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A P P E A R A N C E S

FOR THE PLAINTIFFS JOHN A. ABRAMS, PRISCILLA W. ABRAMS,  
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STROUD, TS CAPITAL PARTNERS, TS CAPITAL PARTNERS, LLC,  
TS CAPITAL MANAGEMENT, LLC, TS CAPITAL FUND, L.P., AND  
TS CAPITAL GP, LLC:

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1 THOMAS H. TUBERVILLE,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. WELLS:

5 Q. Good morning, Coach Tuberville. As I  
6 mentioned, my name is Barbara Wells and I am one of the  
7 attorneys for the plaintiffs in this lawsuit.

8 MS. WELLS: For the record, Mr. Hayslip, we  
9 are going to have the usual stipulations but he is going  
10 to read and sign. Is that correct?

11 MR. HAYSLIP: That is correct.

12 Q. (BY MS. WELLS) Okay. Coach Tuberville, have  
13 you -- you realize this morning that you have taken an  
14 oath that is the same -- has the same effect as if you  
15 were taking the witness stand in a court in front of a  
16 jury and testifying there. Do you understand that?

17 A. Yes.

18 Q. Have you given a deposition before?

19 A. No.

20 Q. Okay. I want to just go over with you a little  
21 bit about the process. The point of this deposition is  
22 for me to get the information, the factual information,  
23 that you have in your possession that is relevant to  
24 this case.

25 And also it is very important that if you

**Deposition Transcript Gap from Page 7 to Page 22.**

1           A.   Yes, ma'am.

2           Q.   All right.  I would like to take you through  
3 your employment history since college.  What jobs have  
4 you held?

5           A.   Full-time jobs?

6           Q.   Yes, sir.

7           A.   I was the assistant coach at Hermitage High  
8 School, two years.  Head coach at Hermitage High School  
9 in Arkansas, two years.  A graduate assistant and  
10 volunteer coach at Arkansas State University a couple of  
11 years.  Then one or two years there as a full-time  
12 coach.  I got out of coaching for a year to get a job at  
13 a bigger university, did odd jobs.

14          Q.   What kind of odd jobs?

15          A.   I worked in a restaurant, washed cars, that  
16 kind of thing.

17          Q.   Had you played football yourself?

18          A.   Yes.  Yes, high school and college.

19          Q.   And what position?

20          A.   I wasn't very good.  Free safety.  A  
21 quarterback in high school and free safety in college.

22          Q.   So when did you realize you were interested in  
23 coaching?

24          A.   I would say my -- I tell people this.  In my  
25 last year in college I was trying to figure out what I

1 wanted to do. And athletics is all I really knew and  
2 wanted to do. And I felt like, you know, it wasn't time  
3 for me to give up sports. And the only way you don't  
4 give it up -- obviously you can't play -- I wasn't good  
5 enough to play in the NFL, so I got into coaching, you  
6 know, because of that, just to kind of stay around kids  
7 and be around sports. That is the reason I chose that.

8 Q. So what was your first -- what was your next  
9 job after you did the odd jobs for a year?

10 A. I went as a graduate assistant at the  
11 University of Miami. I don't know how many years. Two  
12 or three years there doing that. And then I was hired  
13 as a full-time coach sometime around '88 and worked  
14 there for -- until -- through '93 as a coach there.  
15 Then I took a new job at Texas A&M University in '94 for  
16 about 11 months.

17 Q. Were you a position coach?

18 A. Yes, defensive coordinator.

19 Q. I didn't mean to demote you.

20 A. No, I am --

21 Q. That is the whole defense?

22 A. Yeah. I am still working my way up. But I was  
23 the same thing at Miami. It was kind of a lateral move.  
24 Let's see. A&M, '94. Then the next year I was hired at  
25 the University of Mississippi in 1994, somewhere in '94.



1 And I was head coach there in '95, '96, '97 and '98.  
2 I resigned there and took a job at Auburn University,  
3 which the first season was 1999. I was head coach there  
4 until -- I can't remember. I think my last season was  
5 '08 or '07. I can't remember that.

6 Q. I think it was '08.

7 A. '08. Okay. In '08, I finished and resigned  
8 there. Then I worked for ESPN and ESPNU the next year.  
9 And then somewhere around January of the next year,  
10 after being out for a year and a month I think it was,  
11 I took the job at Texas Tech.

12 Q. Was there something about your contract with  
13 Auburn that made you need to sit out a year?

14 A. No. No. The -- normally --

15 MR. HAYSLIP: You answered.

16 THE WITNESS: Pardon?

17 MR. HAYSLIP: You answered.

18 Q. (BY MS. WELLS) You can go ahead and explain  
19 your answer. I am happy to learn why.

20 A. Well, what happened is in coaching when you --  
21 when you finish, normally you change jobs in December.  
22 I did change jobs, but I wasn't -- you know, in  
23 December. And the next year there wasn't a lot of job  
24 openings, so I was just kind of sitting around and --  
25 Texas Tech came open real late, sometime in mid January,

1 so that is when I took that job.

2 Q. And you have been the head coach then at  
3 Texas Tech until sometime --

4 A. Last week.

5 Q. And you now have accepted a position with  
6 Cincinnati?

7 A. The University of Cincinnati.

8 Q. When you were at Ole Miss, did anybody ever  
9 call you the Riverboat Gambler?

10 A. Tim Brandon (sic).

11 Q. Okay.

12 A. He nicknamed me that.

13 Q. And do you know why he nicknamed you that?

14 A. Yes. I had had to take a lot of chances at  
15 Ole Miss back when I was coaching. We weren't very  
16 good. And I had told the players every game we went  
17 into we were going to take a lot of chances to give  
18 ourselves a chance to win.

19 And one game against the University of  
20 Georgia, I went for fourth downs a lot, faked some punts  
21 and field goals. And he was working the game and he  
22 pretty much said, "I have never seen a guy gamble like  
23 this". And so he nicknamed me the Mississippi Riverboat  
24 Gambler.

25 Q. Did you win?

1 A. Yes. Yeah, we did.

2 Q. So the risks paid off?

3 A. It did.

4 Q. There is a quote attributed to you about a  
5 couple of days before you left Ole Miss for Auburn where  
6 you the quote attributed to you is "They will have to  
7 carry me out of here in a pine box", in reference to not  
8 leaving Ole Miss to coach for another school. Did you  
9 make that statement, or something to that effect?

10 A. I can't remember that.

11 Q. Do you feel like you were honest about your  
12 stated intentions to remain with Ole Miss toward the end  
13 of 1998?

14 A. Yeah, uh-huh.

15 Q. What made you resign from your position as head  
16 coach at Auburn?

17 A. From Auburn?

18 Q. Uh-huh.

19 A. There was a lot of things. You know, it was  
20 just -- I don't know how you put it without getting into  
21 the technical terms of -- it was time to go, you know.  
22 There was enough people around that I felt like I wasn't  
23 getting the support from the administration and things  
24 weren't getting any better, and so I didn't want to pull  
25 the program down. And it was definitely not going the

1 way it should go because of not getting support from  
2 behind the scenes.

3 Q. Was it just the 2008 season that was not going  
4 the way it should have gone?

5 A. No. No. They had tried to fire me behind the  
6 scenes in 2003 and they got caught and the president and  
7 the athletic director got fired. And relations were  
8 pretty good for a few years, but they weren't what they  
9 should be and I knew it was a matter of time. But we  
10 did as good as we could. And then I -- I didn't want  
11 to -- I didn't want the program to falter, you know. I  
12 felt like it was time to make a move.

13 Q. And at that point you had a year left on your  
14 contract, or how long did you have left on your  
15 contract?

16 A. No, I think it was like two or three years. I  
17 can't remember the exact number of years. But it was  
18 more than -- more than one. It was two to three years.

19 Q. Did anyone from the administration try and talk  
20 you out of leaving?

21 A. Yes.

22 Q. But they didn't change your mind?

23 A. No.

24 Q. Even though you didn't have another job lined  
25 up to coach?

**Deposition Transcript Gap from Page 29 to Page 30.**

1 A. Uh-huh.

2 Q. And you just weren't getting any cooperation  
3 from the administration?

4 A. Yeah.

5 Q. Did you feel like there was someone in  
6 particular that wanted you gone?

7 A. I don't think you ever can pinpoint it. I had  
8 my -- I had my thoughts.

9 Q. Was it a louder problem (sic)?

10 A. Well, I don't think it is necessary that we  
11 need to bring up names, because I have never thrown  
12 anybody underneath the bus since I left.

13 Q. I know.

14 A. I think they have --

15 Q. You have been very circumspect in your public  
16 comments about it.

17 A. I think they deserved a -- you know, and they  
18 have done well since I left, other than last year. And  
19 they have improved everything. But there was obviously  
20 some lack of support from some of the people that made  
21 decisions.

22 Q. Had you ever experienced anything like that  
23 before in your coaching career?

24 A. No, not really. No.

25 Q. While you were working for Auburn University,

1 did they provide you with any insurance as a benefit of  
2 your employment, health insurance?

3 A. Yes, BlueCross/BlueShield.

4 Q. And what did that cover? Was it vision,  
5 dental, health, some subset of --

6 A. You could take all of it. But I think we just  
7 took the health, we didn't take the dental because it  
8 didn't really do any --

9 Q. And how long were you continued on that  
10 coverage?

11 MR. HAYSLIP: You mean after he left?

12 MS. WELLS: Yes.

13 A. Yeah. For the -- for the entire next year.  
14 Then when I left, the president wanted me to be a  
15 special adviser to him, so I stayed on contract for  
16 another year.

17 Q. (BY MS. WELLS) And they retained your health  
18 insurance?

19 A. Yes. Yeah. Health insurance, phone. I had a  
20 vehicle.

21 Q. What was the vehicle?

22 A. It was a truck. I mean, they just give you a  
23 donor (sic) -- I mean a -- they call it a -- what did  
24 they call it? It is just a vehicle that you use. Now,  
25 I had one and my wife had one for 10 years. You know,

1 that is in your contract. Like my new contract in  
2 Cincinnati, I have just got one. But that is normal in  
3 all coaches' contracts.

4 But I continued to drive a truck, I forget  
5 where it was from, for a short period of time. I  
6 didn't -- that was not in the contract. That was just  
7 kind of a -- you didn't have anything to drive, well --  
8 you know, the dealer said just -- until you get a car,  
9 we will let you drive one, drive this truck.

10 Q. So --

11 A. That lasted one year.

12 Q. Sorry. Okay. So is that all of 2009 that you  
13 had that vehicle?

14 A. Yes. No, I didn't have it the whole year. I  
15 just had it part of the year.

16 Q. Part of the year --

17 A. Because that was not included in my arrangement  
18 to work for the president.

19 Q. Right.

20 A. My arrangement was \$250,000. That was from  
21 my -- and the health insurance.

22 Q. For all of 2009?

23 A. Yes. The following year after I resigned.

24 Q. Which was -- you resigned in '08?

25 A. Yes. '08, all the way around to the next year.



1 Q. Okay. And do you recall when you gave the  
2 truck back, if it wasn't all of 2009?

3 A. No, I don't. Again, that was not -- that was  
4 not a deal -- it was just the guy giving me an  
5 opportunity to use it.

6 Q. Did they give you any buyout -- did Auburn give  
7 you any buyout other than the \$250,000 to be a special  
8 adviser to the president?

9 A. No. I had to -- I worked out a buyout.

10 Q. Of your remaining contract?

11 A. Yes. And I don't remember how much that was.  
12 That is what you do when you resign or quit or get  
13 fired, you work out a buyout. Now, that \$250,000 was  
14 part of that.

15 Q. I see. But there was more than that as well?

16 A. Yes.

17 Q. But you don't recall the amount?

18 A. I don't know how much it was.

19 Q. Do you have any documents that would be able to  
20 refresh your recollection about that?

21 A. Oh, I am sure I do. My tax records.

22 Q. Who prepares your taxes? Is it the same --  
23 well, let me give you a time stamp so that it is an  
24 understandable question.

25 In 2008 and 2009, did someone prepare your

**Deposition Transcript Gap from Page 35 to Page 67.**

1 Q. Okay.

2 A. -- you know, to get money back.

3 Q. When did you learn that that investment had  
4 gone south?

5 A. Dates again? Oh, I can't give --

6 Q. "I don't recall" is a fine answer if you don't  
7 remember.

8 A. Yeah, I don't -- I don't recall the date.

9 Q. Okay. That is fine. Do you remember when you  
10 first invested in that company or entity?

11 A. 2009 in the -- I would say around the spring of  
12 2009.

13 Q. You know, I forgot to ask you this. When you  
14 were working in 2009 as a special advisor to the  
15 president of Auburn University, did you have office  
16 space on campus still?

17 A. No.

18 Q. No? When did you have to move out of your  
19 office space on campus?

20 A. Immediately.

21 Q. At the end of '08 then?

22 A. Yeah.

23 Q. And what did you do --

24 A. I left upon resigning. Yeah.

25 Q. Sorry. What did you do with the things that

**Deposition Transcript Gap from Page 69 to Page 72.**

1 there is any other places or people.

2 MS. WELLS: Thank you for the  
3 clarification.

4 A. No.

5 Q. (BY MS. WELLS) Okay. When did you first meet  
6 John David Stroud?

7 A. December of 2008.

8 Q. Okay. And where did you meet him?

9 A. New York City, the Waldorf Astoria.

10 Q. And what were you in New York City for?

11 A. College Football Hall of Fame banquet.

12 Q. Was that why Mr. Stroud was there; do you know?

13 A. No.

14 Q. Okay. Who introduced you?

15 A. Jerry Smith. He was a fundraiser for Tigers  
16 Unlimited, Auburn University, and Kay Hargrave, who was  
17 a fundraiser.

18 Q. Kay Hargrave?

19 A. Hargrave, uh-huh.

20 Q. And what is Tigers Unlimited?

21 A. That is a fundraising --

22 Q. Like a booster?

23 A. No, it is their foundation, athletic  
24 foundation. They raise money.

25 Q. Okay. Specifically for athletics as opposed to

1 the university?

2 A. Right. Kay is the director and Jerry is a  
3 consultant.

4 Q. And what, if anything, did they tell you about  
5 Mr. Stroud?

6 A. They asked me if -- we were in a restaurant  
7 area and they saw me sitting there. Now, this was a  
8 couple of weeks after I had resigned. And they said  
9 they had a potential donor to their foundation they  
10 would like for me to meet.

11 And they brought David Stroud over and said  
12 that he was -- I don't know whether he had given five  
13 million or had pledged five million to their Talon  
14 Society. Talon Society is a group of people -- it is  
15 the big -- big donors.

16 Q. T-a-l-o-n-s?

17 A. T-a-l-o-n, Talon.

18 Q. Like claws of a bird?

19 A. Yeah.

20 Q. Like a War Eagle?

21 A. Yeah, that is like the big guys.

22 Q. I got it.

23 A. And so I guess they were interviewing him or  
24 thanking him for giving the money or interviewing (sic)  
25 him for money. And that is when I first met him.

1 Q. And so they wanted your help with that?

2 A. They just wanted to introduce -- you know, here  
3 is the head coach, you know, of -- former head coach of  
4 Auburn. And he sat there and talked to us for 15, 20  
5 minutes. But they were going to eat dinner.

6 Q. And was there somebody else with you?

7 A. Bill Scott.

8 Q. Okay. And that is a friend of yours from  
9 Auburn?

10 A. A friend of mine from Auburn. Jimmy Johnson, I  
11 think, was there talking, and Terry Bradshaw. Some of  
12 those -- you know, all the football guys go to that and  
13 it is kind of like a --

14 Q. A star-studded sports --

15 A. A who's who, yeah.

16 Q. Do you remember anything about that  
17 conversation with Stroud that day?

18 A. You know, we sat and talked for, I would say,  
19 15 to 30 minutes. And he invited Bill and I, you know,  
20 to show us around the financial district the next day,  
21 if we wanted to go. And we said sure, we will go. He  
22 said, "I will send a car for you." And then they went  
23 off to eat.

24 Q. Did he give you a business card?

25 A. I can't remember.

1 Q. Did you give him one?

2 A. No.

3 Q. And what happened the next day then?

4 A. He sent a car to pick Bill and I up sometime in  
5 the morning. The wives go out and shop and we would  
6 rather do that than go shop.

7 So we went to somewhere in the financial  
8 district to an office complex, where he took us up and  
9 showed us his office in one of the buildings next to  
10 Ground Zero and told us that he just moved there, to  
11 that office building, from resigning Lehman Brothers.

12 Q. Uh-huh.

13 A. And he kind of explained --

14 Q. Was this before the collapse of Lehman or  
15 after; do you know?

16 A. This was after. Because I can remember him  
17 talking about, you know, "I got out just in time." He  
18 sold his business or moved his business, something to  
19 that effect.

20 Q. And what do you remember about what his office  
21 space looked like?

22 A. Very -- it wasn't an office. It was more  
23 cubicles, a bunch of cubicles hooked together on the --  
24 pretty high up, because you could -- I think you could  
25 see the Statue of Liberty there, if I remember. I



1 remember the height, out the window.

2 Q. Do you remember if he gave you a business card  
3 at all that day?

4 A. No.

5 Q. Was there anything discussed about investing  
6 with him that day?

7 A. No.

8 Q. All right. When was the next time you  
9 encountered Mr. Stroud?

10 A. The next encounter after that day?

11 Q. Uh-huh. Was there anything else you remember  
12 about that day? Did he show you anything else that you  
13 remember besides his cubicle firm?

14 A. Yeah. We left there and went to the -- I think  
15 they call it the IMAX (sic), where they trade orange  
16 juice and -- you know, it is like you see on Trading  
17 Places --

18 Q. On the commodities trading floor?

19 A. -- where they are screaming and hollering.

20 Q. That is it?

21 A. Yeah. And we went down there. You know, I  
22 knew more people than he did, because they knew me as an  
23 SEC coach, you know, and -- a lot of Florida people and  
24 Alabama people.

25 Q. Yeah.

1           A. And I signed autographs, took pictures. That  
2 is the reason I remember going in there.

3           Q. Did he say he traded in commodities?

4           A. I can't remember what he said at that time. He  
5 did something (sic). I didn't know what Lehman Brothers  
6 was. You know, I just knew it was some kind of  
7 financial --

8           Q. Right.

9           A. And that is what he had been doing. So I  
10 didn't -- I didn't know at that time what he was doing  
11 because he had just changed jobs.

12          Q. Right.

13          A. But he was -- he showed us that office, but  
14 there wasn't anybody around or -- it was kind of empty,  
15 you know, that floor. But he did have credentials to  
16 get there, because you had to have security passes.

17          Q. To get in?

18          A. Of course, you have got to have a security pass  
19 to get in the IMAX (sic). And we had to have -- we had  
20 to go through identification and stuff to get on the  
21 floor. You can imagine.

22          Q. Yeah. Did y'all go anywhere else together that  
23 day?

24          A. I can't remember that. I think that was pretty  
25 much -- that took a pretty good while to do.

1 Q. Okay.

2 A. Because in the afternoons we are pretty busy at  
3 the Hall of Fame.

4 Q. Did you see him anymore in New York on that  
5 trip?

6 A. I can't remember if we did or not the rest of  
7 that trip.

8 Q. Did there come a time when you would encounter  
9 him again somewhere else, either in New York or in  
10 Auburn?

11 A. Well, at that time he told us that he also had  
12 an office in Auburn and that he was working a few days a  
13 week in New York at that office and a few days a week in  
14 Auburn.

15 Q. Okay. So how did you next come in contact with  
16 him?

17 A. He either called us or invited us to come over.  
18 And I don't know whether Bill and I both went at the  
19 same time to his office.

20 Q. His office in Auburn?

21 A. In Auburn. You know, we went home two days  
22 later. And I don't know whether we both went by at the  
23 same time or I went by or he went by. I can't remember  
24 that. We went by to see his office. He -- it was  
25 Stroud Capital.

1 Q. Were there signs on the building?

2 A. No. That is just what he called it.

3 Q. Oh, he called it that?

4 A. Yeah.

5 Q. Okay. And how close in time was this to the  
6 Hall of Fame?

7 A. It might have been two or three days. It might  
8 have been a week. I can't remember that far back.

9 Q. Did he make a pitch for you to invest money  
10 with Stroud Capital at that time?

11 A. No. He was just kind of showing us what he  
12 does. And it was a very small office building, probably  
13 a mile from Bill's house and a mile from my house. He  
14 had nobody working there.

15 Q. Just him?

16 A. Just him in a back room with all kinds of  
17 computer screens, televisions. And he pulled up things  
18 that -- he kind of showed us what he did, how he traded.

19 Q. Do you remember anything about what he said he  
20 was trading?

21 A. No. He said he had a -- he had a large fund  
22 that he traded every day.

23 Q. Did he say how large?

24 A. I can't remember. At that time he said it was  
25 very significant.

1 Q. Did he say whose funds that he was trading; his  
2 own, somebody else's?

3 A. No.

4 Q. Did you have any sense of that?

5 A. He had -- he said that he had brought some of  
6 his customers from Lehman over --

7 Q. Okay.

8 A. -- when he sold his business there and they  
9 transferred money there. And so I assume that is what  
10 he was doing for a living, he was trading -- trading at  
11 that time. Because he showed us -- and I didn't -- I  
12 mean, I didn't understand what he was doing. But he  
13 just kind of showed us things on the computer of how he  
14 bought, how he sold.

15 Q. Okay. Did there come a point in time when you  
16 gave him some money to invest?

17 A. Yeah, but that was -- that wasn't that time.

18 Q. Okay. How much longer was it?

19 A. Well, I can't remember when we did it. It was  
20 sometime in the spring.

21 Q. Okay. In between --

22 A. There should be documentation on that.

23 Q. We will get to that. I do have a document.

24 A. Yeah.

25 Q. In between the time that you first went to his

1 office in Auburn and the time when you actually decided  
2 to give him some money, how frequently did you have  
3 contact with him in between?

4 A. Oh, I played a lot of golf, so I might have  
5 gone by there once a week. Or we might have met for  
6 lunch. You know, we started -- Bill and I and him and  
7 some other friends of ours would eat lunch at a barbecue  
8 place or Italian food. We would just call up and say  
9 meet here, meet there. So he kind of became a friend of  
10 our group, you know.

11 Q. Did he play golf, too?

12 A. No. No, he did not play golf.

13 Q. Was he personal, fun to be around?

14 A. Yeah. Yeah, a good personality. I remember he  
15 was a Marine. He showed us the stuff on his wall. He  
16 was a Marine. He had been to the Gulf War. Some of our  
17 buddies in our group had also been Marines and they kind  
18 of fit in with him pretty good. He is a big guy, you  
19 know. He talked about, you know, going to -- I don't  
20 know whether it was the Gulf War or Iraq or wherever,  
21 but he said he had served overseas.

22 Q. Who else was in this group that you said he  
23 started palling around with? You and Bill Scott and who  
24 else?

25 A. Bill Scott. Doug Cannon, a contractor there in

1 Auburn. Mike Rabren, a contractor in Auburn.

2 Q. Rayburn (sic)?

3 A. Rabren, yeah.

4 Q. Anybody else?

5 A. That was pretty much the group that ate lunch  
6 and kind of got together once or twice a week.

7 Q. Did you ever have him over to your house or go  
8 to his house?

9 A. Oh, yeah. I never went to his house, but he  
10 came over to my house. We --

11 Q. Before you invested with him?

12 A. Oh, yeah.

13 Q. Okay. Go ahead. How many times?

14 A. I don't know. I mean, he would just show up  
15 sometimes. He would bring his kids over. He had two  
16 little boys. They played around the house, played with  
17 the dogs. I had a little basketball court inside that  
18 they played on. We had a pool. They would come over  
19 there.

20 Q. Were his kids younger than your kids?

21 A. Oh, yeah, very young. Very young. I don't  
22 think -- not even school age.

23 Q. When did he first solicit an investment from  
24 you?

25 A. I can't -- I can't tell you. I would say

1 anywhere in the spring or summer of 2009.

2 Q. How much time was there in between when he  
3 solicited it and when you gave the money?

4 A. I can't remember that.

5 Q. Okay.

6 A. He just talked about, you know, showing us what  
7 was going on and what he did. We went on vacation -- he  
8 went on vacation with us once, with all of our group.

9 Q. Where did y'all go?

10 A. We went to Jamaica. And that is where he got  
11 to know most everybody. You know, his wife got to know  
12 the wives.

13 Q. Did you do anything to check out his background  
14 before making an investment with him or give him money?

15 A. No. I just -- you know, I figured Tigers  
16 Unlimited did their background work. And then, of  
17 course, I went down and watched him trade, where it went  
18 up and down. But, no, I just got to know him more as a  
19 friend, a guy hanging around, going out with us.

20 Q. Did you Google him on the Internet?

21 A. No.

22 Q. Did you ever access any of his social media  
23 pages, like LinkedIn or Facebook?

24 A. No.

25 Q. Did you contact any of the companies that he



1 had previously worked for?

2 A. No.

3 Q. Did you check for any lawsuits against him?

4 A. No.

5 Q. Did you look for any arbitration awards against  
6 him?

7 A. No.

8 Q. Did you ask anyone about his reputation or  
9 character?

10 A. No, just what I found out on my own in terms of  
11 being around him.

12 Q. Just from being around him?

13 A. Right.

14 Q. Did anyone ever tell you that you may not want  
15 to do business with him?

16 A. Not that I remember.

17 Q. No one from Troy said something to you about  
18 using caution with respect to Mr. Stroud?

19 A. You know, I remember somebody from Troy that  
20 was a friend of his that had talked to somebody. I  
21 don't know whether that -- that wasn't before I had  
22 invested, though.

23 Q. After you invested somebody said something?

24 A. I just vaguely remember somebody that -- it  
25 might have been through Bill Scott that talked to

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1 know, I had been around him for a while. You know, as a  
2 friend for a few months.

3 Q. Okay.

4 A. A couple more questions, then I am going to  
5 have to go to the restroom again.

6 Q. Huh?

7 A. I will have to go to the restroom. I have been  
8 drinking too much water.

9 Q. Would you like to take a break?

10 A. No, go ahead.

11 MR. HAYSLIP: If we go too much more, I am  
12 going to have to do something.

13 MS. WELLS: All right. What are we up to,  
14 4?

15 THE REPORTER: 4 is the next exhibit.

16 MS. WELLS: And I have given you the wrong  
17 one. All right. We will just go ahead and do this one.  
18 It is out of order, but --

19 MR. RUTHERFORD: What exhibit number?

20 MS. WELLS: 4.

21 MR. RUTHERFORD: Okay.

22 (Exhibit 4 marked.)

23 Q. (BY MS. WELLS) July 22nd of 2010, did you  
24 initiate a wire transfer from Plains Capital Bank in the  
25 amount of \$200,000 to TS Capital Partners, L.L.C.?

1 A. Yes.

2 Q. And this is a document that your attorneys  
3 produced in this litigation. Is this the documentation  
4 of that transfer?

5 A. Yes.

6 Q. Okay. Was that the first money you had given  
7 Stroud?

8 A. No.

9 Q. Sorry. I got them out of order.

10 A. Do you want this back?

11 Q. No.

12 (Exhibit 5 marked.)

13 Q. (BY MS. WELLS) This is Exhibit 5. Have you  
14 seen this document before, Coach Tuberville?

15 A. It has got my name on it, but I don't remember  
16 seeing it.

17 Q. Is that your signature, as best you can tell?

18 A. Yes, uh-huh.

19 Q. Okay.

20 A. That is Chic Lineberry. That is the --

21 Q. That is the Merrill Lynch guy you --

22 A. That is how you spell his name.

23 Q. L-i-n-e-b-e-r-r-y, right?

24 A. Uh-huh.

25 Q. And Chic is C-h-i-c?

1 A. Uh-huh.

2 Q. And what are you directing him to do here?

3 A. To send money to Stroud Capital Fund for an  
4 investment.

5 Q. Okay. And what was the amount of the  
6 investment?

7 A. 250,000.

8 Q. And what was the date of this instruction?

9 A. June 29th.

10 Q. Of?

11 A. 2009.

12 Q. Okay. Was this the first time you had put  
13 money with David Stroud?

14 A. Yes.

15 Q. Now, when you transferred this sum to David  
16 Stroud, what did you expect David to do with it?

17 A. That he and I would both put \$250,000 in a side  
18 account from Stroud Capital and that he would trade his  
19 money and my money separately from everybody else. He  
20 wouldn't charge me a, what do you call it, a commission.

21 Q. Okay. And what was the goal of that joint  
22 investment with him in the side account?

23 A. To make money.

24 Q. Okay. Did he tell you anything about what he  
25 was going to call the side account?

1 A. No.

2 Q. Going back to Number 4. By the time that you  
3 transferred this sum in July of 2010, did you understand  
4 that there was now a legal entity, TS Capital Partners,  
5 that David was operating?

6 A. TS Capital Partners, L.L.C., right.

7 Q. So you understood that there was now an entity  
8 that he was operating for your investments?

9 A. Right, uh-huh.

10 Q. And by this point, you knew there were other  
11 investors in that pool, right?

12 A. No.

13 MR. HAYSLIP: Object to form.

14 A. I did not know that. I didn't -- I knew Bill  
15 Scott had invested. I didn't know whether his money  
16 went in that pool or not. I did not.

17 Q. (BY MS. WELLS) Okay. So you weren't sure  
18 where Bill Scott's money had gone?

19 A. No.

20 Q. You just knew he had given some to Stroud?

21 A. That is correct.

22 Q. Would you like to take that break now?

23 A. Yeah, we might as well.

24 (Break taken from 10:51 a.m. to 10:58 a.m.)

25 Q. (BY MS. WELLS) When was the first time you can

1 remember hearing the name TS Capital?

2 A. I can't remember the time but -- or the date,  
3 but it was -- it was sometime after I put my money in.

4 Q. Sometime after June of '09? '

5 A. Right, sometime after June of '09. We --

6 MR. HAYSLIP: You answered, unless you have  
7 got a date for her.

8 THE WITNESS: No, I don't have a date, an  
9 exact date.

10 Q. (BY MS. WELLS) Okay. Do you remember a  
11 reporter, Charles Goldberg, coming to interview you in  
12 July of '09?

13 A. I do. I don't know whether Charles came. I  
14 know that there was a photographer. But I did interview  
15 with Charles. It might have been on the phone. I don't  
16 know whether he came.

17 Q. Okay. Tell me what you remember about how that  
18 got initiated.

19 A. He just called. Because he was --

20 Q. He, Charles?

21 A. Charles was a beat reporter for the Birmingham  
22 News for Auburn. In 10 years, I got to know him well.

23 Q. Yeah.

24 A. Friends. He just wanted to do a follow-up of,  
25 you know, life after football. That is all it was.

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1 A. What does that mean? Was it around the --

2 Q. Was there a big time delay between when the  
3 picture was taken and when the story ran?

4 A. I can't remember. You know, they don't do  
5 things and put it off too long in our business.

6 Q. Okay.

7 A. It is old news.

8 Q. Okay. Did you see this newspaper article,  
9 either on-line or take the Birmingham News, that day?

10 A. I don't read newspapers for a lot of reasons.  
11 But I can remember somebody showing me a picture. I  
12 can't remember if I read the article or not.

13 Q. Okay. Have you read the article at any point  
14 since then?

15 A. Yes.

16 Q. All right. And there are two other photographs  
17 that accompanied the article, at least in the on-line  
18 version, at al.com?

19 A. Uh-huh.

20 Q. Do you see those?

21 A. Yes.

22 Q. And is that you on that same day that the first  
23 picture was made?

24 A. Yeah, that is myself.

25 Q. And in the second picture, who is that with

1 you?

2 A. David Stroud.

3 Q. All right. And it looks like you have got some  
4 screens --

5 A. Yeah. That is his office.

6 Q. That is his office?

7 A. Uh-huh.

8 Q. And by this time, had you moved some of your  
9 personal effects and memorabilia to David's office?

10 A. I think there is some in this picture here.  
11 The Bear Bryant Coach of the Year Award and a picture  
12 going to Iraq, uh-huh.

13 Q. Uh-huh. So do you recall about when you moved  
14 stuff into David's office?

15 A. It was pretty much around that time, I would  
16 say.

17 Q. Sometime in July of '09?

18 A. June or July.

19 Q. How did that come about?

20 A. He was at the house one day and said that -- I  
21 had most of this in a garage.

22 Q. Okay.

23 A. And he said why don't you move -- he said,  
24 "That stuff is too valuable to leave here. You can  
25 store some in my office, if you would like." So we took

1 probably eight or nine things over there and put in the  
2 office to get off the floor of the garage and get out of  
3 my wife's way.

4 Q. Did you have an office space at his office that  
5 was identified as yours?

6 A. Well, the second -- the third picture --

7 Q. Yes, sir.

8 A. -- was an office that was -- just had a desk.

9 Q. Uh-huh.

10 A. It didn't have anything in there other than a  
11 phone. And I would use them occasionally, maybe once a  
12 week.

13 Q. That space?

14 A. That space.

15 Q. That phone also?

16 A. Well, I would sit there. I don't know whether  
17 I ever talked on the phone, but --

18 Q. Okay.

19 A. But I would sit there and do background work  
20 for ESPN. I couldn't do it at the house.

21 Q. Too noisy?

22 A. Yeah. My wife wanted me out of the house, so  
23 I moved.

24 Q. Okay. Is there anything in this newspaper  
25 account that you don't remember saying that is

**Deposition Transcript Gap from Page 96 to Page 97.**

1 is pronounced the way it is.

2 THE REPORTER: Thank you.

3 Q. (BY MS. WELLS) Do you see underneath the  
4 picture of you and David --

5 A. Uh-huh.

6 Q. -- where it says that you are the T, in  
7 TS Capital or T&S Capital Partners, for Tommy?

8 A. Uh-huh.

9 Q. Do you see that?

10 A. Yes.

11 Q. Is that something you had heard said ever at  
12 that time period?

13 A. I would imagine he would have guessed that.

14 Q. Whether he guessed or not, is that something  
15 you heard David Stroud or yourself ever say during that  
16 time period?

17 A. Possibly.

18 Q. Did you say anything about being around to drum  
19 up business?

20 A. No. No.

21 Q. Was there a discussion of the fact that what  
22 was being operated was a hedge fund?

23 A. Well, I think he pretty much figured that out,  
24 given a tour by David when he came into the building, if  
25 he did. Now, again, I don't know if he did or not.

1 Q. Did you have a TV in your own office that was  
2 tuned to Bloomberg Business Television?

3 A. Yeah, there was a TV in -- well, I don't know  
4 whether it was turned to Bloomberg. But it was turned  
5 on at times. I don't know whether he had cable or not.  
6 I don't know whether -- whether the channel would  
7 change, but I never looked at that.

8 Q. Do you remember joking that they had made a  
9 shrine out of the office with your memorabilia?

10 A. I don't remember that, no.

11 Q. Does that sound like something you might have  
12 said?

13 A. Well, it looked like one. I mean, you could  
14 pretty much have guessed it by looking at the picture,  
15 you know.

16 Q. Is that the kind of language you would use,  
17 though, to describe it?

18 A. A shrine? It doesn't sound like me, no.

19 Q. Do you remember saying something about getting  
20 \$5.1 million as part of your buyout?

21 A. No. No, that is all public. I am sure he knew  
22 that from public record.

23 Q. Okay.

24 A. I didn't talk about that. Of course, you can  
25 say 5.1. After taxes, it is a heck of a lot lower than

1 that.

2 Q. Do you see where you have discussed, or at  
3 least he is reporting that you discussed, your ESPN  
4 work?

5 A. Right.

6 Q. Offering commentary?

7 A. I think that was all public knowledge by then.

8 Q. You don't remember discussing it with him?

9 A. I don't remember talking about it.

10 Q. Okay.

11 A. But he also could have gotten that from public  
12 knowledge that I had decided to work for ESPN.

13 Q. Do you remember talking about going to your  
14 kids' track meets, basketball games, football practice?

15 A. I remember talking to him before that about it.  
16 I don't know whether I did at that time.

17 Q. Okay.

18 A. But they knew that I was going to be pretty  
19 busy with two young kids, chasing them around. And they  
20 knew their names because Tucker and Troy were around the  
21 office all the time.

22 Q. Uh-huh. Is the part about you taking up yoga  
23 true?

24 A. That is true. I would recommend it.

25 Q. Good stuff?

1                   MR. HAYSLIP: My wife is trying to talk me  
2 into it right now.

3           Q. (BY MS. WELLS) So what about this article do  
4 you have -- take issue with, if anything?

5           A. Well, there is a lot of guessing going on. A  
6 guru, you know, obviously -- where did it say I was a  
7 guru of -- where does it say that?

8           Q. And "gentleman amateur stock guru"?

9           A. Yeah. I mean, he is just kind of making fun,  
10 knowing I didn't -- I didn't have a clue what I was  
11 talking about when it came to stocks.

12          Q. But he fairly attributes to you later on, turn  
13 the page, he says -- he has a quote here that says, "I'm  
14 not smart enough to understand all the numbers"?

15          A. No, that is -- that is -- and still don't.

16          Q. So he is not trying to pass you off as the  
17 decision maker, is he?

18                   MR. HAYSLIP: Object to the form. Do you  
19 know what he is trying to do?

20          A. No. He is just trying to speculate on what I  
21 have been doing during my few months off.

22          Q. (BY MS. WELLS) Was it fun hanging out around  
23 the office while Stroud was investing?

24          A. I wasn't there that much to have fun. If I was  
25 there, I would -- I was working. I wasn't around David



1 much.

2 Q. Okay. How do you think that Mr. Goldberg got  
3 the name TS Capital Partners or T&S Partners, as he puts  
4 in the article?

5 A. He could have heard that from David or me.

6 Q. Okay. Because there was a partnership between  
7 you and David at that point called TS Capital Partners?

8 MR. HAYSLIP: Object to the form. It calls  
9 for a legal conclusion.

10 A. Yes. TS Capital Partners, L.L.C., yeah.

11 Q. (BY MS. WELLS) Okay.

12 A. He was obviously -- I didn't know when we had  
13 officially started that. But it was obviously before  
14 this, or around that time.

15 Q. Is there anything in this article that, if you  
16 had read it at the time, you would have felt compelled  
17 to try and get it corrected because it misstates the  
18 truth?

19 A. Oh, again, if I would have read it at the  
20 time, I mean, you -- I have never fought those guys.

21 Q. You never fought those guys?

22 A. I never tried to do --

23 Q. Just let them do whatever they were going to  
24 do?

25 A. They were going to do it anyway.

1 Q. Okay. You were interviewed by the CFTC,  
2 correct?

3 A. Who is that? Which one is that?

4 Q. The Commodity Futures Trading Commission,  
5 Stephanie Reinhart.

6 MR. HAYSLIP: I don't think he knows what  
7 the acronym is. He was interviewed by Stephanie, but I  
8 don't think he is going to know the entity that was --

9 MS. WELLS: Okay.

10 Q. (BY MS. WELLS) Were you interviewed by an  
11 attorney named Stephanie Reinhart?

12 A. Out of Chicago?

13 Q. Yes.

14 A. Yes.

15 Q. Do you remember when that interview was? Does  
16 October 24th of 2011 sound about right?

17 A. That would be good. I was trying to think of  
18 the dates there.

19 Q. Did your counsel accompany you to the  
20 interview?

21 A. No.

22 Q. Where did the interview take place?

23 A. In my office, over the phone.

24 Q. In your office, over the telephone?

25 A. Over the telephone, uh-huh.

1 Q. And did you try to cooperate fully with  
2 Ms. Reinhart?

3 A. As best as I could.

4 Q. Did you understand she was from a governmental  
5 regulatory agency?

6 A. She tried to explain it to me, but it was a  
7 little hectic that week around the office, as they are  
8 every week. We had just got through beating Oklahoma  
9 and -- but, yeah, she said who she was. Yeah.

10 Q. Did you tell the truth, to the best of your  
11 ability?

12 A. At that time, I thought I did.

13 Q. What did she tell you she was calling about?

14 A. The single purpose? I don't know she was  
15 calling about.

16 Q. So how did she explain why she needed to talk  
17 to you?

18 A. David -- I guess it was about David Stroud.

19 Q. You don't remember her saying what she was  
20 investigating?

21 A. I don't remember, because she called twice.

22 Q. She called twice? Did you talk to her both  
23 times?

24 A. Yeah, uh-huh.

25 Q. Was the other -- okay.

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1 Q. I can help.

2 (Exhibit 6 marked.)

3 Q. (BY MS. WELLS) Is this the K-1 -- I think this  
4 is something your lawyers produced in discovery, so I am  
5 assuming this is the K-1 you are referencing?

6 A. Yes, ma'am.

7 Q. And it is for tax year 2010, correct?

8 A. Correct.

9 Q. And the partnership's name and address is  
10 TS Capital Partners, L.L.C., correct?

11 A. Correct.

12 Q. Do you recall if you received a K-1 for 2009?

13 A. I don't think I did. I think that what  
14 happened here is my accountant was the one that  
15 requested this.

16 MR. HAYSLIP: Her question was did you get  
17 a 2009?

18 A. No.

19 Q. (BY MS. WELLS) Do you remember making any  
20 inquiries about a 2009 K-1 for your tax purposes?

21 A. I don't remember.

22 Q. How about for -- have you already filed your  
23 2011 taxes?

24 A. That is for this year?

25 Q. For last year.

1 A. Yes, I filed them.

2 Q. And what did you do to reflect your investment  
3 activity for this --

4 A. 2011? A loss.

5 Q. A loss?

6 A. Yeah.

7 Q. Did you claim the whole 450,000 you invested?

8 A. I am sure he did. I don't know.

9 Q. Okay. Where would the accountant have gotten  
10 his information about the amount of your investment?

11 A. From me.

12 Q. So other than this K-1 that is Exhibit 6, you  
13 don't recall receiving any statements, quarterly  
14 statements?

15 A. No.

16 MR. HAYSLIP: That is correct?

17 THE WITNESS: Correct.

18 MR. HAYSLIP: I think there was a double  
19 negative.

20 Q. (BY MS. WELLS) Your testimony is no  
21 statements, correct?

22 A. Correct.

23 Q. Okay. Did Stroud ever tell you that  
24 information being displayed on his computer screens had  
25 to do with the money that you had invested?

1 A. Yes.

2 Q. And how often did he do that?

3 A. Oh, I am trying to think. When I would go by  
4 the office, maybe once or every two weeks (sic), I would  
5 ask him to pull it up on the screen and look at it.  
6 That is how I knew up or down.

7 Q. Okay. And he was able to do that for you when  
8 you checked in?

9 A. He was.

10 Q. And did that continue through the end of 2009?

11 A. Either that or verbally. I would ask him, you  
12 know, where is my account and he would tell me.

13 Q. So after you moved to Lubbock in 2010, how did  
14 you monitor the performance of the investment?

15 A. The same way, a telephone call.

16 Q. A telephone call to Stroud?

17 A. (Witness indicated.)

18 Q. Did he ever tell you that he experienced losses  
19 with respect to your investment?

20 A. No.

21 Q. What would he say about the return on  
22 investment?

23 A. Mostly he would say we are up five percent or  
24 we are down one percent or up 10 percent, you know,  
25 things like that.

1 Q. And you never took any profits or any money  
2 back out, right?

3 A. I didn't take anything out, no.

4 Q. Did you ever tell Bill Scott that you were  
5 making money with Stroud --

6 A. Uh-huh.

7 Q. -- in this pool?

8 A. Uh-huh.

9 MR. RUTHERFORD: You have to answer out  
10 loud.

11 A. I did.

12 Q. (BY MS. WELLS) Do you remember when that might  
13 have occurred?

14 A. I can't give you the date or the time, but it  
15 was probably a few months after.

16 Q. Your initial investment?

17 A. My investment, yeah.

18 Q. And so a few months after June 29th of 2009?

19 A. Well, we had lunch quite often. We would  
20 always talk about it, you know, about my investment,  
21 uh-huh.

22 Q. Did you have any conversations with  
23 Mr. Lineberry about this investment with Mr. Stroud,  
24 other than directing him to transfer the funds?

25 A. No, other than that. You know, he asked me,



**Deposition Transcript Gap from Page 112 to Page 114.**

1 Q. Do you remember telling her that you knew that  
2 Stroud was using the name TS Capital Partners by early  
3 2010?

4 A. I don't remember telling her, but yes.

5 Q. Do you remember telling her that the "T" was  
6 for Tuberville and the "S" was for Stroud?

7 A. I don't remember, but that would be -- I would  
8 agree with that.

9 Q. How much money did Stroud tell you that he had  
10 in investments for his TS Capital Partners entity?

11 MR. HAYSLIP: I am not sure I understand.  
12 Are you saying --

13 Q. (BY MS. WELLS) Did Stroud ever tell you how  
14 much in promises to invest he had?

15 MR. HAYSLIP: In what?

16 A. In his previous -- what are you talking about?

17 Q. (BY MS. WELLS) After there was a TS Capital  
18 Partners entity of which you were aware, did Stroud ever  
19 have a conversation with you about how much in  
20 investments he had promised?

21 A. In my account?

22 Q. Okay. I will try it this way. Do you recall  
23 telling Ms. Reinhart that at one point Stroud told you  
24 he had \$6 million in promise to invest, but only a  
25 fraction of that money had come in?

1           A. No. Well, I didn't know -- I don't remember  
2 telling her that. I probably did. But I didn't know  
3 what entity it went into, whether it was Stroud Capital  
4 or whatever.

5           Q. Do you remember about when it was that Stroud  
6 told you this \$6 million figure?

7           A. No.

8           Q. Do you have a recollection of him ever saying  
9 anything about \$6 million in promised investments?

10          A. Yeah. Well, yeah, he had told me at times he  
11 was raising money, you know. But, again, he had Stroud  
12 Capital, too. So I didn't know where the money was  
13 going. He had Stroud Capital.

14          Q. Why did you think he still had Stroud Capital?

15          A. Well, you know --

16          Q. Did he tell you that?

17          A. Yeah. I mean, he -- there was a Stroud  
18 Capital. And then we formed an entity, you know,  
19 separate from Stroud Capital. He said, "I don't want me  
20 and your money and your friends' money, if you want any  
21 friends to put money in there, to be in Stroud Capital  
22 because I am not going to charge you a commission and  
23 you can keep up with it. It would be like -- you know,  
24 it will be fun for you to watch it and see how much  
25 money we make."

1 Q. When was that conversation?

2 A. Oh, that was around the time that we -- that I  
3 put money in there.

4 Q. The first time in July?

5 A. Uh-huh.

6 Q. I mean June of 2009?

7 A. Whenever it was, uh-huh.

8 Q. So right in the beginning he was talking about  
9 your friends being able to get in on this deal, too?

10 A. Uh-huh. My friends.

11 Q. Separate -- your friends being able to get into  
12 a separate pool from Stroud Capital?

13 A. Right.

14 Q. And not be charged a commission?

15 A. Well, he charged commission, yeah.

16 Q. Okay. So you could invest without being  
17 charged a commission?

18 A. Uh-huh.

19 Q. Your friends could invest, too?

20 A. That is exactly right.

21 Q. Would they have to pay a commission?

22 A. I don't know. You would have to ask Bill  
23 whether he paid a commission.

24 Q. Okay.

25 A. I never asked him.

1 Q. All right.

2 A. Because he was the only one that put money in  
3 it that we would -- that we could find out that --

4 Q. Of your friends?

5 A. Yeah.

6 Q. Did you ever learn that David Stroud had  
7 stopped operating Stroud Capital around the time he  
8 started this TS Capital entity?

9 A. No. I thought he -- I mean, he still had it  
10 going, you know.

11 Q. You never learned that? He never said anything  
12 to you about --

13 A. No.

14 Q. -- Stroud Capital wrapping up in --

15 A. Huh-uh.

16 Q. -- the middle of 2009?

17 A. No.

18 Q. Did you ever talk to Cindy Caldwell about  
19 Stroud?

20 A. I don't know Cindy Caldwell.

21 Q. You don't know a Cindy Caldwell?

22 A. I might have met her, but I don't -- I can't  
23 recollect who that is.

24 Q. That is fine. All right. You told  
25 Ms. Reinhart in October of 2011, I believe, that you had

**Deposition Transcript Gap on Page 119.**

1           A. I would have directly turned it over to my  
2 accountant.

3           Q. And that is -- we have talked about who that  
4 would be, right? You told me who it was that was doing  
5 your taxes at that time?

6           A. No, I told you I couldn't remember his name.

7           Q. You can't remember his name?

8           A. Yeah.

9           Q. Okay. Do you know where his office was  
10 located? It is a man, right?

11          A. Yeah, it is a man. And he is next to the  
12 Auburn High School stadium. I used him the whole time I  
13 was there. I am terrible with names.

14          Q. All right. Well, maybe I will send you another  
15 interrogatory --

16          A. I have been trying to think about it actually  
17 since we have been talking about it.

18          Q. You have got to stop thinking about it for it  
19 to come back. At least that is my experience with  
20 brains.

21          A. Yeah.

22          Q. All right.

23          A. It was a firm, though. It wasn't a man. It  
24 was three or four people.

25          Q. Okay. Do you remember telling Ms. Reinhart in

1 October of '11 that you had been given access to the  
2 TS Capital Partners web site?

3 A. I had been given access, correct.

4 Q. Okay. Who gave you that access?

5 A. I had one of my financial planners there at the  
6 office there one day. And I think either David was with  
7 us or as he was setting all my financials up on a web  
8 site --

9 MR. RUTHERFORD: Who is "he"?

10 A. His name is Brian Reynolds. Yeah, Brian  
11 Reynolds is the guy that -- he does my estate planning  
12 of --

13 Q. (BY MS. WELLS) Okay.

14 A. -- how to pay taxes and not pay taxes when you  
15 die. And so he was at that time trying to keep up with  
16 all the things that were -- that I was involved in. And  
17 I can't remember if David was there or not there. But I  
18 think he called him. I think he called David and said,  
19 "David, how do I get on this web site?"

20 Q. Okay.

21 A. He tried to talk his way through it, but they  
22 never got on it.

23 Q. And is this before your move to Lubbock?

24 A. This was while I was in Lubbock.

25 Q. It was while you were in Lubbock, --



1 A. Yeah.

2 Q. -- but this guy was in Auburn?

3 A. He was visiting me. It had to be -- it was our  
4 Fantasy Camp, so it was in July probably of '10.

5 Q. All right. And his name was Brian Reynolds?

6 A. Uh-huh. And he tried to get in it, but it  
7 didn't work.

8 Q. After that time, did you call Rachel Broach at  
9 any point to try and help you with access to the web  
10 site?

11 A. I could have. Maybe trying to get somebody  
12 else to do it, but I never could pull it up.

13 Q. Other than the 200,000 and the 250,000 that we  
14 have already discussed, did you ever provide Stroud with  
15 other money?

16 A. Not that I can remember.

17 (Exhibit 7 marked.)

18 Q. (BY MS. WELLS) I show you what has been marked  
19 for identification as Exhibit 7.

20 Now, this purports to be an email from you at  
21 the tscapital.net email address to David Stroud in July  
22 of '11 confirming an investment of \$50,000 in November  
23 of 2010. Did you send this email?

24 A. No.

25 Q. Did you give him that money in November

1 of 2010?

2 A. No.

3 Q. Did you ever use that email address?

4 A. Where is it at?

5 Q. tommy@tscapital.net.

6 A. I don't -- I can't recollect that I did.

7 Q. Did you even know that you had an email address  
8 through tscapital.net?

9 A. I can't remember whether I did or not. I never  
10 used it.

11 Q. Have you subsequently learned that David Stroud  
12 falsified this email to try and cover up the John  
13 Abrams (sic) investment from November of 2010 -- not  
14 John Abrams. Sorry, Johnny Owens.

15 A. Yes.

16 Q. You know that he misled regulators to believe,  
17 government regulators to believe, that you had made that  
18 contribution?

19 A. Yes.

20 MR. HAYSLIP: But you didn't know at the  
21 time?

22 A. Right.

23 Q. (BY MS. WELLS) When did you learn that?

24 MR. HAYSLIP: Don't --

25 MS. WELLS: Is that privileged?

1 MR. HAYSLIP: Yeah.

2 MS. WELLS: Okay. Never mind.

3 Q. (BY MS. WELLS) Did you learn that after this  
4 litigation commenced, this lawsuit?

5 A. About this email?

6 Q. Yes.

7 A. Correct.

8 Q. Okay. You had no knowledge of it at the time?

9 A. No.

10 (Exhibit 8 marked.)

11 Q. (BY MS. WELLS) I will show you 8. This is  
12 David Stroud's LinkedIn page as printed out in November  
13 of 2011. Did you ever access his LinkedIn page?

14 A. No.

15 Q. Did David ever tell you he had graduated from  
16 Troy University?

17 A. I can't remember if he ever said he graduated.  
18 I knew he went there.

19 Q. Uh-huh.

20 A. Did he graduate?

21 Q. No, he didn't. Would you agree with me that  
22 Mr. Stroud has a veracity problem, he has trouble  
23 telling the truth?

24 A. Yes.

25 Q. At this point, we do now know that?

1 A. Yes.

2 Q. When you were friends with him and prior to  
3 your investment, did you ever think that he had trouble  
4 with telling the truth?

5 A. No, not really, huh-uh. I had no reason to.

6 Q. He hadn't lied to you about anything that you  
7 knew about?

8 A. At that point, no.

9 Q. Do you see on Exhibit 8 that he is touting his  
10 partnership and collaboration with you commencing in the  
11 summer of 2009 under the description of TS Capital  
12 Partners?

13 A. I see that.

14 (Exhibit 9 marked.)

15 Q. (BY MS. WELLS) I show you what has been marked  
16 as 9 for identification.

17 MR. HAYSLIP: Did you say 9?

18 MS. WELLS: Yes, sir.

19 A. Is this the web site or --

20 Q. (BY MS. WELLS) Yeah. This is a printout of  
21 the first page of the TS Capital web site.

22 A. Uh-huh.

23 Q. Did you ever view that page, this particular  
24 screen?

25 A. Not that I remember.

1 Q. Okay. Do you see there that he is also touting  
2 that in the summer of 2009 you and he had "collaborated  
3 their talents to form TS Capital Partners"?

4 A. I see that on here.

5 Q. Do you see the second paragraph that, "The goal  
6 of TS Capital is teaming with their partners to achieve  
7 long-term wealth"?

8 A. I see that.

9 Q. Does that strike you as a solicitation of  
10 others to invest in this partnership?

11 MR. HAYSLIP: Object to the form.

12 A. In his eyes, yeah.

13 Q. (BY MS. WELLS) When did you meet Johnny Owens?

14 A. When did I meet him first?

15 Q. Yes.

16 A. It was when I got hired in 2010. Probably  
17 early 2010, because I used his bank.

18 Q. Okay. Is he president, or what is his position  
19 with the bank?

20 A. Yes, he is president of Plains Capital Bank,  
21 uh-huh, here in Lubbock.

22 Q. Okay. And did someone suggest that that might  
23 be a good place for you to do your local banking when  
24 you took the job here?

25 A. Yeah, it is the biggest bank here. And I don't

**Deposition Transcript Gap from Page 127 to Page 129.**

1 football and sports.

2 Q. At some point did TS Capital Partners or one of  
3 the other entity defendants hire Stuart Memory?

4 MR. HAYSLIP: Object to the form. Do you  
5 know who he worked for?

6 A. I don't know who he worked for. I don't know  
7 whether it was Stroud Capital or -- I met Stuart, and  
8 the first time when I met him he was an intern for  
9 David. David was training him how to trade. That was  
10 exactly what he told me. He said, "I am going to try to  
11 teach him how to trade."

12 MR. HAYSLIP: David told you or Stuart?

13 A. No. David told me that he was --

14 Q. (BY MS. WELLS) David said he was trying to  
15 teach him, Stuart, how to trade?

16 A. Yeah. He was working on his license or  
17 something, training.

18 Q. Okay. Do you remember when that was?

19 A. No.

20 Q. Do you remember where it was you had this  
21 conversation with David? Was it live or over the  
22 telephone?

23 A. No, it was -- it was in New York.

24 Q. Okay.

25 A. That is when I first met Stuart.

1 Q. Oh, so Stuart was --

2 A. He brought him with him to New York.

3 Q. All right. Any idea what year?

4 A. It was --

5 Q. Were you coaching?

6 A. I was already -- it was in 2010 sometime.

7 Q. Sometime in 2010?

8 A. Yeah.

9 Q. Season; winter, summer --

10 A. No, it wasn't during the season. So it had to  
11 be, I would say, closer to the spring.

12 Q. Of 2010?

13 A. Spring, summer, somewhere in there.

14 Q. And do you remember what you were in New York  
15 for?

16 A. I went to be on Bloomberg.

17 Q. Oh, okay.

18 A. David asked me to come up. He had some friends  
19 there that worked at Bloomberg. And so I went up and I  
20 was on Bloomberg News.

21 Q. What did you talk about on Bloomberg News?

22 A. For some reason, they wanted to talk football.  
23 We talked playoffs and why we didn't have a playoff,  
24 problems in college, you know, just -- everything about  
25 football.



**Deposition Transcript Gap on Page 132.**

1 A. I can't remember.

2 Q. And so he said, "This is Stuart. He is  
3 interning with me"?

4 A. Yes. He is training him, kind of like a GA.  
5 You know, he is training him. He is training him as  
6 a -- he wants to get his license.

7 Q. Did y'all go anywhere else besides Bloomberg  
8 for the interview when you were on that trip?

9 A. We made a couple of stops. I can't remember  
10 where all we went.

11 Q. Do you remember what you were taking about at  
12 those stops?

13 A. No. One stop was for David. He had a New York  
14 address, you know, I think. When he had Stroud Capital,  
15 he felt like he needed an address in New York. And we  
16 stopped there and he talked to somebody about  
17 fundraising or whatever. I didn't know who they were.  
18 I didn't understand their language. It wasn't blocking  
19 and tackling.

20 Q. Did you get introduced?

21 A. Yeah, I got introduced to some person there,  
22 but I --

23 Q. Did he say you were his business partner?

24 A. No. No. He said we was there to -- I was a  
25 coach. And, "Oh, yeah, Coach. I know who you are. You

**Deposition Transcript Gap from Page 134 to Page 138.**

1 number at the bottom. And this also has a number across  
2 the top, showing the complaint was filed with the court.

3 A. Okay.

4 Q. So just so you know, we are going to -- some of  
5 the documents that I am about to go through have come  
6 from various and sundry places, but you will be able to  
7 tell from looking down at the bottom --

8 A. Okay.

9 Q. -- hopefully where it came from. And if you  
10 have got a question about that, we can go over it.

11 And mostly, I am just trying to figure out if  
12 you have seen these before.

13 MS. WELLS: I should have mentioned that to  
14 you guys earlier about the ASC documents. Sorry. And  
15 what am I up to, 10?

16 THE REPORTER: 10 is next.

17 (Exhibit 10 marked.)

18 MR. HAYSLIP: And, Barbara, when you asked  
19 him if he has seen these before --

20 Q. (BY MS. WELLS) Other than being shown them by  
21 your lawyers in the course of this litigation, did  
22 you --

23 A. Before? Okay.

24 Q. -- see them before this litigation started?

25 A. Okay.

1 Q. That is really what I am trying to figure out  
2 is if you have any knowledge of seeing them before the  
3 litigation process started in February. Is that fair?

4 A. That is fair, uh-huh.

5 Q. Okay. Let me show you 10. This is the -- I  
6 will represent for the record, it is a State of Delaware  
7 Limited Liability Company Certificate of Formation for  
8 TS Capital Management, L.L.C. with a date of June 17th  
9 of 2010. Do you recall ever having seen this document?

10 A. No.

11 (Exhibit 11 marked.)

12 Q. (BY MS. WELLS) I show you 11. And this is  
13 also from the Delaware Secretary of State. This is also  
14 relating to, if you look at the second page, TS Capital  
15 Management, L.L.C. and TS Capital Group, L.L.C.

16 Have you seen this before the litigation?

17 A. No.

18 Q. Do you know what a registered agent for service  
19 of process is?

20 A. A registered what?

21 Q. A registered agent for service of process.

22 A. No.

23 Q. Okay. Are you familiar with the fact that some  
24 entities, like corporations, are L.L.C.'s, which are  
25 limited liability corporations, have to have someone

1 appointed who can accept a lawsuit?

2 A. No.

3 Q. Are you familiar with that?

4 A. No.

5 Q. Okay. Now, this one is one that you produced  
6 from your attorneys. Let's mark that as 12.

7 (Exhibit 12 marked.)

8 Q. (BY MS. WELLS) So this is a draft, according  
9 to the document, dated 8-6-2009 for TS Capital  
10 Management L.L.C.

11 Have you seen this document before the lawsuit  
12 started? And for the record, it is Amended and Restated  
13 Operating Agreement of TS Capital Management, L.L.C.

14 A. No, I have not seen this.

15 Q. Okay. If you could look on Page 3 toward the  
16 bottom. It says under Number 4, Business of the  
17 Company.

18 What is the business stated of this company,  
19 according to this document?

20 A. "Shall be to serve as the manager of TS Capital  
21 Fund, L.P."

22 Q. Okay.

23 A. "Business opportunities and other lawful  
24 activity" -- what is this? I mean, the bottom line,  
25 what does this -- is this forming something or --

**Deposition Transcript Gap from Page 142 to Page 146.**

1 of Managers shall be who, according to this document?

2 A. Yes, I see it.

3 Q. Who is it?

4 A. The initial Board of Managers, it says David  
5 Stroud and Tommy Tuberville.

6 Q. Okay.

7 A. Are we finished with that one?

8 Q. Yes, sir.

9 (Exhibit 14 marked.)

10 Q. (BY MS. WELLS) I show you 14. For  
11 identification, this is the Due Diligence Questionnaire  
12 for TS Capital Partners. It is ASC 488 through 506, for  
13 identification.

14 MR. HAYSLIP: What is the last page?

15 MS. WELLS: 506.

16 MR. HAYSLIP: Okay.

17 A. You want me to look at 506?

18 Q. (BY MS. WELLS) I was just telling him the  
19 number. I am sorry.

20 A. Oh, okay.

21 MS. WELLS: You know, when I was talking to  
22 Devin about the production he said that we didn't need  
23 to produce -- we weren't going to exchange the part of  
24 the ASC-produced documents that we were relying on, so I  
25 just labeled the ones I was going to use. I don't know



1 if that is going to mess us up going forward, but --

2 MR. HAYSLIP: We will figure it out.

3 MS. WELLS: Okay.

4 Q. (BY MS. WELLS) Have you seen this document  
5 before, Coach Tuberville?

6 A. No.

7 Q. Okay. Turning to Page 490, which is the third  
8 page of the document.

9 A. Okay.

10 Q. Do you see what the inception date for TS  
11 Capital Partners, L.L.C. is listed as being?

12 A. Yes. July the 1st, 2009.

13 Q. And that is right around the time you gave  
14 Stroud money, correct?

15 A. Correct.

16 Q. And this is the name of the entity that you  
17 believe was being formed for your joint investing with  
18 Stroud, right?

19 A. Yes.

20 Q. All right. Do you see the strategy box there?  
21 What is listed as being the strategy?

22 THE WITNESS: What is that word, macro?

23 MR. HAYSLIP: Uh-huh.

24 A. "Macro-economic, main focus in China  
25 economics."

1 Q. (BY MS. WELLS) Did David ever tell you he was  
2 interested in investing in things relating to China?

3 A. No.

4 Q. Did he ever tell you about going on a trip to  
5 China?

6 A. Yeah. I knew he went on a trip, yes.

7 Q. Did he tell you who was paying for that trip?

8 A. I didn't ask him.

9 Q. Did you think that trip had something to do  
10 with your joint investments with him?

11 A. I never thought about it, you know.

12 Q. Okay. Who does this document disclose as being  
13 the legal counsel to TS Capital Partners, L.L.C.?

14 A. Are you still on the same page?

15 Q. Yes, sir, down under "Structure".

16 A. Structure? Legal, Katten Munchin Rosenman,  
17 L.L.C.

18 Q. Okay. Do you have any reason to know one way  
19 or the other whether that law firm provided any legal  
20 counsel to TS Capital Partners, L.L.C.?

21 A. I have never heard of them.

22 Q. Have you ever heard of Rothstein Kass?

23 A. I heard David mention that name.

24 Q. Okay. Did he say they were performing any  
25 services for TS Capital Partners, L.L.C.?

1 A. I just remember the name.

2 Q. How about Lovoy Summerville & Shelton?

3 A. No.

4 Q. Okay. Have you ever heard of Interactive  
5 Brokers?

6 A. No.

7 Q. Did David ever mention bank accounts at Regions  
8 Bank relating to TS Capital Partners, L.L.C. or any of  
9 the other defendant entities?

10 A. No. They had a bank next to the building there  
11 where he was at, but he never -- no.

12 Q. Do you know what kind of bank it was, what  
13 brand?

14 A. It was just a satellite branch.

15 Q. Of which bank?

16 A. Regions.

17 Q. Oh, it was Regions?

18 A. Yeah.

19 Q. Do you see under the box that says "Fees" that  
20 there is a management fee listed of two percent of AUM?

21 A. I see that.

22 Q. And do you see where it says there is an  
23 incentive fee of 20 percent of the profits?

24 A. I do see that.

25 Q. The next page, 491, do you see where it lists

1 the current legal ownership and structure of the firm?

2 A. I do.

3 Q. And who are the two owners listed?

4 A. David Stroud and Tommy Tuberville.

5 Q. And what is the ownership interest for each of  
6 those persons?

7 A. 50/50.

8 Q. Does this document contemplate any change to  
9 the ownership structure in the coming time period?

10 MR. HAYSLIP: Object to the form of the  
11 question. The document speaks for itself. Go ahead.

12 A. I mean, does it -- what do you mean, does it  
13 change? Are you asking --

14 Q. (BY MS. WELLS) In that same box underneath  
15 where it says "Tommy Tuberville 50 percent", do you see  
16 the next sentence?

17 A. "Yes. Pieces of ownership will be distributed  
18 to employees as part of their end of year bonus." I see  
19 that.

20 Q. Had you heard anything about employees of the  
21 company getting a piece of the ownership interest?

22 A. No.

23 Q. And then down like three boxes, "Does the firm  
24 specialize in any particular produce or group of  
25 products?" And it says, "Derivatives, commodities,

1 currencies and private placements."

2 Is that consistent with what you thought  
3 Stroud was investing in?

4 A. I thought it was commodities.

5 Q. Okay.

6 A. That is the only thing I ever saw him -- I  
7 didn't see any financials.

8 Q. You mentioned earlier that he said something  
9 about currency trading, too?

10 A. Gold.

11 Q. Gold?

12 A. Gold and silver.

13 Q. Okay.

14 A. I don't know what currency trading is.

15 Q. All right. And underneath that, who does it  
16 identify as being the general partners to the limited  
17 partnership?

18 A. "The fund structure" -- "with Mr. Stroud and  
19 Mr. Tuberville serving as general partners".

20 Q. Do you know who prepared this document?

21 A. No, ma'am.

22 Q. If you look on the last page, it has the date  
23 June 8th of 2011 and it says it was prepared by  
24 Stuart Memory as chief financial officer. Do you have  
25 any reason to doubt that?

1 A. No, I have no --

2 Q. And prior to the litigation you had not seen  
3 this document; is that correct?

4 A. No.

5 Q. It is correct that you had not seen it?

6 A. I have not seen this.

7 Q. Okay. That is all on that one.

8 (Exhibit 15 marked.)

9 Q. (BY MS. WELLS) 15 for identification, this is  
10 a document from the Secretary of State for Delaware for  
11 TS Capital Fund, L.P. Have you seen this before the  
12 litigation?

13 A. No.

14 (Exhibit 16 marked.)

15 Q. (BY MS. WELLS) Here is 16. This is the  
16 resignation of registered agent for TS Capital Fund,  
17 L.P. dated 11-10-10. Have you seen this before the  
18 litigation started?

19 A. No.

20 (Exhibit 17 marked.)

21 Q. (BY MS. WELLS) For the record, Plaintiffs'  
22 Exhibit 17 for identification is a document obtained  
23 from the Alabama Securities Commission labeled 431  
24 through 434. It is a blank, as in not completed,  
25 Limited Partnership Agreement for TS Capital Fund, L.P.

1           And, Coach Tuberville, have you seen a  
2 document -- this document or one like it prior to the  
3 commencement of this litigation?

4           A. No.

5                           (Exhibit 18 marked.)

6           Q. (BY MS. WELLS) I will show you what has been  
7 marked for identification as Plaintiffs' 18. And I will  
8 represent for the record this is a Confidential Private  
9 Offering Memorandum for Limited Partnership Interests of  
10 TS Capital Fund, L.P., a Delaware Limited Partnership  
11 dated June 23rd of 2009.

12                   And I would like you to take a look over this  
13 document and tell me if you have seen it before the  
14 litigation started.

15                   MR. RUTHERFORD: Coach, the question was  
16 have you seen this document.

17           A. It doesn't bring back any memories.

18           Q. (BY MS. WELLS) Okay.

19                   MS. WELLS: I just didn't want to rush him  
20 if he was trying to look it over to answer that  
21 question.

22           A. Yeah, I was just -- it has got my name in here  
23 a few times.

24           Q. It does, doesn't it?

25           A. That is the reason I was looking at it.

**Deposition Transcript Gap from Page 155 to Page 158.**



1 (Exhibit 19 marked.)

2 Q. (BY MS. WELLS) So for the record, 19 is  
3 Plaintiffs' 64 through 93 and it is a Confidential  
4 Private Offering Memorandum Limited Partnership  
5 Interests of TS Capital Fund, L.P., a Delaware Limited  
6 Partnership, dated June 17th of 2010.

7 A. This is what we just looked at, right?

8 Q. A different date.

9 A. A different date?

10 Q. Yes.

11 A. Okay.

12 Q. You don't remember seeing this one then either,  
13 I guess?

14 A. No.

15 Q. Okay.

16 (Exhibit 20 marked.)

17 Q. (BY MS. WELLS) And just because I love this  
18 document so much, this is 20.

19 A. Kill some trees. The same thing?

20 Q. The same thing with a different date. This  
21 time February 10th of '11.

22 A. No, I have not seen this.

23 Q. You have not seen this one either. Okay.

24 Now, that one came from the ASC. It is ASC 435 through  
25 465, Exhibit 20.

1 (Exhibit 21 marked.)

2 Q. (BY MS. WELLS) This is 21. This is a document  
3 from the Delaware Secretary of State, Certificate of  
4 Formation for TS Capital GP, L.L.C. Have you see this  
5 document before?

6 A. No.

7 (Exhibit 22 marked.)

8 Q. (BY MS. WELLS) Have you seen what has been  
9 marked for identification as Plaintiffs' Exhibit 22,  
10 which is Plaintiffs' 1694 through 1695?

11 A. No.

12 Q. Okay.

13 (Exhibit 23 marked.)

14 Q. (BY MS. WELLS) For the record, this is an  
15 Alabama Securities Commission produced document labeled  
16 for identification 466 through 476 and it is the Amended  
17 and Restated Operating Agreement of TS Capital GP,  
18 L.L.C. Have you seen this document before?

19 A. No.

20 Q. If you will turn to the last page, Schedule A.  
21 Who does this document identify as being the two members  
22 of TS Capital GP, L.L.C.?

23 A. David Stroud and Tommy Tuberville.

24 Q. Okay. And does it say that you have the same  
25 number of units?

1 A. 50/50, uh-huh.

2 Q. And on Page 6, are you again identified as the  
3 vice president, chief financial officer and secretary of  
4 this L.L.C.?

5 A. I am.

6 Q. And on Page 5, are you identified as a manager  
7 of this L.L.C.? The bottom of Page 5.

8 A. I am, yes.

9 (Exhibit 24 marked.)

10 Q. (BY MS. WELLS) This is 24. This one, you can  
11 write on. Now, this was a document that was produced in  
12 discovery by your counsel. And it also purports to be  
13 an Amended and Restated Operating Agreement for  
14 TS Capital GP, L.L.C.

15 A. Could I ask what "Amended and Restated" means?  
16 What --

17 MR. HUTCHINSON: Do you want to explain it  
18 to him?

19 THE WITNESS: Yeah.

20 MR. HAYSLIP: I don't think you need to  
21 know it for purposes of this question. If you don't  
22 know what it means, you don't know what it means.

23 A. Okay. No, I don't have a clue what it is.

24 Q. (BY MS. WELLS) Have you seen this document  
25 before, this version?

1 A. No.

2 Q. On these documents that we have been looking  
3 through, you would agree that it seems to list you as an  
4 equal member with the same number of units as Stroud --

5 A. It does.

6 MR. HAYSLIP: Give me a chance. The  
7 documents speak for themselves.

8 MS. WELLS: Did you get the objection and  
9 the answer?

10 THE REPORTER: Yes, ma'am.

11 Q. (BY MS. WELLS) What was it that you were doing  
12 for that equal membership?

13 MR. HAYSLIP: Objection, form.

14 A. Nothing.

15 Q. (BY MS. WELLS) Was it just that Stroud was a  
16 generous guy and gave you half interest?

17 MR. RUTHERFORD: Half interest of what?

18 MS. WELLS: This is not your deposition.  
19 Don't interrupt me.

20 MR. RUTHERFORD: Well, you are ambiguous --

21 MS. WELLS: This is not your deposition.

22 MR. HAYSLIP: I was trying and --

23 MS. WELLS: I am not going to be tag-teamed  
24 by the two of you. If you can't sit quietly, you can  
25 sit outside the room.

**Deposition Transcript Gap from Page 163 to Page 172.**

1 MR. HAYSLIP: Can you read that back,  
2 because I couldn't hear him?

3 MS. WELLS: Can you read it back? I am  
4 sorry.

5 THE REPORTER: Yes, ma'am.

6 MR. HAYSLIP: That is why I asked her.

7 Q. (BY MS. WELLS) I think it was, what did you do  
8 to monitor Stroud's actions with respect to your  
9 investments with him after you moved to Texas in 2010?

10 A. Just verbal communication two or three  
11 times -- maybe two times a month, three times a month.

12 Q. Okay. Were you ever aware prior to the filing  
13 of this lawsuit that David Stroud had used a  
14 Confidential Offering Memorandum, which is Exhibit 20,  
15 there is a version that is 19 and a version that is 18,  
16 with investors?

17 A. That he did what, now?

18 Q. These three documents, were you aware prior to  
19 the filing of the lawsuit that David Stroud was using  
20 these documents with potential investors?

21 A. No.

22 Q. What did you understand your duties to be with  
23 respect to the entity that you and Stroud formed?

24 A. I didn't have any duties.

25 Q. How did you determine that?

1           A. I made an investment to him and I expected him  
2 to try to make as much money off of that investment as  
3 possible.

4           Q. Did you ever inquire of Mr. Stroud if you had  
5 any duties under the documents forming the entity?

6           A. No.

7           Q. Did you inquire of anybody else?

8           A. What entity are we talking about? I mean, is  
9 this --

10          Q. Well, your testimony was TS Capital Partners,  
11 L.L.C.

12          A. Yeah. No, I talked to nobody about it.

13          Q. Do you dispute that you had an equal ownership  
14 interest in that entity with David Stroud?

15                   MR. HAYSLIP: Object to the form.

16          A. No, I had a -- what -- he was to put in the  
17 same amount that I did. And I thought that he did that,  
18 meaning that we were both equal. Yes.

19          Q. (BY MS. WELLS) Right. Okay. Did you ever see  
20 profit and loss statements for TS Capital Partners,  
21 L.L.C.?

22          A. No.

23                   (Exhibit 30 marked.)

24          Q. (BY MS. WELLS) This is 30. This came from the  
25 Alabama Securities Commission. I will represent for the

1 record they are draft profit and loss statements for  
2 TS Capital Partners, L.L.C. showing income and expenses  
3 for each month from January 2010 through November 2010  
4 is the last one. Have you ever seen any documents like  
5 these?

6 A. Not that I am aware of, no.

7 Q. I actually don't have any other questions about  
8 that. I am just trying to get us out of here. I know  
9 you don't want to be here all day.

10 A. No, I was just looking.

11 Q. When you had that office space where you had  
12 your memorabilia in David's office, do you remember  
13 there being business cards on your desk?

14 A. No.

15 (Exhibit 31 marked.)

16 Q. (BY MS. WELLS) Have you ever seen a business  
17 card like that before?

18 A. This is a card?

19 Q. Yeah, it is a photocopy of a card.

20 A. I don't recollect I ever saw this, no.

21 Q. Are you sure you don't remember there being  
22 some on your desk in that little office?

23 A. I really don't remember. I am not saying there  
24 weren't, I just don't remember.

25 Q. Okay.



1 A. I have had a lot of business cards --

2 Q. So if Rachel Broach says that --

3 A. A lot of different business cards.

4 Q. -- they were there on that desk that you  
5 used --

6 A. When I was there --

7 MR. HAYSLIP: Let her finish.

8 Q. (BY MS. WELLS) -- when you were doing your  
9 commentary stuff? If she has a specific recollection of  
10 that, do you have any reason to believe she is mistaken?

11 A. No.

12 Q. If you had seen a business card like that,  
13 would you have had a question about it --

14 MR. HAYSLIP: Object to the form.

15 Q. (BY MS. WELLS) -- of Stroud?

16 A. I don't know what I would have done with it.

17 Q. It indicates you are a managing partner for  
18 TS Capital. Would you have had any questions for him  
19 about that if you had paid attention to it being on that  
20 desk?

21 MR. HAYSLIP: Object to form.

22 A. Well, I guess I was an investment partner in  
23 TS Capital.

24 Q. (BY MS. WELLS) Are you aware that David  
25 Stroud would use that while soliciting prospective

1 investors --

2 MR. HAYSLIP: Object to the form.

3 A. I don't know.

4 Q. (BY MS. WELLS) -- to show who the partners  
5 were?

6 A. I don't know.

7 Q. Did you ever meet Reggie Dubose, that you can  
8 recall?

9 A. If he is an Auburn person, I probably ran into  
10 him at one point or the other. I met a lot of people.  
11 But I wouldn't -- I don't know who that is.

12 Q. Do you remember David Stroud ever introducing  
13 you to anyone as his partner, ever saying that about  
14 you?

15 A. I don't remember.

16 Q. Did you ever give David Stroud or Rachel Broach  
17 your driver's license to make a photocopy of it for any  
18 reason?

19 A. I can't remember.

20 (Exhibit 32 marked.)

21 Q. (BY MS. WELLS) Is that the driver's license  
22 you had, the one on the top, when you were an Alabama  
23 resident?

24 A. It is.

25 Q. And the one underneath it there, is that the

1 person we have been identifying as Rachel Broach? Is  
2 that what you remember her looking like?

3 A. She looks a lot younger in that picture. That  
4 looks something like her, yeah.

5 Q. Okay. And the bottom driver's license it says  
6 it is John David Stroud. Is that what he looks like?

7 A. Yes.

8 Q. So you don't have any recollection of giving  
9 Rachel or David your driver's license to photocopy?

10 A. No, but I must have. That is it.

11 MS. WELLS: This came out of the Alabama  
12 Securities Commission documents also.

13 Q. (BY MS. WELLS) Did Rachel Broach or David  
14 Stroud ever book any travel for you?

15 A. Rachel did, yes.

16 Q. When did she do that?

17 A. Weekly, when I worked for ESPN.

18 Q. Okay. In conjunction with that, did you give  
19 her your information with respect to frequent flyer  
20 accounts and sky miles?

21 A. I can't remember. I always try to keep up with  
22 frequent flyer miles and stuff.

23 (Exhibit 33 marked.)

24 Q. (BY MS. WELLS) Sure. Let me show you 33 and  
25 see if that helps. The front page came from the

**Deposition Transcript Gap from Page 179 to Page 181.**

1 Stroud was working for you and that he ought to invest,  
2 too?

3 A. I can remember telling him that I had made  
4 money, yes.

5 Q. Okay. Did you tell him that you stood to  
6 benefit from his investing with Stroud or any of the  
7 TS Capital entities?

8 A. No.

9 Q. Did you ever solicit any investments with  
10 David Stroud or TS Capital? Did you solicit anyone to  
11 invest with him?

12 A. No.

13 Q. Did you mention your investments with Stroud to  
14 any of your friends who are coaches or assistant  
15 coaches?

16 A. Possibly. You know, that is a broad range.

17 Q. How about former players, players who you had  
18 formerly coached who are now playing at a professional  
19 level?

20 A. No.

21 Q. You testified earlier that you have a residence  
22 in Auburn. I believe you said a lake house, right?

23 A. I do, yes.

24 Q. It is on Lake Martin?

25 A. Lake Martin.

**Deposition Transcript Gap from Page 183 to Page 184.**

1 no.

2 Q. Do you contend that you have never met any of  
3 the plaintiffs in this lawsuit prior to their investing?

4 A. I would have to look at their names. I don't  
5 think I have -- again, if any of them are Auburn people,  
6 I could have met them before.

7 Q. Okay. If you look on Exhibit 1, they are  
8 listed there except -- yeah, they are all listed there.

9 A. No, not that I -- I may have bumped into them  
10 but I have not carried a conversation on with them, no.

11 Q. And prior to September of 2011, when you  
12 received a telephone from Baron Lowe, I just want to  
13 make sure I understand this correctly, you were not  
14 aware of any of those people having any investments with  
15 David Stroud or any of the TS Capital entities that are  
16 identified here on Plaintiffs' Exhibit 1?

17 A. That is correct.

18 Q. Okay. Prior to this lawsuit, did you know  
19 anything about any of these individuals that are named  
20 as plaintiffs in this lawsuit?

21 A. Prior to the lawsuit did I know anything about  
22 them?

23 Q. Uh-huh.

24 A. I think I met one of them in David's office.

25 Q. Who would that be?

1 A. I am thinking Glen Williams.

2 Q. Okay.

3 A. I think I met him.

4 Q. About how old a person was he?

5 A. I don't know. 45. I am guessing. I saw him  
6 for 10 minutes.

7 Q. So prior to the lawsuit, did you know that  
8 Priscilla Abrams is a retired schoolteacher?

9 A. No.

10 Q. Prior to the filing of this lawsuit, did you  
11 know that John and Priscilla Abrams, Debra Clark and  
12 Baron and Melanie Lowe had invested their retirement  
13 savings?

14 A. No.

15 Q. Prior to this lawsuit, did you know that the  
16 Lowes had invested their entire educational savings fund  
17 for their children's education --

18 MR. HAYSLIP: Object to the form.

19 Q. (BY MS. WELLS) -- with the TS Capital  
20 entities? Now you can answer. I am sorry.

21 A. No.

22 Q. Prior to the filing of this lawsuit, did you  
23 know that Debra Clark is both retired and disabled?

24 A. No.

25 Q. Prior to this lawsuit, did you know that the



1 Lowes and the Williams were young married couples?

2 A. The Lowes and the Williams? No.

3 Q. Have you ever been told by someone other your  
4 attorneys that Stroud admitted that Debra Clark was not  
5 a qualified investor for the investment he put her in?

6 A. That she was not?

7 Q. Was not a qualified investor.

8 A. No.

9 Q. Did you know Stroud asked Williams to say that  
10 Debra Clark's investment was actually Williams'  
11 investment so regulators wouldn't shut the business  
12 down?

13 A. No.

14 Q. Did Glen ever tell you that?

15 A. I have never talked to Glen other than just  
16 being introduced to him.

17 Q. You never talked to him on the telephone in  
18 October?

19 A. I talked to Baron Lowe.

20 Q. So you never did anything to attempt to correct  
21 the sale of a limited partnership interest to an  
22 unqualified person?

23 MR. HAYSLIP: Object to the form, but go  
24 ahead.

25 A. No.

1 Q. (BY MS. WELLS) Did any of these investors who  
2 are plaintiffs in this lawsuit have a purchaser  
3 representative?

4 A. I don't know what that is.

5 Q. Were any of the investors in the TS Capital  
6 entities accredited investors?

7 MR. HAYSLIP: Do you know what that is?

8 A. No, huh-uh.

9 Q. (BY MS. WELLS) You don't know what an  
10 accredited investor is?

11 A. No.

12 Q. Do you know if there were any special rules for  
13 IRAs or pension plans which wished to invest in TS  
14 Capital Fund, L.P. or any other hedge fund?

15 A. No.

16 MR. HAYSLIP: Barbara, while you are asking  
17 these, it might be the right time just -- do you know  
18 what a qualified investor is?

19 THE WITNESS: No.

20 MR. HAYSLIP: Okay. You asked that in one  
21 of your questions, and I think he answered it but I  
22 could tell --

23 Q. (BY MS. WELLS) Okay. From June of 2009 to the  
24 present, what are the email accounts you have used to  
25 send email or receive email?

1 A. tuberth@msn.com.

2 Q. Any others or is that the only one you have  
3 used?

4 A. I have got a school address, but I don't even  
5 know it and I have never used it. So --

6 Q. All right.

7 (Exhibit 34 marked.)

8 Q. (BY MS. WELLS) Now, I apologize. This is a  
9 poor copy, but it is a poor copy that your lawyers  
10 produced to me. And I accidently highlighted on the  
11 original, so we will just have to deal with that.

12 Have you seen this document, it is a  
13 three-page document, Plaintiffs' Exhibit 34? For  
14 identification it is Tuberville 212, 213 and 214. Have  
15 you ever seen that document before?

16 A. Yes.

17 Q. And for the record, it purports to be a lease  
18 agreement for a motor vehicle between BMW of Montgomery  
19 and TS Capital Partners for a new BMW 529I, vehicle  
20 identification number ending in 5979. The amount due at  
21 lease signing was \$1,087.30 something. I can't read it.  
22 Do you know who paid that amount?

23 A. Paid out of my investment account.

24 Q. And why is it you believe that?

25 A. Because that is where it was paid, the car.

1 Q. How do you know that?

2 A. Because I never paid it.

3 Q. Okay. Who was paying it for you?

4 A. It came out of TS Capital Partners, L.L.C.

5 Q. Okay.

6 A. My investment account.

7 Q. And the monthly payments were also paid out of  
8 that, correct?

9 A. Correct.

10 Q. And it says it is a 36-month lease?

11 A. Uh-huh.

12 Q. And the monthly lease payment is \$757.89,  
13 correct?

14 A. Yes, correct.

15 Q. On the third page, is that your signature under  
16 "Lessee"?

17 A. That is, uh-huh.

18 Q. It is?

19 A. Uh-huh.

20 Q. All right. And can you tell me what that says?  
21 It says TS Capital Partners by T. Tuberville, is that  
22 right, and then Tommy Tuberville, partner?

23 A. I can't make out the second one, the bottom  
24 one. But that is my signature and my writing, yes.

25 Q. Okay. Did you go to the dealership in

1 Montgomery to pick the car up?

2 A. No, delivered.

3 Q. It was delivered. Did they bring the  
4 paperwork --

5 A. To my house, yes.

6 Q. -- to your house?

7 A. Uh-huh.

8 MS. WELLS: Is there any possibility you  
9 have a better copy of this document available for me,  
10 Vic?

11 MR. HAYSLIP: I will look, but I think that  
12 is the version I got.

13 MS. WELLS: Okay.

14 Q. (BY MS. WELLS) Did you give this document to  
15 your, whatever original -- did you give a copy of this  
16 lease agreement to your attorney?

17 A. I guess -- did you get it? You got it from me,  
18 yes. Yeah.

19 MR. HAYSLIP: Is there a copy in the ASC  
20 documents?

21 MS. WELLS: We are getting to that. It is  
22 not in the same stuff, though.

23 MR. HAYSLIP: I mean, I just didn't know if  
24 would be a better copy.

25 MS. WELLS: Yeah, it is different stuff

1 than this. All right.

2 Q. (BY MS. WELLS) When did you get the BMW?

3 A. I don't know. Let me look at this and see.

4 Q. It looks to me like it might be dated August  
5 1st of '09. Does that sound about right?

6 A. Yes, because -- yeah.

7 Q. It was after you had some money with Stroud?

8 A. Uh-huh.

9 Q. Did you drive this BMW?

10 A. I did.

11 Q. Was this to replace the truck from Auburn?

12 A. It was.

13 Q. And how long did you keep this leased car?

14 A. Three years.

15 Q. The full three years?

16 A. To the end, uh-huh.

17 Q. Did there come a point where you started paying  
18 the lease payment out of your pocket?

19 A. I did.

20 Q. And when was that?

21 A. September of, what was it, '11.

22 Q. Are you sure about that?

23 A. Well, whenever the -- whenever -- right in  
24 there somewhere, one of those two months.

25 Q. Okay.

1 A. Because I had to take the payments over.

2 Q. Right. Okay.

3 (Exhibit 35 marked.)

4 Q. (BY MS. WELLS) Let me show you 35. And this  
5 is a statement that came from the ASC documents --

6 A. Uh-huh.

7 Q. -- for the October 24th, 2011 payment on this  
8 vehicle.

9 If you want to look back to 34 -- let's see if  
10 the account number is on this one. The account number,  
11 I might have gotten from the next exhibit that I haven't  
12 given you yet. Hold on. Do you see this statement that  
13 is 35 was sent to TS Capital Partners on Moores Mill  
14 Road in Auburn?

15 A. Uh-huh.

16 Q. Is that a yes?

17 A. I don't see it, but --

18 Q. You see the VIN number ends -- it is the same  
19 VIN number as is on Exhibit 34?

20 MR. HAYSLIP: Where is the VIN number on  
21 that?

22 MS. WELLS: Which one are you looking at?  
23 It is in the middle right here.

24 MR. HAYSLIP: Oh, I got it.

25 MS. WELLS: It is hard to read, but it is

1 the same number.

2 A. I see it.

3 (Exhibit 36 marked.)

4 Q. (BY MS. WELLS) I will show you 36. It is from  
5 the ASC documents. Again, that is a file folder label  
6 that was copied on the first page and it says "Car info  
7 BMW".

8 A. Which page?

9 Q. The first page where it says "Car info BMW".  
10 Are these your signatures on this document as well? If  
11 you will look at ASC 25, it looks to me like there are  
12 two places that purport to have what could be your  
13 signature. I just want to know if you signed that or  
14 not.

15 A. I did.

16 Q. Okay. And that is dated 7-20 of '09?

17 A. Yes.

18 Q. And do you see on the bottom next to your  
19 signature it says "Title & Position"?

20 A. Right.

21 Q. What is written next to that?

22 A. Partner.

23 Q. Did you write that in your own hand?

24 A. I did.

25 Q. Okay. Did Stroud get a BMW, too?



**Deposition Transcript Gap from Page 195 to Page 196.**

1 business checking account in the name of TS Capital  
2 Partners, L.L.C., David Stroud, Thomas H. Tuberville and  
3 Rachel D. Broach with the address of 2138 Moores Mill  
4 Road, Suite A in Auburn, Alabama. The first statement  
5 is from the account opening on August 19th of 2009 and  
6 the last statement is the statement period ending  
7 October 31st of 2011 and they are sequential.

8 MR. HAYSLIP: One for each month?

9 MS. WELLS: Yes. No gaps.

10 A. This is all of them?

11 Q. (BY MS. WELLS) That is what I said.

12 A. Yeah.

13 Q. It is true. All right. Now, you are familiar  
14 with this checking account, right?

15 A. No.

16 Q. Isn't it true that you called Rachel Broach and  
17 asked her for the login access to this checking account  
18 and printed out your own set of transactions from this  
19 account?

20 A. I did. Yeah. I thought you meant all of  
21 these.

22 Q. That same checking account. When did you  
23 contact Rachel for that?

24 A. Somewhere in October, mid October 2011.

25 Q. After Baron Lowe told you there were unpaid

1 bills and such?

2 A. That is correct.

3 Q. Why did Rachel give you the login for that  
4 account?

5 MR. HAYSLIP: Object to form. If you know  
6 why she would.

7 Q. (BY MS. WELLS) Why did you think you were  
8 entitled to the login for that account?

9 A. I don't know.

10 Q. You knew you were on the account, right?

11 A. Well, I didn't know I was on the account. I  
12 just wanted to find out what everybody was complaining  
13 about.

14 Q. Did Rachel in any way balk at giving you access  
15 to this account owned by TS Capital Partners, L.L.C.?

16 A. No.

17 (Exhibit 39 marked.)

18 Q. (BY MS. WELLS) We are not done with that one.  
19 We are going to come back to it.

20 A. Oh, okay.

21 Q. So don't put it too far away.

22 A. Okay.

23 Q. This is a document that is Tuberville 137 to  
24 161. Did you give this to your lawyers to produce?

25 A. I did.

1 Q. Is this something you or someone at your  
2 request printed out from the Regions Bank account held  
3 by TS Capital Partners?

4 A. I did.

5 Q. You printed it out yourself?

6 A. I did.

7 Q. What are the last four digits on the account?

8 A. 6744.

9 Q. Now, if you will look back to Exhibit 36, is  
10 that the same account?

11 A. It is.

12 Q. 6744. Did you look over this document that is  
13 Exhibit 39 when you printed it out?

14 A. Yes.

15 Q. Did you see a lot of returned checks that  
16 bounced?

17 A. I didn't know what a returned check was, but  
18 I -- I just looked at the pluses and minuses.

19 Q. Did you notice the monthly minus for BMW  
20 Financial Services in the amount of 767.89 --

21 A. I did.

22 Q. -- which was your payment for your leased car?

23 A. I did.

24 Q. And this isn't coming out of some investment  
25 account specifically named to you, right? This is the

1 business checking account for TS Capital Partners --

2 MR. HAYSLIP: Object to the form.

3 Q. (BY MS. WELLS) -- L.L.C., right?

4 A. Well, I thought it was an investment account.

5 You know that is all -- you know --

6 Q. But it is a Regions Bank account, right?

7 A. Right.

8 Q. Held in the name of the business, correct?

9 A. TS Capital Partners, L.L.C.

10 Q. So were you at all surprised to see your car  
11 payments coming out of this account?

12 A. No. I would have expected -- like I said, I  
13 would have expected my money to come out of my  
14 investment, you know. I didn't know what all was in  
15 there, but I was expecting it to come out of my  
16 investment.

17 Q. And yours is in, let's see, reverse  
18 chronological order. Do you remember -- does this date  
19 October 20th, 2011 on the bottom right seem consistent  
20 with when you think you ran this report?

21 A. 2011, when?

22 Q. October 20th of 2011. On the bottom right  
23 there is a date stamp.

24 A. Yeah. Mid October is when I remember doing it,  
25 yes.

**Deposition Transcript Gap from Page 201 to Page 207.**

1 Q. Do you see the second line is a payment,  
2 "767.89, Tom.car"?

3 A. Yes.

4 Q. Okay. And then three down from that says  
5 "Clean book & me, 75", and underneath that it says "Tom  
6 cell, 385"?

7 A. Uh-huh.

8 Q. Did TS Capital Partners, L.L.C. pay for a cell  
9 phone for you?

10 A. Yeah. The car and the cell phone came out of  
11 my personal investment account. That is what David told  
12 me.

13 Q. That is what David told you?

14 A. Uh-huh.

15 Q. When did he tell you that?

16 A. When we first started the account, and the  
17 credit card. And I know we will talk about that in a  
18 few minutes.

19 Q. Okay. How long did you have that cell phone  
20 that was being paid for by --

21 A. These don't have dates down there, but --

22 Q. Well, she is bad about dates, too.

23 A. Yeah.

24 Q. So we have to go back and forth between the  
25 statements and the book. Maybe we can get to that a

**Deposition Transcript Gap from Page 209 to Page 216.**



1 A. No.

2 Q. Okay. Who is Jim Nichols?

3 A. He works for me.

4 Q. In what capacity?

5 A. He is a -- I don't know what you call him. He  
6 is a tech guy, works on all of our video equipment.

7 Q. Okay.

8 A. Yeah.

9 Q. And Kristie (sic) Sherman?

10 A. That is my secretary here at Tech.

11 Q. Okay.

12 A. Kirstie.

13 Q. Kirstie. Sorry. And ASC 71, is that your cell  
14 phone number about halfway down the page?

15 A. Yes.

16 (Exhibit 42 marked.)

17 Q. (BY MS. WELLS) Okay. I show you 42 for  
18 identification. It is an ASC produced document. It is  
19 a signature card for a Regions Bank account in the name  
20 of TS Capital Partners, L.L.C., the account ending 6744,  
21 if you see that in about the middle of the page. Do you  
22 see that right around there?

23 A. Okay.

24 Q. Account number.

25 A. Oh, yes.

1 Q. [REDACTED]?

2 A. Yes, I see that.

3 Q. And that is the same number as on Plaintiffs'  
4 38, the big honking stack of statements from the bank?

5 A. Okay.

6 Q. And the account is in the name of TS Capital  
7 Partners, L.L.C., correct?

8 A. Correct.

9 Q. What other names are on this account?

10 A. David Stroud, Rachel Broach.

11 Q. Do you see your name there as well?

12 A. Oh, well, I thought you -- that was -- yes, and  
13 Thomas H. Tuberville.

14 Q. Okay. And do you see down underneath that  
15 where they are typed, do you see a handwritten name of  
16 David Stroud and then a signature next to it?

17 A. I do.

18 Q. And then a handwritten Thomas H. Tuberville and  
19 then a signature next to it?

20 A. I do.

21 Q. And then Rachel D. Broach and a signature next  
22 to that?

23 A. I do.

24 Q. Is that your signature next to your name, where  
25 your name is printed?

1 A. It looks like it, yes.

2 Q. Okay. In your experience with dealing with  
3 opening bank accounts, by signing a signature card  
4 does that authorize you to draw down the account?

5 A. No. I thought it just gave me an opportunity  
6 to possibly look at the account.

7 Q. Do you see underneath that little section with  
8 your signature it says, "The signatures appearing above  
9 are duly authorized signatures of this  
10 proprietorship/partnership/corporation/organization/  
11 public entity which the bank will recognize in the  
12 payment of funds and transaction of other business for  
13 this account"?

14 A. I see that, yes.

15 Q. And underneath that it says, "Checks, drafts,  
16 acceptance, notes and other transactions must bear,  
17 blank, of the within mentioned signatures." And that is  
18 not completed, right?

19 A. That is right.

20 Q. So just one signature would have sufficed?

21 MR. HAYSLIP: Object to the form.

22 Q. (BY MS. WELLS) Correct?

23 A. Correct.

24 MR. HAYSLIP: Do you know that?

25 THE WITNESS: Well, I didn't know -- I

1 mean, that is what it says. I didn't know it.

2 Q. (BY MS. WELLS) You are not having trouble  
3 understanding the language on this signature form, are  
4 you?

5 MR. HAYSLIP: I thought you were saying it  
6 said that on there, but it didn't.

7 THE WITNESS: Yeah.

8 MR. HAYSLIP: As long as we have that  
9 understanding, it doesn't say that.

10 MS. WELLS: Well, I would submit that it  
11 would have to say a different number other than --

12 MR. HAYSLIP: I am not disputing it. I  
13 just thought you were trying to say that that is what it  
14 said.

15 Q. (BY MS. WELLS) Okay. Let's look at more  
16 signature cards.

17 (Exhibit 43 marked.)

18 Q. (BY MS. WELLS) Now, this is for an account at  
19 Regions Bank for TS Capital Management, L.L.C., the same  
20 business address, account number ending in 8354,  
21 LifeGreen Checking for Business. The account is in the  
22 name of TS Capital Management, L.L.C., Rachel D. Broach,  
23 David Stroud and Thomas H. Tuberville, correct?

24 A. Yes.

25 Q. And is that your signature next to where your

1 name is printed on the signature card?

2 A. No.

3 Q. All right. Next to where your name is printed  
4 it says "Owner", correct?

5 A. Yes.

6 Q. And that same indication is next to David  
7 Stroud's name, right?

8 A. That is correct.

9 Q. And then on the second page, it doesn't look  
10 like your signature was signed by you there either?

11 A. No.

12 Q. It has got your correct address in Lubbock,  
13 though, right?

14 A. [REDACTED], yes.

15 Q. Is that your Texas driver's license number  
16 underneath, --

17 A. It looks like a cell phone number, but it is  
18 not my cell phone number.

19 Q. -- TX [REDACTED]? Do you have a Texas driver's  
20 license?

21 A. I do.

22 Q. What is the number on your license?

23 A. Driver's license number [REDACTED]. That is not  
24 it (sic).

25 Q. That is not what?

1 A. That is not my driver's license.

2 Q. What is your driver's license number?

3 A. [REDACTED]. And that is --

4 Q. That is the same number --

5 A. That is the same number. I was looking at  
6 the --

7 Q. Do you remember ever giving that number to  
8 David Stroud or Rachel Broach?

9 A. No.

10 Q. Is that something that is publically available  
11 on the Internet?

12 A. No. No, I wouldn't think.

13 (Exhibit 44 marked.)

14 Q. (BY MS. WELLS) This is for TS Capital  
15 Management, L.L.C. for a Regions account. It has your  
16 name listed as an owner. Do you see that?

17 A. I do.

18 Q. And it specifically says above where the names  
19 are written that as long as the check, draft, note or  
20 order is signed by any one of the following it may be  
21 withdrawn. Do you see that, the lines that is filled  
22 in?

23 A. I see that.

24 Q. And is that your signature next to the one that  
25 has your name printed?

1 A. No.

2 (Exhibit 45 marked.)

3 Q. (BY MS. WELLS) This is a TS Capital Fund bank  
4 account with Regions. It, again, has your name listed  
5 as one of the customers, along with the fund, and David  
6 Stroud and Rachel Broach. Do you see that?

7 A. I do.

8 Q. It has your address here in Lubbock, right?

9 A. It does.

10 Q. Your driver's license number?

11 A. It does.

12 Q. And under the signature card box it looks like  
13 somebody else signed your name, to me. Would you agree?

14 A. I agree.

15 Q. And on the next page next to where your name is  
16 printed as owner, again that looks like somebody else  
17 has signed your name; is that right?

18 A. Yes.

19 Q. So as far as you knew, you never saw these  
20 documents, correct?

21 A. No.

22 Q. And if you go to 165, is the signature on that  
23 page something that you claim was not signed by you?

24 A. That is not my signature.

25 Q. And on Tuberville Page 166, not your signature?

1 A. No.

2 Q. On Tuberville 167, is that your signature or  
3 not your signature?

4 A. Not.

5 MR. HAYSLIP: What page is that one?

6 MS. WELLS: 167.

7 Q. (BY MS. WELLS) So these are documents that  
8 your attorneys have produced to us in discovery. Did  
9 you give them to your lawyers?

10 A. I can't remember.


11 Q. No idea where they came from?

12 A. Not unless they went out and looked for them,  
13 because I didn't have them. I couldn't have given them  
14 to them; I didn't have them.

15 Q. Did you ever authorize anybody to sign your  
16 name on a signature card?

17 A. No.

18 (Exhibit 46 marked.)

19 Q. (BY MS. WELLS) This is from a different bank.  
20 It is a Wachovia bank account. And it is dated 6-25-09.  
21 And it is TS Capital GP, L.L.C., account number  
22 .

23 MR. HAYSLIP: Is this one document or two?

24 MS. WELLS: It is a two-page document. The  
25 front page is a Wachovia folder cover from the ASC



1 production. It came out of the files at the office.

2 Q. (BY MS. WELLS) Is that your signature, sir, on  
3 ASC 10 next to where your name is typed?

4 A. It looks better than the other ones.

5 Q. It looks more like it might have been yours?

6 A. I would have some doubt. The "Tuberville"  
7 don't look right (sic). I couldn't say for --

8 Q. You can't tell one way or the other?

9 A. No.

10 Q. Okay. Does seeing any of these documents  
11 refresh your recollection that you might have signed  
12 some bank related documents with Stroud when you were  
13 first investing?

14 A. I can't remember.

15 Q. And I think this next exhibit is duplicative of  
16 the ones that your lawyers produced, but it came out of  
17 the ASC documents, so I am just going to go ahead and  
18 put it in and see if it is your signature.

19 (Exhibit 47 marked.)

20 Q. (BY MS. WELLS) It is a group composite  
21 exhibit, ASC 37 through 42. Again, we are back to the  
22 Regions signature cards. And these, I believe, are the  
23 ones that you have previously testified do not bear your  
24 signature as you sign it?

25 A. That is correct.

1 Q. When you went to New York City in November  
2 of 2009 with Bill Scott and David Stroud for The Blind  
3 Side premier, did David pay for anything?

4 A. I can't remember that.

5 Q. Who paid for the limo?

6 A. I didn't. He must have.

7 Q. There was a limo though, right, that you guys  
8 used?

9 A. Yeah, uh-huh.

10 Q. And where did you stay?

11 A. I can't remember. I can't remember that.

12 Q. Who paid for the air fare for you?

13 A. I did.

14 Q. What airline?

15 A. I have no clue.

16 Q. Do you remember a trip to New York City in  
17 April of 2011 to appear on the Sean Hannity show?

18 A. And Bloomberg. I went to be on Bloomberg, and  
19 then they asked me to be on the Hannity show after. So  
20 it was Bloomberg first and Hannity that night. I did,  
21 uh-huh.

22 Q. Did you say earlier that Stroud was with you?

23 A. He wasn't with me.

24 Q. He was not with you?

25 A. Huh-uh. Bill Scott was with me.

1 Q. Bill Scott?

2 A. Yeah.

3 Q. Did Stroud ask you to make that trip?

4 A. I can't remember whether he called or somebody  
5 from Bloomberg called, because I was on there several  
6 times a year.

7 Q. On Bloomberg?

8 A. Yeah. Probably two, maybe three times for a  
9 couple of years.

10 Q. In what years?

11 A. In the last few years.

12 Q. Since you started investing with David?

13 A. Since I knew David, correct.

14 Q. The show doesn't pay your expenses to go out  
15 there, right?

16 A. No, huh-uh.

17 Q. Did you pay for those expenses relating to any  
18 of your trips to be on Bloomberg with a credit, debit or  
19 check card issued by TS Capital Partners, L.L.C.'s bank  
20 account?

21 A. Possibly.

22 Q. Okay. Let's go back to 38, if we could. And  
23 if you will turn to Page 199. Do you remember what  
24 airline you flew to New York from Lubbock?

25 A. No, it probably -- either Delta or American.

1 Q. All right. Look on -- there is an American  
2 Airline purchase on 4-20 for \$311.70. And then  
3 underneath it there are a couple of air tickets on  
4 Delta. Did Bill Scott fly with you from here?

5 A. No. He went from Auburn.

6 Q. From Auburn?

7 A. What date did you say?

8 Q. April 20th. Do you see that American Airline  
9 and then those two Delta flights underneath it? A Check  
10 card purchase.

11 A. I see that, yes. I don't know. Is that -- I  
12 don't know if that is the date that I left and went up  
13 there.

14 Q. I don't know either, but it might be the day  
15 you purchased your ticket. If you will turn to the next  
16 page, on 4-28, which was I believe the day that you were  
17 on the Sean Hannity show.

18 A. The 28th?

19 Q. I believe that is right. There is a charge for  
20 the hotel InterContinental, 472.83.

21 MR. HAYSLIP: Where are you looking?

22 MS. WELLS: That is actually on the 29th.

23 A. Okay.

24 Q. (BY MS. WELLS) And then there is a check card  
25 purchase, Robert Emmets. Do you see that on the 29th?

1 A. Is that a person?

2 Q. Somebody in New York. And then there is a bar  
3 in New York?

4 A. Uh-huh.

5 Q. And Joe Allen Restaurant in New York?

6 A. Yes, I see those.

7 Q. Did you eat at Joe Allen Restaurant on that  
8 trip?

9 A. I can't remember. Possibly.

10 Q. So at some point did you receive a check card,  
11 debit card or credit card that was affiliated somehow  
12 with one of these TS Capital entities?

13 A. I had a credit card from TS Capital Partners,  
14 L.L.C., and I got it pretty much pretty -- pretty early  
15 after I -- in my investment account.

16 Q. And --

17 A. All this was taken out of my investment  
18 account.

19 Q. Or so you believed --

20 A. So I believed.

21 Q. Stroud told you that?

22 A. Yeah, that is what I was told.

23 Q. Along with the other things that Stroud told  
24 you?

25 A. The phone, the car and this credit card.

1 Q. But you don't have any documents that relate to  
2 deductions being made from an investment account  
3 chargeable to you?

4 A. Well, I got that. I mean, if that -- if that  
5 is me. I don't --

6 Q. That is the business's checking account.

7 A. Oh, it is?

8 Q. That is not your investment account. That is  
9 the business's checking account for Regions.

10 A. Well, my understanding it was just coming -- my  
11 part was coming out of my account, the money that I put  
12 in.

13 Q. But you never got any statements, right?

14 A. No.

15 Q. And so you never saw deductions being made from  
16 your pot of money, right?

17 A. That is exactly correct.

18 Q. So the only place we show it is coming out of  
19 the business checking account, along with every other  
20 expense that David paid, right?

21 A. Well, it says TS Capital Partners, L.L.C. I  
22 would imagine I was part of that -- that was where my  
23 money was invested at, yes.

24 Q. Well, this isn't an investment account. This  
25 is a checking account with Regions, right? You

1 understand that, right?

2 MR. HAYSLIP: You are arguing with him.

3 MS. WELLS: I am asking him a question.

4 A. Yeah, but my understanding was the credit card  
5 and the car and the phone all came out of my investment,  
6 my personal investment. And that is the reason I asked  
7 them; if I put money in an account, can I get a credit  
8 card and a car and to be able to write off for tax  
9 purposes because I didn't have a car from universities  
10 that I had worked for in the past, so I needed a  
11 business car. And so I said, "David, if I put this in  
12 an investment account, a personal investment account,  
13 can I use a credit card on it and can I pay for my car  
14 on it?" He said, "Yes, for tax purposes."

15 Q. (BY MS. WELLS) So you considered the car to be  
16 a business expense --

17 A. I did.

18 Q. -- relating to your investment in TS Capital  
19 Partners, L.L.C.?

20 A. I did.

21 Q. Did you have any conversations with your  
22 accountant with respect to the tax codes --

23 A. No.

24 Q. -- adoption of that approach?

25 A. No, I just -- David said you could do it.

**Deposition Transcript Gap on Page 232.**



1 A. No, not that I remember. I can't say a hundred  
2 percent, because I used three or four credit cards.

3 Q. Did you do any Bloomberg interviews when you  
4 were up there for The Blind Side premier?

5 A. I can't remember.

6 Q. Did Merrill Lynch give you a credit card that  
7 draws off of your investment account?

8 A. Merrill Lynch?

9 Q. Uh-huh.

10 A. They would if I asked them. A debit card,  
11 yeah.

12 Q. Would they have paid for you to have a BMW?

13 A. I don't know. I don't know.

14 Q. A cell phone from Merrill Lynch paid for?

15 A. Maybe. I don't know. I don't know those  
16 rules. I just asked David, "If I put money in this  
17 account, can I get a car?" Because I didn't have one,  
18 because I was getting ready to have to drive back and  
19 forth from, you know, ESPN and do all kind of business  
20 travel, and I needed a credit card other than my  
21 personal one. He said, "You can do that for tax  
22 purposes."

23 Q. Okay. Health insurance.

24 A. Okay.

25 Q. Did you have some health insurance that was

1 provided for you through TS Capital Partners, L.L.C. or  
2 any of the other defendant entities?

3 A. My health care was paid for for the entire year  
4 that I was out. And so --

5 MR. HAYSLIP: By Auburn or --

6 THE WITNESS: By Auburn.

7 A. I remember it went for an entire year. I got  
8 the job next year the 15th.

9 Q. (BY MS. WELLS) Of January?

10 A. Of January.

11 Q. Of 2010?

12 A. I might have applied for some, but I don't  
13 think I ever needed it because they -- I went on  
14 insurance when I got here.

15 Q. To Lubbock?

16 A. To Lubbock.

17 Q. In 2010?

18 A. Yeah.

19 Q. Just so we are clear, Auburn did not provide  
20 you any BlueCross/BlueShield insurance benefits after  
21 2009?

22 A. Yeah. I don't know how far it went. I don't  
23 know whether it went into January.

24 Q. Other benefits, BlueCross/BlueShield of Alabama  
25 in 2010 (sic)?

**Deposition Transcript Gap from Page 235 to Page 239.**

1 a Bates label page to tell you.

2 Q. (BY MS. WELLS) Do you see there were some  
3 radiology charges in February of 2010 as well paid by  
4 BlueCross/BlueShield of Alabama?

5 A. 2000 what?

6 Q. 2010.

7 A. Yes. I am here at that time, right?

8 MR. HAYSLIP: Uh-huh.

9 Q. (BY MS. WELLS) Yes. Lubbock County Hospital,  
10 February 19th, 2010.

11 A. I see that.

12 Q. Caprock Discount Drug. Is that a drug store  
13 here in Lubbock?

14 A. Yes. That is the drug store we use most of the  
15 time.

16 Q. All right. How long did you leave your  
17 personal items, sports memorabilia and the like, in the  
18 offices in Auburn?

19 A. Most of it came with me. I don't know. I  
20 might have left a couple of pieces there. But I brought  
21 the Bear Bryant trophy -- what you see in the picture  
22 was in my office here at Lubbock.

23 Q. Do you recall asking Bill Scott to go and get  
24 some of your items in October of 2011?

25 A. Yes. I had a table.

1 Q. Anything else?

2 A. There could have been one or two other things.  
3 But the main thing was my wife's antique table that she  
4 wanted to get out of the garage and get out of the  
5 weather.

6 Q. Bill Scott has given a declaration in the  
7 CFTC's lawsuit against Mr. Stroud and the TS Capital --

8 A. What does that mean, declaration? What is a  
9 declaration?

10 Q. It is a sworn statement under penalty of  
11 perjury kind of like an affidavit, except that you just  
12 declare it; it is not notarized.

13 A. Yeah.

14 Q. And I am sorry, I didn't bring copies because I  
15 didn't plan to exhibit it. But I will represent to you  
16 for the record that he said that on or about October  
17 24th of 2011 you called him and said, "We have been  
18 scammed. It is all a lie", or words to that effect.  
19 You said that you had been contacted by regulators and  
20 you now believe that Stroud has lied about the  
21 investments and "ripped us off", or words to that  
22 effect. And you asked me to retrieve -- I am sorry.  
23 You asked Scott to retrieve your photos and coaching  
24 memorabilia from the TS Capital office. And Broach let  
25 Scott and his wife take those personal items from the

1 office in the next couple of days.

2 Does that refresh your recollection about what  
3 you asked Mr. Scott to get?

4 A. Yeah, whatever was left. I didn't know what  
5 was left, because -- but I did take most of that stuff  
6 with me to Lubbock.

7 Q. Do you remember getting a letter from an  
8 attorney named Kesten in June of 2010?

9 A. Spell his name.

10 Q. K-e-s-t-e-n. He is a lawyer in Florida  
11 representing Michal Makori, M-i-c-h-a-l, M-a-k-o-r-i --

12 A. I don't remember that.

13 MR. HAYSLIP: Let her finish the question,  
14 Coach. Now answer the question.

15 Q. (BY MS. WELLS) Now you can answer. I am  
16 sorry, I couldn't hear you.

17 A. I don't remember.

18 Q. Okay.

19 (Exhibit 50 marked.)

20 Q. (BY MS. WELLS) I show you what has been marked  
21 as 50 for identification. The first page purports to be  
22 a letter sent by Express Mail to you in care of Texas  
23 Tech University Athletics/Football Department in  
24 Lubbock --

25 A. Uh-huh.

**Deposition Transcript Gap on Page 243.**

1 entered into between TS Capital Partners, L.L.C. and  
2 Ms. Makori?

3 A. No.

4 Q. Did you agree to any settlement of a lawsuit?

5 A. I never heard of it.

6 Q. How about a consulting agreement with a woman  
7 named Glick, G-l-i-c-k?

8 A. No.

9 MR. RUTHERFORD: Has he heard of it?

10 Q. (BY MS. WELLS) Have you heard anything about  
11 an agreement with a Ms. Glick in August of 2011?

12 A. No.

13 Q. When did you learn about the problems -- the  
14 FINRA problems that started in May of 2009?

15 MR. HAYSLIP: Object to the form.

16 A. Repeat that, the FINRIN (sic)?

17 Q. (BY MS. WELLS) FINRA, F-I-N-R-A.

18 A. I don't know what that is.

19 Q. Okay. When was the last time you had any  
20 communications with David Stroud?

21 A. Two days before we played Oklahoma. I can  
22 remember the game. We were getting ready to play. It  
23 was on a Thursday. I think it was October 22nd when we  
24 played the game, so that would make it around October  
25 the 20th.



1 MR. HAYSLIP: Object to the form.

2 A. Well, I was an investment partner in one of  
3 the -- the L.L.C.

4 Q. (BY MS. WELLS) You don't think that in any way  
5 obligates you to the creditors of the L.L.C.?

6 A. No.

7 Q. And which L.L.C., again, is that for the  
8 record?

9 A. TS Capital Partners, L.L.C.

10 MS. WELLS: You will be so glad to know I  
11 am getting to the end of my stack.

12 THE WITNESS: Can I go to the restroom real  
13 quick?

14 MS. WELLS: You sure can. This will be a  
15 good time and I can go through my documents.

16 (Break taken from 3:42 p.m. to 3:53 p.m.)

17 Q. (BY MS. WELLS) All right. Financial Industry  
18 Regulatory Authority, which is a Securities Industry  
19 Dispute Resolution Body. Have you ever heard of that  
20 entity?

21 A. No, ma'am.

22 Q. You have never heard anything about Stroud or  
23 the TS Capital entities having problems with FINRA?

24 A. No.

25 Q. Okay. How about the National Futures

**Deposition Transcript Gap from Page 248 to Page 249.**

1 send you a typed-up list either by email or some other  
2 form of the issues that he had concerns about with  
3 respect to the TS Capital entities?

4 A. I don't remember. He could have. I don't  
5 remember.

6 (Exhibit 53 marked.)

7 Q. (BY MS. WELLS) Okay. This is 53 and I don't  
8 have any copies of it. It is from the CFTC case and it  
9 was listed in Lowe's declaration. And he said in his  
10 declaration that after he talked to Tuberville on  
11 September 28th of 2011 about past due bills, unfiled  
12 taxes, the Troy bank account --

13 A. I have not seen that.

14 Q. He said he emailed you that document with those  
15 topics. Is that not right?

16 A. No. I have not seen that.

17 Q. Do you remember Mr. Lowe telling you that he  
18 had concerns about unpaid bills related to the  
19 TS Capital entities in September of 2011?

20 A. Yes.

21 Q. Did he express to you concerns about taxes for  
22 the TS Capital entities not having been paid at that  
23 time as well?

24 A. I don't remember him saying taxes, I just  
25 remember him saying bills.

1 Q. Okay. Did you tell Mr. Lowe that you would  
2 call David Stroud?

3 A. Well, first, I asked him who he was.

4 Q. Okay.

5 A. And what he did.

6 Q. And what did he tell you?

7 A. If I remember right, he said that he was an  
8 employee for David and he was the office manager. And I  
9 asked him, "If you are the office manager, why are you  
10 calling me?" And he said, "Well, you are a friend of  
11 David's and he will listen to you. He won't listen to  
12 me. I can't get him to talk to me." And I said, "Okay.  
13 What do you want?" And he said, "Coach, he is not  
14 paying his bills." And I said, "What do you want me to  
15 do about it?" And he said, "Well, he will listen to  
16 you."

17 And so, you know, we went on talking about  
18 some other things about it. And I told him I would call  
19 David and try to find out some information for him.

20 Q. Didn't Mr. Lowe refer to you as a co-owner of  
21 the TS Capital entities in that telephone call?

22 A. I don't remember that.

23 Q. Did you call Stroud after that?

24 A. I did.

25 Q. And what was that conversation? What do you

1 remember about that conversation with Stroud?

2 A. I called him and asked him what was going on.  
3 I said, "I am getting calls from a Baron Lowe." I said,  
4 "Who is that?" And he said, "It is an employee of  
5 mine." And I said --

6 Q. "Of mine" or of TS Capital?

7 A. An employee of his. And I didn't know he  
8 worked for him. And I didn't know where Baron was at,  
9 where he was -- you know, I didn't know anything about  
10 the guy. I had never met him, never talked to him. And  
11 so I was trying to figure out who he was. I didn't know  
12 whether -- you know, how to address him in terms of  
13 should he know anything or not know anything.

14 Q. Right.

15 A. And so I called David. And he said, "Yeah, he  
16 is an employee." And I said, "Well, he says that you  
17 haven't paid your bills." And he said, "I am a little  
18 behind." And I said, "Well, you need to visit with him  
19 and communicate with him." I said, "He is your office  
20 manager and I am just relaying the message and you need  
21 to take care of your business. I don't have enough time  
22 to do this. I am coaching and I don't have enough time  
23 to mess with your business and mine at the same time."  
24 And so what was pretty much it.

25 Q. Did you call Baron Lowe back and tell him that

1 TS Capital entities were closed, that investor money  
2 would be returned and that the employees would receive  
3 two weeks pay and benefits?

4 A. I did not.

5 Q. You never told him that that was the right  
6 thing to do?

7 A. Again, we had several conversations. And that  
8 first one, when I called him -- when I called him back  
9 or he called me -- I don't know -- I don't know which it  
10 was. He said that, "There is something wrong here,  
11 Coach. I don't know what it is. I can't get him to  
12 communicate." I said, "Well, is there business going on  
13 at the office?" He said, "Yes, there is." I said, "Is  
14 there people still around there? Is David around?" I  
15 was trying to just get the feel of what was going on.

16 Q. Uh-huh.

17 A. And he said that, you know, they were all  
18 concerned because David was not paying the bills, they  
19 were all concerned about their investments. I said,  
20 "Well, so am I. I am an investor, too." And --

21 Q. So Baron Lowe told you they had invested?

22 A. Invested money. And that is the first I had  
23 heard of it. So after talking to David a couple of  
24 times I told him, I said, "David, if you can't run your  
25 business" -- "I am going to give you some advice. If

1 you can't run your business, give everybody their money  
2 back." I said, "It is not fair to anybody that you are  
3 not running your business right." And that is the same  
4 thing I told Baron. I called him back and said, "I told  
5 David if he can't pay his bills he needs to give  
6 everybody their money back and close it down." And that  
7 was advice from a friend. That wasn't advice from  
8 somebody that knew anything -- what was going on.  
9 Because David was distraught that he couldn't pay his  
10 bills.

11 Q. Did he admit that he had been careless and  
12 irresponsible about the funds' operations?

13 A. Well, he asked to borrow some money from me to  
14 pay the bills.

15 Q. And how much money did he ask for?

16 A. I don't know. He said, "Can you help me?" I  
17 said, "I am not helping you." I said, "I have got too  
18 much money invested already with you."

19 (Exhibit 54 marked.)

20 Q. (BY MS. WELLS) This is a document that came  
21 out of the ASC production. And under TS Capital  
22 Partners, do you see who it lists as having  
23 contributed --

24 A. TS Capital --

25 Q. -- as of December 31st, 2009? TS Capital

**Deposition Transcript Gap on Page 255.**



1 12th of 2012, but they are dated in October, early  
2 October of 2011 through mid October of 2011.

3 So the earliest one is on top and then it goes  
4 sequentially in order. So that first one is sent  
5 from -- it says Melanie Lowe. Do you see that?

6 A. Who is?

7 Q. Baron Lowe's wife.

8 A. Okay.

9 Q. And it is sent to david@tscapital.net, correct?

10 A. Correct.

11 Q. Did you ever use that email address to reach  
12 David, if you remember?

13 A. I can't remember.

14 Q. Okay. And then Tommy Tuberville at  
15 [REDACTED]@msn.com, that is the email address you said you  
16 used, to the extent that you use email, correct?

17 A. If I used an email, that was it, uh-huh.

18 Q. Do you remember seeing this email message?

19 A. Let me look at it right here. I can't say for  
20 sure that I have seen it.

21 Q. Okay. And if you go to the next page, you will  
22 see the email is signed Baron Lowe?

23 A. That is correct.

24 Q. And it looks like actually that message is a  
25 response to the one that is attached underneath from

**Deposition Transcript Gap on Page 257.**

1 forwards it to you saying, "I see that David didn't cc  
2 you on his response. David appeared to be on top of  
3 things last week, but seems to be sliding back into his  
4 normal mode of procrastination. I need my investment by  
5 this Wednesday at the very latest as I have been  
6 postponing things based on this. I don't quite know  
7 what it will take to get his full and consistent  
8 attention on this, but he needs to move his rear end  
9 quickly." And then you forwarded that message to David  
10 on October 11th at 12:12 p.m.

11 A. Okay.

12 Q. Do you see that at the very top?

13 A. Uh-huh.

14 Q. Then the next page, ASC 78, interestingly David  
15 Stroud copies you at an email account he knows you don't  
16 use.

17 A. Who is this to?

18 Q. An attorney named Wyckoff. Heather Wyckoff,  
19 you have never heard of her?

20 A. No.

21 Q. We have got some more emails. All right. Go  
22 to ASC 81, please. This is sent by Baron Lowe on  
23 October 12th at 9:13 a.m. to davidstroud@tscapital.net  
24 and to you, Coach Tuberville, at your MSN account. Do  
25 you see that?

**Deposition Transcript Gap on Page 259.**

1 at this time.

2 A. I think I talked to Stuart, trying to find  
3 out -- get some information from him. I probably talked  
4 to Rachel.

5 Q. What did Stuart tell you?

6 A. I can't remember. I was just trying to find  
7 out, number one, who Baron Lowe was, trying to figure  
8 out what was going on.

9 Q. But Stuart told you that Baron worked there,  
10 though, surely?

11 A. The first time I ever heard of Baron Lowe is  
12 when he called me. That was the first time.

13 Q. But after you talked to Stuart, he was able to  
14 confirm -- he knew Baron worked there?

15 A. Oh, yeah. They didn't get along too well.  
16 That is what --

17 Q. No, they didn't get along too well, did they?

18 A. That is what I remember him saying.

19 Q. Yeah.

20 A. Now, remember, I wasn't there for a year and a  
21 half. And so --

22 Q. I understand.

23 A. -- I didn't know who was there, what they did,  
24 who they worked for.

25 Q. You did stop by in the summer of 2011, though,

1 right?

2 A. I did. I go back to Auburn for the Fourth of  
3 July every year.

4 Q. To the lake house?

5 A. To the lake house. And I drove over to the  
6 office and went to the wrong office. They moved and I  
7 didn't know they had moved. And I found where they had  
8 moved to.

9 Q. How did you find where they had moved to?

10 A. I just kind of walked around looking and I saw  
11 some cars.

12 Q. It was nearby?

13 A. Yeah. It was -- there was an office complex.  
14 One office is in the middle on the bottom floor. And he  
15 had -- I guess David had moved everything down -- or he  
16 did move everybody down to the end, two levels, two or  
17 three times bigger than the one he had had.

18 Q. Well, they had a lot more people working there?

19 A. Well, that is when I met -- I think Glen  
20 Williams is the guy I met. Baron was not there. And  
21 there was two interns that were exchange students that  
22 was working there. And I think that is all. But they  
23 had -- I was impressed by the TVs, computers and people  
24 working and I felt pretty good about my investment at  
25 that time. Little did I know.

**Deposition Transcript Gap on Page 262.**

1 anybody dealing with David's business I just sent it to  
2 him because I knew nothing about what they were talking  
3 about.

4 Q. All right. I think Mr. Lowe thought it was  
5 your business, too.

6 MR. HAYSLIP: That is not a question.

7 MR. RUTHERFORD: Is that a question?

8 MS. WELLS: No, it is an editorial comment.

9 MR. RUTHERFORD: Well, we will save those  
10 and you can move on.

11 MS. WELLS: And you can wait outside.

12 MR. RUTHERFORD: No, I am not waiting  
13 outside.

14 THE WITNESS: We have made it this far.

15 (Exhibit 56 marked.)

16 Q. (BY MS. WELLS) These are some text messages  
17 that your attorney produced. Did you provide these  
18 screen captions to your attorneys?

19 A. Yes.

20 Q. Is this a text conversation you were having  
21 with David Stroud between October 11th and 25th?

22 A. Yes.

23 Q. I guess the last message from him is  
24 November 3rd of 2011 when he sent you prayers?

25 A. Yeah.



1 Q. And on or about October 19th you say, it is on  
2 Page Tuberville 200, "Now I hear the state securities  
3 commission is coming in to investigate. I hope you have  
4 everything in order. Call me."

5 A. Is it this one?

6 MR. HAYSLIP: What date?

7 MS. WELLS: This is on Tuberville 200.

8 MR. HAYSLIP: The next page.

9 A. That is correct.

10 Q. (BY MS. WELLS) So when you tell him you hope  
11 he has everything in order, is that your concern as his  
12 business partner or is that just your concern as a  
13 friend, or what are you getting at there?

14 A. As an investor.

15 Q. As an investor?

16 A. I was starting to worry about a lot of  
17 different things. Obviously I had a lot of money  
18 involved in it, but --

19 Q. But you weren't just an investor, Coach  
20 Tuberville, right?

21 MR. HAYSLIP: She is arguing with you.

22 Q. (BY MS. WELLS) You can answer, if you  
23 understand the question.

24 A. An investor.

25 Q. And a partner?

1 A. Well, I would say a partner in --

2 Q. TS Capital --

3 A. -- TS Capital Partners, L.L.C. Yeah, an  
4 investment partner.

5 Q. On Tuberville 199, is that message in the  
6 middle there of the big darker text, is that from you?

7 A. That is from me.

8 Q. Okay. What does it say?

9 A. "I need account numbers of bank in Troy that  
10 has money. We have to take care of bills today. You  
11 said we had several million dollars in that account. If  
12 it is CD money, we have to take it out and pay."

13 Q. So I notice that you are saying "we" there and  
14 not "you"?

15 A. Yeah. That was probably a mistaken -- I didn't  
16 have any money in Troy.

17 Q. Well, by then you knew that is where he had put  
18 all the money, right?

19 A. I knew --

20 Q. Baron had told you that?

21 A. Baron had told me that he had an account. Not  
22 all the money, the account. He had said he had an  
23 account in Troy. That is how I knew he had an account  
24 at Troy is from Baron. And so what I was trying to do  
25 is kind of smoke David out in terms of, "Hey, you know,

**Deposition Transcript Gap on Page 266.**

1 are making mistakes. Do something. Do it right and do  
2 it right for everybody."

3 Q. (BY MS. WELLS) You say, "I will take care of  
4 this myself" (sic), right?

5 MR. HAYSLIP: Is that what that says?

6 A. "Account numbers and I will take care of this  
7 myself. I cannot believe this has not been taken care  
8 of" -- oh, and "take care of this myself". I was trying  
9 to get him to --

10 Q. (BY MS. WELLS) Is that what you said?

11 A. Well, I am trying to get him to --

12 MR. HAYSLIP: She said, is that what that  
13 says?

14 A. That is what that says, yeah.

15 Q. (BY MS. WELLS) And you typed it?

16 A. I did.

17 Q. With your own little thumbs?

18 A. Yes.

19 MS. WELLS: It would be nice if I could  
20 have the complete texts, that are not cut off, from  
21 that.

22 MR. HAYSLIP: That is all I have.

23 MS. WELLS: Well, you have superior access  
24 to the text records than I do.

25 MR. HAYSLIP: Do you have the text

**Deposition Transcript Gap from Page 268 to Page 270.**

1           A. Yeah, I talked to her -- remember, I talked to  
2 her a couple of times and she was -- she was concerned.  
3 She didn't know what was going on; none of us did. And  
4 that pretty much was the conversation.

5           Q. She says you told her and everybody else to  
6 stop working and leave.

7           A. And everybody else?

8           Q. You told her to stop working and leave and you  
9 told her to tell everyone else that?

10                   MR. HAYSLIP: She is asking, do you  
11 remember saying that?

12           A. I don't remember saying that, no.

13           Q. (BY MS. WELLS) Did you tell Stroud to give the  
14 investors their money back --

15                   MR. HAYSLIP: Asked and answered.

16           Q. (BY MS. WELLS) -- in October of 2011?

17           A. I --

18           Q. Before he admitted that he had --

19           A. No. Like I said before, I told him, you know,  
20 "If you can't pay your bills, give us all our money  
21 back." And that was pretty much what I said.

22                   (Exhibit 58 marked.)

23           Q. (BY MS. WELLS) Did you receive this letter  
24 from Baron Lowe dated October 28th, 2011?

25           A. It is a letter or an email? It is a letter. I

**Deposition Transcript Gap from Page 272 to Page 274.**

1 THE WITNESS: Does it have the right  
2 address on it?

3 MS. WELLS: It went to your lawyers.

4 THE WITNESS: Oh, it went to them?

5 Q. (BY MS. WELLS) Have you seen this letter from  
6 Debra Clark, which is Plaintiffs' Exhibit 60?

7 A. I could have.

8 Q. Okay. Did David Stroud ever say anything to  
9 you about their being another TS Capital entity out  
10 there that was better established up in the Northeast  
11 that maybe y'all needed to change the name? Do you  
12 remember anything like that being discussed?

13 A. I can't remember. Was that early or late? I  
14 don't know.

15 MR. HAYSLIP: You answered the question.

16 Q. (BY MS. WELLS) Were you aware of any plan or  
17 discussion by Stroud and others to reduce your voting  
18 rights to only 49 percent in September of 2011?

19 A. After the fact. No, I didn't know any of that.

20 Q. Not in September of 2011?

21 A. I don't think so. I don't think it was -- I  
22 can't remember the date.

23 Q. Do you remember some discussion about that,  
24 changing your ownership share at some point with Stroud?

25 A. No. I didn't know I had a share -- any shares.



1 I mean, I -- or voting rights.

2 Q. Do you know someone who uses -- someone named  
3 Elizabeth who uses ecslaw@████████.com (sic)?

4 A. No.

5 Q. You don't remember David Stroud ever talking  
6 about an attorney named Elizabeth?

7 A. No.

8 Q. So you believe that you and David had formed  
9 this TS Capital Partners, L.L.C. entity, correct?

10 A. That we had formed a -- yes.

11 Q. And do you know in which state it was formed,  
12 or not?

13 A. I don't know anything about that.

14 Q. Okay. To your knowledge, did TS Capital  
15 Partners, L.L.C. ever qualify to do business in Alabama?

16 MR. HAYSLIP: Do you know what that means?

17 A. No. I don't know what it means.

18 Q. (BY MS. WELLS) Okay. Did it maintain  
19 registered agents for service of process, TS Capital  
20 Partners, L.L.C.?

21 A. I don't know what that means.

22 Q. Did it file tax returns?

23 A. Not that I know of.

24 Q. But you believed it was making money, right?

25 MR. HAYSLIP: Object to form.

**Deposition Transcript Gap on Page 277.**

1           A. I knew when he went with me or I went with him,  
2 that we was on (sic). I didn't know he was on any other  
3 time.

4           Q. What was the purpose of his appearances on  
5 Bloomberg?

6           A. He was -- he was a so-called -- thought he was  
7 a so-called expert in trading, I guess. I don't know.

8           Q. Was he trying to expand the business, raise the  
9 profile of TS Capital Partners, L.L.C.?

10          A. I really don't know.

11          Q. Did you ever see any of his Bloomberg  
12 appearances?

13          A. No.

14          Q. So you don't know one way or the other if they  
15 identified him as being associated with any of the TS  
16 Capital entities?

17          A. No. I didn't even watch when we were there. I  
18 didn't watch when he was on.

19          Q. Did you know that a Bloomberg reporter went  
20 along on that trip to China that he took and filmed it?

21          A. From my understanding, yeah.

22          Q. Did you ask Stuart Memory to keep tabs and  
23 report to you on what was going on?

24          A. I asked him to give me an accounting of my  
25 account.

1 Q. When was that?

2 A. Oh, probably the last year. Because my account  
3 was getting pretty high and I wanted to just keep an  
4 accounting of it because I had got no statements.

5 Q. And how often did you ask him to provide that  
6 to you?

7 A. Just whenever he felt like he had any  
8 information, good or bad.

9 Q. Why did you ask him instead of David or Rachel?

10 A. I don't know. I mean, I just did.

11 Q. How did you know your account was getting  
12 large?

13 A. A K-1.

14 Q. From 2010?

15 A. Yes, uh-huh.

16 Q. Do you have any understanding of what the legal  
17 elements of a partnership are?

18 A. No, not really.

19 Q. Other than what David Stroud said to you, are  
20 you aware of any documents that exist which show your  
21 expenses being charged against your investment account  
22 as opposed to against the business operating account of  
23 any of the TS Capital entities?

24 MR. HAYSLIP: Object to the form.

25 A. Do I know if there was any other accounts; is

1 that what you are asking?

2 Q. (BY MS. WELLS) Do you know of any other  
3 documents --

4 A. That are out there? No, I don't.

5 Q. You said you understood that David wasn't  
6 charging you any commission for your funds?

7 A. Correct.

8 Q. Did you think you were paying for any of his  
9 operating overhead, like the rent or the electric bills  
10 or Rachel's salary?

11 A. He said Stroud Capital was taking care of all  
12 that.

13 Q. Did you know anything about Rachel Broach's  
14 experience prior to working for --

15 A. No.

16 Q. -- the entities?

17 A. No.

18 Q. How about Stuart Memory, did you know anything  
19 about his background?

20 A. Only that he was being an intern, not his  
21 background.

22 Q. So you don't have any idea what his education  
23 was?

24 A. I knew that he was, I think, going to BYU.

25 Q. Do you know what he studied?

**Deposition Transcript Gap from Page 281 to Page 285.**

1 A. I can't remember why he would.

2 Q. Did he ever mention any concerns that he  
3 developed as a result of talking to a premier hedge fund  
4 attorney in Atlanta who was a speaker at that  
5 conference?

6 A. In 2011?

7 Q. Uh-huh.

8 A. What month was it?

9 Q. Sometime before mid July.

10 A. I don't recall that, no.

11 Q. Would that have been after you had asked him to  
12 sort of keep you apprised of how your investments were  
13 doing?

14 A. No, I think that was -- I asked him a lot  
15 earlier than that, after I got the K-1.

16 Q. Okay. So sometime early in 2011?

17 A. Yes, when I saw how large it was getting. I  
18 didn't want to blow it all at one time.

19 Q. Did you know that David Stroud was using Stuart  
20 Memory's license to make some trades?

21 A. Stuart mentioned that.

22 Q. When did he mention that?

23 A. After the fact.

24 Q. After it all fell down?

25 A. Yeah.

**End of Available Deposition Transcript**