

1 IN THE UNITED STATES COURT OF FEDERAL CLAIMS

2 - - - - - X

3 FAIRHOLME FUNDS, INC., et :

4 al., :

5 Plaintiffs, : Case No. 13-465C

6 v. :

7 THE UNITED STATES, :

8 Defendant. X

9 - - - - -

Washington, D.C.

Tuesday, July 14, 2015

12 Deposition of JEFFREY ALAN FOSTER, a

13 witness herein, called for examination by counsel for

14 Defendant in the above-entitled matter, pursuant to

15 notice, the witness being duly sworn by MARY GRACE

16 CASTLEBERRY, a Notary Public in and for the District

17 of Columbia, taken at the offices of Cooper & Kirk,

18 1523 New Hampshire Avenue, N.W., Washington, D.C., at

19 8:00 a.m., Tuesday, July 14, 2015, and the

20 proceedings being taken down by Stenotype by MARY

21 GRACE CASTLEBERRY, RPR, and transcribed under her

22 direction.

1 BY MR. PATTERSON:

2 Q. Do you know when Treasury decided that?

3 MR. DINTZER: Objection. Vague.

4 Confusing.

5 THE WITNESS: I don't believe -- I think
6 Treasury decided they would only sign the documents
7 on August 17th.

8 BY MR. PATTERSON:

9 Q. So Treasury had not decided before then?

10 MR. DINTZER: Objection. Same objection.

11 THE WITNESS: Not to my knowledge had a
12 definitive decision been made.

13 BY MR. PATTERSON:

14 Q. While the net worth sweep proposal was
15 under consideration, did Treasury have any backup
16 plans in case FHFA did not agree to the proposal?

17 MR. DINTZER: Objection. Vague.

18 THE WITNESS: Can you be more specific?

19 BY MR. PATTERSON:

20 Q. Had Treasury done any contingency planning
21 as to what it would do regarding the dividend
22 structure had FHFA refused to agree to the net worth

1 sweep dividend proposal?

2 A. Not to my recollection.

3 Q. And again, this says that as of this date,
4 FHFA has agreed to the net worth sweep dividend
5 proposal. So would it be fair to say that as of this
6 point, the only questions were questions of timing
7 and questions of what else would be included in the
8 third amendment besides the net worth sweep?

9 MR. DINTZER: Objection. Misstates.
10 Confusing.

11 THE WITNESS: I don't necessarily believe
12 that to be true. You'd have to -- I wouldn't want to
13 presume that FHFA had agreed to anything at this
14 point.

15 BY MR. PATTERSON:

16 Q. But to your knowledge, do you have any
17 reason to believe that this statement in this
18 document is not true?

19 A. Well, FHFA had agreed to any proposal and
20 from my recollection, there was a number of ongoing
21 discussions and going back and forth in terms of how
22 a net worth sweep would -- how the construction would