the funds with</p> <p>· 4. · -- if you could not -- my understanding was, you</p> <p>· 5. · could not withdraw the funds until the -- until the</p> <p>· 6. · portfolio sold, at which point, proceeds would be</p> <p>· 7. · distributed. · So I had no anticipation of the</p> <p>· 8. · ability to withdraw, no.</p>	
	<p>22. · Q. · Okay. · Did you review any documents in</p> <p>23. · preparation for your testimony here today?</p> <p>24. · A. · No.</p> <p>25. · Q. · Okay.</p> <p>· 1. · A. · That's probably pretty obvious. · Sorry.</p>	63-64
	<p>22. · A. · Avery did the -- he was -- he did the</p> <p>23. · due diligence; he managed the day-to-day; he signed</p> <p>24. · the documents; he kept the files. · The rest of us</p> <p>25. · really didn't do anything.</p> <p>· 1. · Q. · Okay. · And he was empowered to do so?</p> <p>· 2. · A. · Absolutely. · He was tasked to do so.</p> <p>· 3. · Q. · Okay. · And he did so on behalf of</p> <p>· 4. · Clovis?</p> <p>· 5. · A. · Absolutely.</p> <p>· 6. · Q. · And he did so on behalf of Smith Clovis</p> <p>· 7. · Capital Holdings, LLC?</p> <p>· 8. · A. · Absolutely. · As his signature so</p> <p>· 9. · indicates.</p>	65-66
	<p>15. · Q. · Section 4 states that the undersigned,</p> <p>16. · which is Smith Clovis Capital Holdings, LLC, has</p> <p>17. · read and understands the memorandum and all</p> <p>18. · documents contained therein, specifically including</p> <p>19. · but not by way of limitation, the limited</p> <p>20. · partnership agreement. · Do you know if that's an</p> <p>21. · accurate representation?</p> <p>22. · A. · You would have to ask the person that</p> <p>23. · signed the document.</p>	66
	<p>· 2. · Q. · Okay. · When you first heard of the</p> <p>· 3. · Vendetta investment opportunity, did that</p> <p>· 4. · investment opportunity include any purported</p> <p>· 5. · security of the principal investment being made?</p>	73

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	<p>·6· A. · When I first heard about it, no. · The ·7· · first time I was aware of the -- securing of the -- ·8· · of the investment, was after Avery -- Avery ·9· · Chapman's first trip to Austin. · When he came back 10· · with a little chest thumping: · Boy, I got a great 11· · deal for us. 12· Q. · Okay. · And so the initial deal is 13· · presented to you. · And I recall you don't 14· · specifically remember what you did -- 15· A. · I remember -- yeah, I don't remember 16· · when I first heard about it. 17· Q. · But as presented to you initially, the 18· · deal did not include a security interest, for any 19· · principal? 20· A. · My first awareness of it was -- was 21· · that was not discussed, no. 22· Q. · Okay. 23· A. · That discussion occurred after Avery 24· · Chapman's first trip. · And that kind of sealed the 25· · deal.</p>	
	<p>16· · turn to page 6. · Again, Mr. Chapman stated in his 17· · deposition that this was his signature. · Does it 18· · appear to be, to your -- 19· A. · Yeah. · Oh, yeah. · And that would be my 20· · expectation. · This is -- this is something that 21· · the -- that the lawyers did. · And, you know, my 22· · only concern in this was, is this legal and valid? 23· · And he assured me yes. 24· Q. · And Mr. Smith was authorized by Smith 25· · Clovis Capital Holdings, LLC?</p> <p>·1· A. · Well, Mr. Chapman. · Mr. Chapman was ·2· · authorized. ·3· Q. · Mr. Chapman was authorized to sign -- ·4· A. · Yeah. ·5· Q. · --- on behalf of Smith Clovis? ·6· A. · Sure. ·7· Q. · Okay. ·8· A. · Absolutely. ·9· Q. · And Mr. Chapman was authorized to sign 10· · on behalf of Clovis Capital Ventures, LLC? 11· A. · Absolutely. · And I remember 12· · specifically asking: · Is Robert Helms authorized to 13· · sign on behalf of Vendetta? · And I was assured,</p>	76-77

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	14. ·yes.	

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	17. . . . but it is the position of Mr. Chapman that he 18. . . . served relative to the Vendetta matter in an 19. . . . executive capacity and not as legal counsel.	4
	20. . . . Q. ·Okay.· And who or what entity was the managing 21. ·member of Clovis Capital Ventures? 22. . . . A.· I don't recall what the paperwork said.· In 23. ·practice, it was Phil Gaucher, spelled G-A-U-C-H-E-R.· I 24. ·don't recall what we put down in the corporate 25. ·documents.	9
	·8. . . . Q.· Okay.· Were you compensated by Clovis Capital? ·9. . . . A.· My arrangement for Clovis Capital was that if 10. ·the investment had a return, I would share in the 11. ·proceeds of the return, should it come. 12. . . . Q.· And did you contribute any funds personally to 13. ·the moneys that Clovis contributed to Vendetta? 14. . . . A.· Personal money, no.· We had an agreement to 15. ·apportion out a small section of Mr. Smith's moneys and 16. ·attribute it as my investment so that we could compute 17. ·the return I would be entitled to as executive 18. ·compensation should the investment yield a return. 19. . . . Q.· Okay.· And you held a membership interest in 20. ·Clovis Capital, you said, through Vanguard Capital 21. ·Holdings? 22. . . . A.· That's correct.· We set up a separate entity 23. ·to be the representative of that attributable interest 24. ·so that we could compute executive compensation 25. ·downstream if there was a return.	14
	·1. . . . Q.· Okay.· All right.· So back to Mr. Gaucher.· He ·2. ·was also an executive of Clovis Capital; is that ·3. ·correct? ·4. . . . A.· Yes. ·5. . . . Q.· Okay.· And what was his responsibility at ·6. ·Clovis? ·7. . . . A.· Mr. Gaucher was a professional financial ·8. ·analyst who had previously worked in the mineral ·9. ·royalties field.· His responsibility was to investigate 10. ·and analyze the investment and advise whether or not it 11. ·was a suitable investment for Mr. Smith.· He was hired 12. ·by Mr. Smith directly.	15

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	<p>·2· . . . A· ·I can't tell you what Mr. Smith intended, but</p> <p>·3· ·it was in the context of Mr. Gaucher had brought an</p> <p>·4· ·investment opportunity, the Vendetta opportunity, to</p> <p>·5· ·Mr. Smith and asked Mr. Smith to invest in it· And</p> <p>·6· ·Mr. Smith presented Mr. Gaucher to me as the analyst who</p> <p>·7· ·would be investigating the opportunity.</p> <p>·8· . . . Q· ·Okay· Were there any other individuals who</p> <p>·9· ·worked for or performed services on behalf of Clovis</p> <p>10· ·Capital besides yourself and Mr. Gaucher?</p> <p>11· . . . A· ·Not to my recollection, no· Well, you know,</p> <p>12· ·strike that· Mr. Smith was also involved in the</p> <p>13· ·analysis of this investment· So that was Mr. Smith and</p> <p>14· ·Mr. Gaucher.</p>	17
	<p>·7· . . . A· ·I think that the entity was formed in</p> <p>·8· ·preparation for a potential investment· I believe</p> <p>·9· ·Mr. Gaucher's investigation of the opportunity was</p> <p>10· ·ongoing at the time the entity was formed.</p> <p>11· . . . Q· ·Okay· And Mr. Gaucher's investigation, were</p> <p>12· ·you involved in that investigation or did you yourself</p> <p>13· ·perform any due diligence on the investment opportunity</p> <p>14· ·in Vendetta?</p> <p>15· . . . A· ·My role was limited to meeting the Vendetta</p> <p>16· ·Royalty Partners and discussing with Mr. Gaucher his</p> <p>17· ·findings· I'm not a professional financial analyst, and</p> <p>18· ·as Mr. Smith and Mr. Gaucher knew, had no background in</p> <p>19· ·the mineral royalty field and did not at that time.</p> <p>20· So I'm not going to characterize my</p> <p>21· ·involvement as having been involved in the due diligence</p> <p>22· ·process· I supported Mr. Gaucher and I supported</p> <p>23· ·Mr. Smith, who also was involved in the financial</p> <p>24· ·analysis of the numbers through Mr. Gaucher, but I did</p> <p>25· ·not have the financial skill set to be the analyst on</p> <p>·1· ·the opportunity.</p> <p>·2· . . . Q· ·Okay· Would it be fair to characterize your</p> <p>·3· ·involvement as negotiating the structure of the</p> <p>·4· ·transaction as opposed to whether to enter into the</p> <p>·5· ·transaction in the first place?</p> <p>·6· . . . A· ·That would be somewhat inaccurate· I would</p> <p>·7· ·say the former is true· I was not involved in the</p> <p>·8· ·decision whether or not to make the investment· At some</p> <p>·9· ·point there was a piece of the structure of the</p> <p>10· ·transaction in which I was involved with but not in</p> <p>11· ·deciding how to structure it· If you want to ask me --</p>	20-21

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	<p>12. . . . Q. ·Okay.· Who was the deciding factor or person 13. ·in whether to enter into the opportunity or not? 14. . . . A. ·Mr. Smith. 15. . . . Q. ·And he made his decision, based upon due 16. ·diligence -- or no -- investigation, as you put it, 17. ·performed by himself and Mr. Gaucher? 18. . . . A. ·I cannot tell you what was in his head.· I 19. ·know that he hired Mr. Gaucher to undertake the 20. ·investigation and at some point introduced me as the 21. ·person who would be doing that.</p>	
	<p>16. . . . Q. ·All right.· And Exhibit 20 is an e-mail from 17. ·Robert Helms to you in which he is resending a private 18. ·placement memo for Vendetta Royalty Partners.· It says 19. ·he sent an older version previously but that this was 20. ·the current one. 21. Do you recall receiving this e-mail? 22. . . . A. ·At the moment I do not, but it does look 23. ·familiar. ... ·5. But I do believe this was sent to me and I'm ·6. ·certain that I looked at it at some point, but I don't ·7. ·presently have a recollection as to when.</p>	<p>28 ... 29</p>
	<p>15. On the first page of the attachment under 16. ·"Vendetta Royalty Partners Limited," it states that 17. ·"This is a 50-million-dollar offering, 50 limited 18. ·partnership units at \$1 million per unit." 19. Do you recall that being the price of a unit 20. ·in terms of investing into Vendetta Royalty Partners? 21. . . . A. ·Yeah.· I had been previously told that by 22. ·Philip Gaucher. ...</p>	30
	<p>·2. . . . Q. ·Okay.· Turning the page to ii, it again states ·3. ·the subscription price of a unit, a million dollars.· Do ·4. ·you recall in No. 3 it references a credit facility with ·5. ·Amegy Bank?· Do you recall seeing that in this document? ·6. . . . A. ·I do not recall seeing this in this document. ·7. ·I do presently recall that at some point in time I ·8. ·became aware that there was some involvement of Vendetta ·9. ·with Amegy, A-M-E-G-Y, Bank.· I can't tell you if I 10. ·learned that from this document or not, but I believe --</p>	31
	<p>13. Is that your recollection, that Clovis' 14. ·investment would be given a proportionate share of those 15. ·various credits and debits as far as, you know, the 16. ·other investors? 17. . . . A. ·Yeah.· Again, I won't say that I had</p>	33

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	<p>18. ·recollection whether we were Class A or Class B, but it 19. ·was my understanding that -- as an investor, that Clovis 20. ·would be allocated proportionate share of losses and 21. ·gains, you know, credits and cash distributions.· That 22. ·was my understanding of the structure.</p>	
	<p>14. . . . Q. ·And do you recall when you saw Mr. Brock's 15. ·memo regarding why to invest? 16. . . . A. ·That was something that was produced to me. 17. ·If I recall correctly, I think Phil Gaucher gave it to 18. ·me and said that Bill wrote it.· It was a two-page, 19. ·two-and-a-half-page document, as I recall, three-page, 20. ·you know, "Reasons to Invest in Vendetta" I think was 21. ·the title.· And that was probably pretty early on in 22. ·Phil Gaucher's investigation. 23. Philip wrote his own memo, which was much more 24. ·at length and detailed, as far as I could tell, a 25. ·detailed financial analysis.· But this was a more ·1. ·investing talking points memo.</p>	46-47
	<p>23. . . . Q. ·And you don't recall the statement or the term 24. ·that "No partner will have any right to receive property 25. ·other than cash on the dissolution and/or liquidation of ·1. ·the partnership"? ·2. . . . A. ·I'm sorry, where is that? ·3. . . . Q. ·First full paragraph on page 25. ·4. . . . A. ·Upon the -- no, I've never seen that before or ·5. ·I don't think I recall anyone ever saying that before to ·6. ·me; no</p>	47-48
	<p>·8. . . . Q. ·Mr. Chapman, do you have Exhibit 23 in front ·9. ·of you? 10. . . . A. ·I do. 11. . . . Q. ·Okay.· This is one of the e-mails I referenced 12. ·earlier in which Robert Helms sent to you the limited 13. ·partnership agreement for Vendetta? 14. . . . A. ·Okay.· I see the cover e-mail. 15. . . . Q. ·Okay.· And turning to the attachment, do you 16. ·recall receiving this document? 17. . . . A. ·I do. 18. . . . Q. ·And did you review this document? 19. . . . A. ·I presently do not have a recollection whether 20. ·I did or did not.</p>	51
	<p>·8. . . . A. ·I had no understanding as to the exact or even ·9. ·approximate sharing percentages or ratios as it was</p>	53

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	<p>10· ·explained to me· I only knew that various partners 11· ·would be entitled to share in the profits or losses 12· ·according to how much they had invested in, and 13· ·according to what the assets, the wells, were producing.</p>	
	<p>11· · · · Q· ·Okay· Did you have any understanding at the 12· ·time that Clovis made the investment in Vendetta that 13· ·that was the case, that no interest would accrue on any 14· ·investments made by any partners? 15· · · · A· ·My understanding was only that any return on 16· ·the investment would be driven by the value of the 17· ·assets in the fund as it was explained to me.</p>	58
	<p>10· · · · · We went over this a little bit when we were 11· ·going through the PPM earlier· Was it your 12· ·understanding that Clovis would share proportionately 13· ·with its fellow limited partners in the cost and 14· ·expenses of the partnership? 15· · · · A· ·Yes. 16· · · · Q· ·Okay· And similarly as to revenues in 17· ·Section 4.2, "All revenues in partnership shall be 18· ·allocated and charged to the partners in accordance with 19· ·their respective sharing percentages," was that your 20· ·understanding as well, as to the revenues? 21· · · · A· ·Yes.</p>	60
	<p>11· · · · Q· ·Was it your understanding at the time Clovis 12· ·made its investment in Vendetta that partners could not 13· ·have any ownership in the property owned by the Vendetta 14· ·partnership? 15· · · · A· ·Except as a partner in the partnership; yes.</p>	64
	<p>12· · · · Q· ·Okay· Did you have any understanding as to an 13· ·individual partner's rights in the property of a 14· ·partnership as a whole? ... 4· · · · Q· ·Did you ever achieve an understanding after 5· ·the investments were made? 6· · · · A· ·Yes. 7· · · · Q· ·And when did you achieve that understanding? 8· · · · A· ·I don't recall when. 9· · · · Q· ·And what was that understanding? 10· · · · A· ·That a limited partner did not have a right to 11· ·a proportion or piece of the partnership's assets.</p>	65 ... 66
	<p>20· · · · Q· ·Do you recall receiving a subscription 21· ·agreement from Robert Helms? 22· · · · A· ·Yeah, I believe this one that's in Exhibit 19. 23· · · · Q· ·And did you read this document when you</p>	71-72

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	<p>24. ·received it? 25. . . . A. ·I don't recollect now if I did.</p> <p>·1. . . . Q. ·Did you make yourself familiar with the terms ·2. ·of the investment that Clovis was making into VRP prior ·3. ·to making the investment? ·4. . . . A. ·Yes, yes, to the extent that those terms were ·5. ·represented to me by the parties asking for the ·6. ·investment or promoting the investment. ·7. . . . Q. ·Okay.· The last sentence of the second ·8. ·paragraph on page 1 says, "I understand the price for ·9. ·one unit is \$1 million." 10. Is that in line with your understanding of the 11. ·price of a unit in the investment that Clovis was 12. ·making? 13. . . . A. ·Yes.· I'm not sure from where I had that 14. ·understanding, but that was my understanding at the 15. ·time.</p>	
	<p>23. . . . Q. ·Paragraph 4 says that "I have read and 24. ·understand the memorandum and all documents contained 25. ·therein, specifically including the limited partnership ·1. ·agreement." ·2. When Clovis executed the subscription ·3. ·agreement to invest, did you sign on behalf of Smith ·4. ·Clovis? ·5. . . . A. ·Yes.</p>	72-73
	<p>·2. . . . Q. ·Okay.· Is it your understanding that all ·3. ·limited partners who invested in Vendetta received ·4. ·collateral as security for their capital contribution ·5. ·into the partnership? ·6. . . . A. ·I did not then and do not now know whether ·7. ·other partners did or did not receive collateral.· I ·8. ·only know that it was offered to us, and Phil Gaucher ·9. ·was the first person to mention that it was being 10. ·offered in order to make us feel comfortable with making 11. ·the investment. 12. . . . Q. ·Did you ever ask if any other limited partners 13. ·had received any type of collateral as an inducement to 14. ·invest in the partnership? 15. . . . A. ·I do not recall. 16. . . . Q. ·You do not recall ever asking? 17. . . . A. ·I do not recall ever asking whether I did or 18. ·did not.</p>	76

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	<p>·4· . . . Q· ·This is the side letter agreement that you ·5· ·executed, along with Mr. Helms, and if we could go back ·6· ·to the beginning of it· The letter states that it is an ·7· ·amendment to the limited partnership agreement and ·8· ·subscription agreement. ·9· Do you see that in the first paragraph? 10· . . . A· ·Yes. 11· . . . Q· ·Okay· And when you executed this side letter, 12· ·did you know the requirements for amendment of the 13· ·limited partnership agreement? 14· . . . A· ·I do not recall presently if I knew that. 15· . . . Q· ·Okay· And if we go down to the last sentence 16· ·of page 1, continuing on to page 2, it states, "Finally, 17· ·the rights and remedies set forth herein, unless 18· ·expressly amending any of the above captioned documents, 19· ·are in addition to such rights and remedies available 20· ·under any of the above captioned documents." 21· Was it your understanding that this agreement 22· ·purported to extend the rights and remedies of Clovis 23· ·beyond those given to other limited partners? 24· . . . A· ·This says what it says.</p>	78
	<p>·22· . . . Q· ·Okay· Paragraph 3 states that "CCV shall not 23· ·suffer a loss of principal from the capital contribution 24· ·upon the sale of the portfolio." 25· Do you consider that risky? ... 7· . . . MR. GOFORTH· Okay· I'm asking if it's his ·8· ·opinion that an investment that could not lose ·9· ·principal is a risky investment. 10· . . . THE WITNESS· This investment carried risk, as 11· ·I understood it, because of the assets and the 12· ·structure of the partnership· This investment 13· ·carried risk because there's no guarantee, and 14· ·there was no guarantee, that Vendetta would honor 15· ·this agreement.</p>	80 ... 81
	<p>20· . . . Q· ·Okay· Paragraph 7 states that "CCV shall be 21· ·entitled to receive its pro rata share of the 22· ·September 2012 quarterly distribution." 23· What was the reasoning behind granting that 24· ·quarterly distributions to Clovis for a quarter in which 25· ·it had not invested in Vendetta? ·1· . . . A· ·Okay· This -- the table above it was provided ·2· ·to me by Philip Gaucher· It needs to be read in</p>	83-85

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	<p>·3· ·addition to this Paragraph 7.· And the representations ·4· ·in Paragraph 7 about entitled to receive the ·5· ·September 2012 and December 2012 distributions from the ·6· ·portfolio were also representations that were made by ·7· ·Janniece, according to Philip, about what CCV would be ·8· ·entitled to upon making its investment. ·9· ·Mr. Smith and Mr. Gaucher were very hot to 10· ·want to invest by Vendetta's declared closing date of 11· ·November 29th, 2012, in order to, as they explained to 12· ·me, be early in on this latest investment round, because 13· ·they clearly had discussed it amongst themselves prior 14· ·to bringing it to me. 15· ·I believe that this sentence, "Shall be 16· ·entitled to receive its pro rata share of the 17· ·September 2012 as well as December 2012 quarterly 18· ·distributions from the portfolio," was put in there.· It 19· ·was provided to me by Phil Gaucher and was supposed to 20· ·be some additional incentive supposedly being offered by 21· ·the fund to get money in by November 29th, 2012, 22· ·at 5 p.m. 23· ·Mr. Smith was very excited about that and 24· ·expressed that to Mr. Gaucher and myself because he 25· ·said -- because he was going to get money back</p> <p>·1· ·immediately.· That's my understanding of the background. ·2· ·And the sharing ratio calculations on page 3 ·3· ·above in the table which came from Mr. Gaucher ·4· ·somehow -- and I don't recall how -- figured into that ·5· ·analysis by Mr. Gaucher and Mr. Smith. ·6· · . . . Q.· And you participated in the drafting of this ·7· ·side letter; is that correct? ·8· · . . . A.· Yes.</p>	
	<p>10· . . . Q.· All right, Mr. Chapman.· Back to the side 11· ·letter for a second, which was 108, what was the purpose 12· ·of executing that side letter in regard to the 13· ·investment into Vendetta? 14· . . . A.· That's a very broad question.· I'll endeavor 15· ·to answer it. 16·The option of a side letter was brought to me 17· ·by Phil Gaucher, who told me that it was being offered, 18· ·that is a side letter with a collateralization of some 19· ·portion of the Vendetta assets, as encouragement or 20· ·inducement for the investment. ...</p>	87-88

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	<p>·4· Do you know if the collateralization ·5· ·represented in the side letter was offered initially in ·6· ·regard to a potential investment of Vendetta? ·7· A· ·I know Philip Gaucher brought it to my ·8· ·attention at some point in time· It probably was not in ·9· ·the first conversation when Philip told me the 10· ·investment conversation with Doug or the second 11· ·conversation where Doug and Philip presented the 12· ·opportunity to me, but sometime thereafter I was made 13· ·aware that it was offered by Vendetta.</p>	
	<p>15· Did the side letter add additional terms to 16· ·the transaction that were not within the private 17· ·placement memorandum or limited partnership agreement or 18· ·subscription agreement? 19· MR. HAWKINS:· Objection; vague, calls for a 20· . . . legal conclusion. 21· THE WITNESS:· I don't know· I'll say this -- 22· ·BY MR. GOFORTH: 23· . . . Q· ·What was the purpose of executing the side 24· ·letter if it did not offer broader terms than in the 25· ·offering documents that I just referenced?</p> <p>·1· A· ·The context of this was that Philip Gaucher ·2· ·was pushing very, very, very hard for the investment. ·3· ·He had written a memorandum you have not asked me about ·4· ·extolling its virtues. ·5· Mr. Smith thought the investment was a risky ·6· ·but terrific idea, liked the idea of an immediate ·7· ·return, and was really pushing for the investment as ·8· ·well· I was not· This sounded real risky and I was not ·9· ·a big proponent. 10· I expressed those misgivings to both those 11· ·gentlemen and sometime thereafter I heard from 12· ·Mr. Gaucher that this side letter and collateralization 13· ·construct was being offered again with a push by 14· ·Mr. Gaucher and enthusiasm by Mr. Smith to proceed with 15· ·the investment.</p>	88-89

Taylor		Page No.
	<p>20 A. Yes. The -- commencing with the inception of 21 the receivership, my personnel and federal law 22 enforcement officials spent an enormous amount of time 23 going through mountains of disorganized papers in the 24 Austin offices of the Vendetta entities. 25 At the time this was discovered, none of</p> <p>1 the [relevant] personnel knew anything about the Clovis 2 transaction. Someone, in the course of going through 3 papers on -- I think the office manager's office, found 4 the Clovis documentations. 5 They were not in the regularly kept 6 business records of the property, tracking records, or 7 the title records, any of the usual places you would 8 expect to find a transaction. They were essentially 9 loose and in a pile of papers. At least that's what I 10 was told, and I'm not sure exactly which individual told 11 me that.</p>	26-27

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	<p>12 Q. Do you recall a gentleman named Phil 13 Gaucher? 14 A. There we go. Phil Gaucher, yes. 15 Q. Who is Phil Gaucher? 16 A. He is a business associate in -- he's in 17 New York, and we came to him through Bill Brock, I 18 think -- if I recall. 19 Q. Okay. 20 A. I believe he's in the private equity 21 business, but I can't even be sure anymore exactly 22 what he did. I think he's no longer associated with 23 the company he was when I met him.</p>	130
	<p>6 Q. Okay. So generally, this side letter -- 7 what was the purpose of entering into this side 8 letter? 9 A. My recollection is Clovis couldn't decide 10 whether or not they want to be an investor or a 11 lender, and because of our credit facility with 12 Amegy Bank, we -- it almost feels like a wrap-around 13 mortgage, which, you know, people do, and they're 14 kind of kinky on the outskirts. And we were, in 15 November, anticipating a sale in early 2013, based</p>	134-135

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	<p>16 on, again, our representations of our engineers and 17 some early interest in the portfolio. And they were 18 not sure that if prices collapsed, because they were 19 new to the business, if a sale fell through or if 20 any of a million different things that happened that 21 their partners in the capital, I don't believe it 22 was Mr. Gaucher's or -- what's that attorney's name? 23 What's his name? 24 Q. You tell me. 25 A. The lawyer. I can't remember his name.</p> <p>1 Q. Mr. Chapman? 2 A. Chapman. 3 -- wanted to draft this in such a way 4 that they'd be able to withdraw their cash as if 5 they were a creditor instead of an investor. 6 You know, I sent him the credit 7 facility, all 700 pages of it, and said, here are my 8 limitations, what are you suggesting, and he came up 9 with this structure.</p>	
	<p>10 Q. Did they pay you -- I'm assuming then they 11 gave you funds for the purchase of their limited 12 partnership interests? 13 A. Yes. 14 Q. Did they pay anything extra for the limited 15 partnership interests over and above what other 16 limited partners paid? 17 A. I don't believe so. And it contemplates an 18 additional -- I think they actually put more money 19 in, but I'm not sure. I remember the 1.15 million, 20 which is here in the Exhibit 15. 21 Q. According to this, it doesn't indicate that 22 they paid any extra money for this side letter, does 23 it? 24 A. I don't recall them paying anything above 25 and beyond what a normal investor would pay and</p> <p>1 receive in terms of limited partnership interests. 2 Q. As a general partner, generally, do you 3 believe you have a fiduciary duty to your limited 4 partners to treat the limited partnership 5 property -- to use good faith in how you handle the 6 limited partnership property? 7 A. Yes.</p>	135-136

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	<p>17 Q. Had you and Ms. Kaelin provided guarantees 18 to any other limited partners on their investments 19 they made in the limited partnership interests? 20 A. I don't think we considered this a 21 guarantee, but we offer to -- if the sale of the 22 portfolio did not meet our expectations in terms of 23 the total return to the partnership to be 24 distributed out for everyone's investment, that we 25 felt comfortable enough that we would basically pay</p> <p>1 it from our share of the profit if it came up short. 2 I can't find the language. I'm pretty 3 sure that's what it says, though. 4 Q. On Item No. D, for the letter there's a 5 subparagraph called "Guarantee." 6 A. Yes. Gotcha. 7 Q. Do you see that? 8 A. Yes. 9 Q. And it basically says that VRP, which is 10 Vendetta Royalty Partners, and the general partner 11 jointly and severally guarantee full repayment of 12 the capital contribution to CCV within 30 full 13 calendar days. 14 A. Right. 15 Q. So this was a guarantee by Vendetta Royalty 16 Partners -- excuse me -- Vendetta Royalty Partners, 17 Ltd., and Vendetta Royalty Management? 18 A. Yeah.</p>	137-138
	<p>24 Q. Had you made that same offer to guarantee 25 to any other limited partners prior to this time?</p> <p>1 A. I don't believe we have.</p>	138-139
	<p>13 Q. On Exhibit 16, the -- it appears that you 14 and Mr. Avery are discussing collateral for 15 investment in the limited partnership interest of 16 Vendetta Royalty Partners. Is that a fair 17 assessment? 18 A. Yes. 19 Q. And if I'm reading this properly, what 20 Mr. Avery was suggesting is that you providing 21 additional interests in various property could be a 22 violation of the covenants in your credit facility 23 with Amegy? 24 A. I believe that's what I told him.</p>	145-147

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	<p>25 Q. Okay.</p> <p>1 A. Based on my understanding of the credit 2 facility. That's what his e-mail says, yes.</p> <p>3 Q. And his solution is you would give him this 4 extra collateral and then they would just hold it 5 but not file it. Is that a fair assessment?</p> <p>6 A. That -- that comports with the document. I 7 believe that goes back to my testimony that I think 8 he tried to construct essentially a wrap-around 9 mortgage. It's a bad analogy, but it's the one I 10 keep coming up with.</p> <p>11 Q. But at the end of the day, is that the 12 approach that you took? You gave them the 13 assignment of interest, but they were never filed.</p> <p>14 A. That is my recollection.</p> <p>15 Q. Okay. And the reason they weren't filed is 16 you believe that they -- if they -- these interests 17 were made known, that would be a violation of your 18 credit facility with Amegy.</p> <p>19 A. I thought it could be.</p> <p>20 Q. Okay.</p> <p>21 A. We were allowed to divest a certain 22 percentage of the portfolio without discussion with 23 them. Again, in 2010, we required their consent to 24 dispose of those 30 wells for 1.8 million. In 2012 25 or '13, we disposed of a small unit in Louisiana.</p> <p>1 Because of the size of the divestiture we did not need 2 the bank's consent.</p> <p>3 Q. Okay. Did you get the bank's consent for 4 this transaction with Clovis?</p> <p>5 A. No.</p>	
	<p>19 This seemed to be an unusual transaction, and I'm 20 just curious what you remembered about it.</p> <p>21 You would agree with me this wasn't 22 your typical transaction with limited partners, was 23 it?</p> <p>24 A. Yes.</p>	152
	<p>2 This was not the usual transaction that 3 you would have with a limited partner.</p> <p>4 A. Well, then, I'll clarify my response. The 5 answer is it depends. There are some limited 6 partners that brought us mineral packages that we</p>	153-154

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	<p>7 bought from, that sourced mineral packages that we 8 paid a commission to source the deal from; partners 9 that we invested directly on their behalf in 10 addition to their interest in Vendetta, so the usual 11 transaction with respect to any limited partner is a 12 pretty broad term.</p> <p>13 Q. Does the private replacement memo normally 14 describe the process of what a limited partner is 15 going to be buying and what you're selling in terms 16 of a limited partnership interest?</p> <p>17 A. I'm not sure what your question means.</p> <p>18 Q. Don't all the limited partners who purchase 19 limited partnership interests end up with the same 20 limited partnership shares?</p> <p>21 A. Only if they all buy at the same time and 22 contribute the same amount of capital. For 23 instance, three people in the room put in 100 bucks 24 and we go out and buy minerals, we own one third of 25 it. If Rebecca and I put in \$300 and you come in a</p> <p>1 year later with 100 and my 300 has turned into 600, 2 then you only own one seventh for the same capital 3 contribution a year spaced out.</p>	
	<p>22 And if Rebecca here came in and she was my friend 23 and, same time, same amount of investment, but no 24 commission was paid, she still owned the exact same 25 percentage of a limited partnership as you would...</p>	247

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Respectfully submitted,

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