

1 Friday, 12 November 2010

2 (10.13 am)

3 MR WAN FAN TING JOHNNY (on prior oath)

4 Cross-examination by MR PILLAI (continued)

5 MR PILLAI: May it please, your Honour. May I continue with  
6 the cross-examination of Mr Wan.

7 Grateful, your Honour.

8 Mr Wan.

9 A. Good morning.

10 Q. Yesterday, on two separate occasions, one after the  
11 court rose for the lunch adjournment, and the other  
12 after the court rose at the end of the day, you, from  
13 the witness box, showed me a thumbs up sign and said  
14 "Good cross-examination". You are capable of knowing  
15 when a cross-examination is proceeding well; correct,  
16 Mr Wan?

17 A. No. I was saying that you were very good. That's it.  
18 I mean, it doesn't mean that -- you are a nice person,  
19 you say "good morning" to me, that's it.

20 Q. You specifically said "good cross-examination".

21 A. No, I didn't, I said you -- I said you are good, you are  
22 a good person, nice to me.

23 Q. Okay.

24 A. That's what I mean.

25 COURT: You are not trying to sell him a product, are you?

1 10:15 A. No. I just, from my heart -- it's really from the  
2 bottom of my heart, I feel like you're a nice person.  
3 That's all.

4 MR PILLAI: Fine.

5 I'll move on. It's just a short point. But it was  
6 quite interesting that he gave me a thumbs up, even  
7 though I am cross-examining him.

8 Let's go back to the document at tab 17 in the core  
9 bundle. We are at this document yesterday. Do you have  
10 that document, Mr Wan?

11 A. Yes.

12 Q. It's quite clear that you did not e-mail this brochure  
13 to Prof Lim, did you?

14 A. To Prof Lim? No.

15 Q. You didn't. Do you recall yesterday that we went  
16 through an e-mail dated 19 March 2007 where you attached  
17 the DSPP pamphlet, you also attached the PIANO pamphlet?  
18 But you did not attach this document with that e-mail,  
19 did you?

20 A. No. May I explain? Your Honour, this -- we can print  
21 out a hard copy from our system, and I was unable to  
22 just get a soft copy out of the system. I can print it  
23 out, because the system itself keep updating, so that  
24 was the reason I couldn't just get a soft copy.

25 Q. But if you had wanted to, you could have printed it out,

1 10:17 converted it to a PDF document?

2 COURT: I don't think he understands your question. I think  
3 he is talking about as to why this document he has  
4 printed out is not of the date of March --

5 MR PILLAI: Yes, your Honour.

6 COURT: He's on a tangent. You might clarify with him.

7 MR PILLAI: Very well, your Honour.

8 COURT: You could have on 19 March printed out a copy of  
9 this document, or you could sent it as an attachment to  
10 Prof Lim.

11 A. Correct.

12 MR PILLAI: Grateful, your Honour.

13 But you did not do so.

14 A. No.

15 COURT: Why not?

16 A. Because both of them were not interested, your Honour.

17 At the time of the conversations, I mentioned  
18 specifically about this discretionary portfolio, I said  
19 that you can choose balanced -- different categories.  
20 Both of them, they -- the message to me was they want to  
21 retain control of their account.

22 COURT: The context in which the question is being asked is  
23 that you say you offered them this product or this GIM,  
24 and you showed them something which, in their evidence,  
25 is to the contrary.

1 10:18           What counsel is trying to probe is whether or not  
2           there was such a document or a discussion.

3           A.   Definitely there were discussions about this materials.

4           It was --

5           COURT:   That's your evidence?

6           A.   That's my evidence.

7           MR PILLAI:  Mr Wan, do I take it that the reason why you did  
8           not send, by way of an e-mail, an attachment of this GIM  
9           brochure, is because they did not appear interested with  
10          this product?  Is that your evidence, Mr Wan?

11          A.   I believe so, because that's the message that I got  
12          from -- after the meeting, both of them are not showing  
13          interest because they want to retain control of their  
14          own account.

15          Q.   If that was the case, and that's the logic that you had  
16          in your mind in March 2007, what was the purpose in  
17          sending Prof Lim the PIANO brochure?  Because she never  
18          expressed any interest in the PIANO brochure, even  
19          according to you.

20          A.   Okay.  Your Honour, the PIANO brochure is -- actually,  
21          we discussed it over the lunch.  I believe the --  
22          Prof Lim also put down or I put down the number, and the  
23          PIANO brochure was actually the -- it was a limited time  
24          offer at the time, so it's not like if you want to  
25          subscribe, then it's available, because at different

1 10:20 tranche.

2 So that was the reason I thought, okay, because this  
3 will be -- become expire soon, so that was the reason.  
4 And then at the time, although they did not really show  
5 a big interest on the PIANO products, but still we had  
6 a discussion about it. But I just feel like, okay,  
7 anyway, I have it, so I e-mail it to both of them --  
8 I e-mail it to Prof Lim.

9 Q. If I understand you correctly, you, independently --  
10 even though you knew that Prof Lim was not interested at  
11 that point in time in the PIANO product -- still  
12 nevertheless sent the pamphlet by way of an e-mail to  
13 her, because you thought that this is something she  
14 should consider. That's your evidence?

15 A. No. The reason why I sent out is because I had  
16 a feeling that she might be interested at the time  
17 because we had conversations and then she said, "Yeah,  
18 we could consider that". That was my feeling. It's not  
19 like the unconstrained -- the GIM portfolio. They  
20 expressed their opinions, say that I -- we just didn't  
21 want it. So that was a different situation.

22 COURT: It was your evidence yesterday that when you go back  
23 to Hong Kong, you have seen many customers or potential  
24 customers, so you don't really remember what you have  
25 showed them. Therefore, as a matter of double-checking,

1 10:22 you sent them the documents by soft copy.

2 A. Correct.

3 COURT: But you didn't send them the soft copy of the GIM  
4 document.

5 A. As I explained it, your Honour, as I explained it  
6 before, this one, I was unable to get a soft copy  
7 myself, and the client already expressed they had no  
8 interest.

9 COURT: What do you mean you couldn't get a soft copy then?  
10 Don't worry about December 2008. We are talking about  
11 19 March 2007.

12 A. Exactly. Because that's -- this material here, the  
13 unconstrained portfolio, US dollar, I was trying to --  
14 probably just because I'm not really good at IT, but  
15 I was get into the system, I tried to get a soft copy  
16 myself --

17 COURT: When?

18 A. It was before the -- when? I don't remember, but this  
19 is not the first document that I presented to potential  
20 clients. I did it before many, many times. I tried to  
21 grab a soft copy myself, but I just couldn't know how to  
22 do it, so I would just print it out at the time.

23 So this one, if they are not showing interest at the  
24 time, so that's why I did not e-mail them. And also,  
25 I did not know at the time how to get a soft copy

1 10:24 myself.

2 MR PILLAI: Surely, Mr Wan, if this is something you thought  
3 that Dr Chang and Prof Lim would consider -- even if we  
4 accept that somehow this bank system doesn't allow you  
5 to download in soft copy, you could have printed it out,  
6 you could have scanned the documents and sent it off as  
7 an attachment. That's something well within your  
8 expertise; correct?

9 A. Correct. Partially agree --

10 COURT: You could make soft copy attachments of other  
11 documents which you sent them. What is the peculiar  
12 problem with GIM?

13 A. As I explained, your Honour, the first reason is -- my  
14 experience is I don't know how to get the soft copy  
15 myself.

16 COURT: You could get the other documents but not this one.

17 A. Not this one. This one is the system already built  
18 in -- it keep updating itself.

19 COURT: So?

20 A. So -- that's not me, I mean, our --

21 COURT: So basically, on 19 March you went to the system to  
22 get a printout or get an attachment, you would have got  
23 a GIM document with data up to probably 30 April 2007.

24 A. Correct.

25 COURT: Sorry, February.

1 10:25 A. Correct, but let me explain, is --

2 COURT: You keep saying, "I couldn't do that". The question  
3 is: what's the problem? You could do the other  
4 documents in attachment. What is so special about GIM  
5 that you had difficulty accessing it, apart from the  
6 fact that the data is updated from time to time?

7 A. Your Honour, like the PIANO products, it's a one-time  
8 basis or two-time basis. Our internal product  
9 department, they will send us attachments with the  
10 informations, soft copy, to us. But the GIM portfolio,  
11 it has its own websites that we go in and then we print  
12 it out.

13 At the time, I was trying to -- I mean, not this  
14 incident, before, I was tried to get a soft copy myself,  
15 but he just couldn't get it.

16 COURT: So you printed it out?

17 A. I printed it out. Every time was I printed it out.

18 MR PILLAI: You've agreed with me that even if we accept  
19 that your system doesn't allow you to download, you  
20 could have printed it out, scanned it, and you have the  
21 expertise and capability of doing that. You agreed with  
22 me.

23 Mr Wan, do you remember two days ago that you  
24 informed this court that actually for this brochure, you  
25 personalised it because, on the first page, you put your



1 10:27 name? Do you remember the evidence you gave in court?

2 You have to say "yes".

3 A. Yes.

4 Q. So this personalisation would have happened even before  
5 you left for Taipei; correct?

6 A. Correct.

7 Q. According to you, you went into the system, you can only  
8 print it out, the point is this: if you could  
9 personalise a page and one assumes that personalising is  
10 really at the soft copy level, what is the difficulty,  
11 if you can do that, in downloading?

12 A. I -- let me explain to you why it's the -- the  
13 personalised, it's only one front page. It's  
14 a template. We can put in our name, we can put in the  
15 product name, like the unconstrained portfolio, but it  
16 was just a general template available for other stuff  
17 also.

18 So it's not like this one, I have to go into system  
19 and I personalise it. Because this one, it's the  
20 material, we add a front page to it, to personalise it,  
21 adding our name, potential client's name. That's how  
22 the template worked for us.

23 Q. Have a look at tab 7. This first page, this would be  
24 an example of personalisation; correct, Mr Wan?

25 A. Correct.

1 10:29 Q. Look at the second page, page number 2. Do you see  
2 that?

3 A. Yes.

4 Q. Compare that now with your GIM brochure, which is at  
5 tab 17. You have the cover, which is entitled  
6 "Unconstrained Portfolio", and the second page is  
7 numbered page 2 with the executive summary. Do you see  
8 that?

9 A. Yes.

10 Q. Your evidence that the personalisation is done by  
11 a standalone document cannot be true.

12 A. That was the fact that we add a personalised -- very  
13 generalised, personalised page on top of this. Because  
14 we had -- sometimes we had different products, so it's  
15 just the way that our company was like that.

16 It's a -- the templates for us to put in our name  
17 and the potential client.

18 Q. Mr Wan, you told the court that you don't have the copy  
19 of the brochure, GIM brochure, that you showed to  
20 Prof Lim and Dr Chang in March 2007. Do you recall your  
21 evidence on that?

22 A. Yes.

23 Q. His Honour asked you whether you checked and verified  
24 whether or not you don't have such a copy in your  
25 possession, and you said "Yes". That was your answer

1 10:30 two days ago. I'm just reminding you.

2 A. Yes.

3 Q. What check did you do?

4 A. I don't really understand.

5 Q. You agreed that you checked and you couldn't find it.

6 My question to you is, what is the check that you did?

7 It's a fairly simple question. If you did the checking,

8 you shouldn't have any difficulty answering the

9 question.

10 A. Because there are many things to search, and I tried to

11 see whether there was a hard copy, you know.

12 Q. Mr Wan, one assumes you keep things in a logical

13 fashion. You gave discovery of the PWM brochure. You

14 had no problems in giving discovery of the PWM brochure,

15 which was actually shown in March 2007, but you say in

16 evidence that you do not have the copy that you

17 showed --

18 MS TAN: Your Honour, I just wanted to clarify. The copy

19 that we got was actually from my learned friend. The

20 PWM brochure.

21 COURT: The GIM?

22 MS TAN: The PWM brochure. Because my learned friend had

23 just said that in discovery, we gave the PWM brochure,

24 but we actually got that from the defendant's side.

25 MR PILLAI: Your Honour, just for the record, Deutsche Bank

1 10:32 disclosed separately, in its list of documents --

2 MS TAN: But the one we disclosed had the handwriting on the  
3 schedule of charges page, because we got that from the  
4 defendant's affidavit before that.

5 COURT: What turns on it?

6 MS TAN: I'm just clarifying the facts because it appears on  
7 the transcript.

8 MR PILLAI: I stand guided by my learned friend. We'll  
9 check that fact because from what we see, Deutsche Bank,  
10 in its own list of documents, had produced this PWM  
11 brochure. What my learned friend --

12 COURT: This particular PWM brochure was given to the --  
13 Dr Chang and Prof Lim?

14 MR PILLAI: Yes. That's what I was -- that's the impression  
15 I had, but I'll check to see whether the copy --

16 COURT: The page in which the commission is manually changed  
17 must presumably be your copy rather than the bank's.

18 MR PILLAI: Yes. We would certainly check that, your  
19 Honour. Because from what I -- my impression was that  
20 the bank had independently gave disclosure of this, but  
21 we'll check it right now, your Honour.

22 Can I ask you, Mr Wan, arising from what my learned  
23 friend is saying, you also did not keep the PWM  
24 brochure?

25 A. The PWM brochure that was in my system, I -- I didn't

1 10:33 have that copies that I gave to Dr Chang at the time,  
2 because the printed-out copy I was given to him, then  
3 how -- where am I going to get the hard copy?

4 Q. Your evidence was that you had your PWM brochure, you  
5 gave at least a copy to Dr Chang and Prof Lim -- one  
6 copy to Prof Lim and Dr Chang -- and you went through  
7 the presentation with your own brochure. That was your  
8 evidence. Do you remember that?

9 A. Correct. Correct.

10 Q. So you would have retained a PWM brochure in your  
11 possession, at least as at March 2007; correct? "Yes"  
12 or "no"?

13 A. At least as of March 2007, maybe, but it was a long time  
14 ago, if --

15 COURT: Mr Wan, the question is very simple. Let me try to  
16 understand.

17 You say you went to Taipei to see several clients.  
18 You also say that you couriered from Hong Kong a whole  
19 bundle of documents.

20 A. Correct.

21 COURT: Then you say, "After the meeting I e-mailed them,  
22 Prof Lim, two documents, because I didn't really know  
23 who had what and who I gave what to". Do you follow?

24 The issue that counsel is trying to pursue here is  
25 your evidence that you gave Dr Chang and Prof Lim a GIM

1 10:35 document.

2 A. Correct.

3 COURT: Do you follow? That's the key, because their  
4 evidence is, on the contrary, no. Counsel is taking you  
5 through your evidence and your e-mails, and there is no  
6 confirmation in the e-mails and the attachments you  
7 sent, that you sent this document.

8 So we come back to -- you're making a presentation  
9 to a potential customer of --

10 A. Correct.

11 COURT: You did the PWM, it was your evidence yesterday,  
12 "I gave them one copy which they were looking at and I  
13 had the other copy which I was referring to".

14 A. Correct.

15 COURT: He's asking you a very simple question. You said,  
16 "I only have one copy, I gave it to them". It doesn't  
17 make sense. How do you present, then? You are  
18 a mind-reader, can you read across the table, what?

19 A. I had two copy. One I gave it to them, and one I --  
20 with me. At the end of the presentation I want to give  
21 both to them, but they said they only want one.

22 MR PILLAI: Yes. So you retained one complete --

23 COURT: They said only one in terms of the account  
24 documentation. Then there were two signature pages that  
25 you gave them. So you have to be more precise when you

1 10:37 say they only wanted one. The question which is being  
2 asked here was whether indeed there was any GIM document  
3 that was presented to them.

4 Do you follow? Come back to square one. Now you  
5 say you had two GIM documents with you.

6 A. Oh -- no. I had only -- I had only one GIM, because  
7 I thought you -- we're talking about the standard  
8 marketing --

9 Q. The point is very simple. You are going to make  
10 a presentation, you say, to a client. You do not know  
11 whether they would be interested when you make the  
12 presentation; right?

13 A. Right.

14 COURT: It's such a complex document, you're not going to be  
15 able to read across the table what's there.

16 A. Right.

17 COURT: So, normally, as you did with the PWM, you would  
18 have two documents; one for yourself and say "I'll take  
19 you through"?

20 A. Correct.

21 COURT: What's your evidence now?

22 A. My -- to the best of my recollections, at the time  
23 I only bring one copy of the GIM.

24 COURT: Why? You brought two PWMs.

25 A. I --

1 10:38 COURT: You have two signature pages.

2 A. Open account -- open account document, two; marketing  
3 material, two; but the rest, even though the mutual fund  
4 or PIANOs, those are only one. One copy. The GIM is  
5 also one copy.

6 MR PILLAI: Mr Wan, GIM is another brochure that you  
7 personalised, just like the PWM brochure, so it doesn't  
8 make sense that you only brought one copy of  
9 a personalised brochure. Do you agree?

10 COURT: When you come to the meeting, the client may or may  
11 not be interested, and if the client is interested, you  
12 will have to go through and say well, here's how it  
13 works and that kind of stuff. And you're having lunch  
14 with them, so how do you do a presentation when, in the  
15 PWM's case, you say "Here's one copy for you and I'll  
16 take you through my copy and then show you"? Do you  
17 follow? That is the puzzle right now that I am trying  
18 to understand.

19 A. Your Honour, at that time I wasn't thinking that many,  
20 because what I was trying to do was the copies,  
21 I bring -- I mean, the product brochure that I bring,  
22 usually just one. It was to the best of my  
23 recollection.

24 Regarding the introductory -- like the standard  
25 marketing material, I had two at the time. Account



1 10:39 opening documents, I had two at the time. Because I  
2 didn't expect we will went into products so quickly at  
3 the time, so I only brought one. And at the time I  
4 remember I had to rush to the restaurant, basically  
5 I packed my -- unpacked my stuff and put everything into  
6 a big envelope. That envelope is already big, and if  
7 you put in too many brochures and documents it looks  
8 very clumsy.

9 So I just put in one, and that's to the best of my  
10 recollection.

11 MR PILLAI: Mr Wan, according to you, these documents were  
12 in fact couriered to Taipei.

13 A. Correct.

14 Q. These were specifically couriered from Taipei. There  
15 was no need to unpack and repack; you could have just  
16 brought the couriered documents over for the meeting.

17 A. Yeah -- your Honour, as I said, this is a meeting -- the  
18 trip, it's not for only two potentials. I unpacked the  
19 courier bag and I pick up --

20 COURT: The problem I have in trying to fully understand  
21 what you are saying is, yesterday you said that Prof Lim  
22 called you and told you she was very interested in  
23 products and everything else, and then you knew that you  
24 were bringing DSPP documents and the like.

25 So this is not a cold call, trying to open an

1 10:41 account. According to you, the customer had already  
2 called you to say "I'm interested in your products".

3 A. Your Honour, as I -- before I already mentioned, is our  
4 business a lot of uncertainties. We can have  
5 discussions many, many times, we could have dinner or  
6 lunch many, many times, three years, may not --

7 COURT: But according to you, this client, before the  
8 meeting, one week, called you to express particularly an  
9 interest in financial products of the bank.

10 A. Right. But it doesn't mean they are -- your Honour, it  
11 doesn't mean they are going to open an account.

12 COURT: I understand that. So you are going to make  
13 a presentation to them over lunch or a meal of the  
14 products.

15 A. Basically, what I was -- it was in my head that the trip  
16 itself, it will be an introductory. It will be  
17 introductory. Yes, if I'm lucky enough we could talk  
18 about more products, we could talk about opening  
19 accounts --

20 COURT: That may be so because your e-mail was the first one  
21 saying, "Can we meet? We met briefly in Hong Kong" --

22 A. Yeah.

23 COURT: -- but you say, beyond the "Can we meet?" there were  
24 phone calls with Prof Lim in which she told you she was  
25 interested in financial products --

1 10:43 A. Correct, your Honour. The implication --

2 COURT: So this is not, basically, something that may happen  
3 three years later or something; you already have  
4 a potential client with a specific interest expressed to  
5 you, according to you.

6 A. I agree with you, your Honour. The situation is I had  
7 many experience that client call me, say, "Yeah, we can  
8 meet, we can have lunch, we can have dinner", but a lot  
9 of the time, when we pay for the meal and everything --

10 COURT: Nothing happens.

11 A. Yeah, nothing happens. A lot of times, like that. So,  
12 to us, is, I try to make myself available at the time,  
13 so -- we are private banking. We just don't do a lot  
14 of -- just -- sometimes we present the idea, we gave  
15 them the time to think, and that's how we work.

16 And that's why I didn't expect anything from the  
17 trip, it's just a meeting, "If you have time, you can  
18 come", it's like, "Okay, yeah, bring something different  
19 from the Standard Chartered Bank". I say, "Okay,  
20 I prepare some".

21 That was the intention at the time. So it wasn't  
22 like, okay, I'm going to think, calculate, how many  
23 brochure that I should bring, how many -- usually I'll  
24 just bring one copy, so that's -- that's how it go. And  
25 that was the first, I can say the first introductory of

1 10:45 our bank, and how am I going to expect the client will  
2 open account on that day or day after or -- I had  
3 experience with many, many times, many, many attempt,  
4 many, many meal, many, many -- the product  
5 presentations. Still, nothing.

6 So, as you can see, there's nothing so precise at  
7 the time -- e-mail, yeah, I can remember they might  
8 interested in this, they might interested in that, so I  
9 sent e-mail to follow up. But to a point, it's --  
10 really, a lot of times, I would say 90 per cent of the  
11 attempt will fail, will not be a successful account  
12 opening. Because our industry are very competitive, and  
13 we have many competitors at the time. So that's the  
14 situation.

15 MR PILLAI: Thank you, Mr Wan. The nub of the point,  
16 really, is: you knew that Prof Lim, according to you,  
17 asked for product information or services of the bank.  
18 You couriered all these documents. You said just now  
19 that it's a competitive market; surely you would have at  
20 least been prepared for the presentation and have  
21 multiple copies just in case there is an occasion where  
22 you need to provide these documents to Dr Chang and  
23 Prof Lim. That would have been the logical thing;  
24 correct?

25 A. Correct. But may I --

1 10:46 Q. It's okay. We have heard your explanation. I'm just  
2 putting a suggestion to you. Now --

3 A. Your Honour, may I explain a little further? Is,  
4 I agree with you, but if you take out an envelope and  
5 put in the standard marketing material, two copies, with  
6 the GIM, with the account opening documents, other  
7 stuff, it's already bulky at the time. So you got to  
8 consider the envelope itself, whether can fit in that  
9 many thing, and then it's not like, okay, I have an  
10 assistant help me to carry. I carry it myself. And  
11 that's the situation, I need to get a taxi --

12 Q. I understand.

13 A. -- so it's -- the real-life situation --

14 COURT: We understand the logistics. Yes.

15 MR PILLAI: Yes, we understand. I think we've gone through  
16 that area.

17 Let me just put to you, Mr Wan -- you can either  
18 agree or disagree -- you did not show Dr Chang and  
19 Prof Lim the DSPP pamphlet on 15 March 2007. Agree or  
20 disagree?

21 A. Disagree.

22 Q. You did not show Prof Lim and Dr Chang the GIM brochure  
23 on 15 March 2007.

24 A. I disagree.

25 COURT: Show?

1 10:48 MR PILLAI: Yes, did not show the --

2 COURT: He makes another point which is that he also gave it  
3 to them at the end of the meal. You are content with  
4 just "show", as opposed to --

5 MR PILLAI: Very well, your Honour.

6 Mr Wan, you did not give the DSPP pamphlet to  
7 Dr Chang and Prof Lim; agree or disagree?

8 A. Disagree.

9 Q. You also did not give the GIM brochure to Prof Lim or --  
10 and Dr Chang; agree or disagree?

11 A. Disagree.

12 COURT: All these questions are related to 15 March, so they  
13 do not affect what you sent them on 19 March by e-mail.

14 A. I understand, your Honour.

15 MR PILLAI: Obligated, your Honour.

16 Mr Wan, let me understand the sequence of events  
17 that happened on 15 March, as you have stated in court.

18 According to you, after the exchange of business  
19 cards at the restaurant, you went through the PWM  
20 brochure. That was your evidence yesterday; do you  
21 remember?

22 A. Correct.

23 Q. While you were going through, Dr Chang ordered food,  
24 asked you for your own preference, and you replied, and  
25 after that, you carried on with the presentation. That

1 10:49 was your evidence yesterday.

2 A. Yes.

3 Q. That would be correct; right?

4 A. Correct.

5 Q. At the end of the presentation, according to you, all  
6 three of you had the meal; do you remember?

7 A. Lunch.

8 Q. Yes, I'm using "meal" because there's a bit of a  
9 controversy --

10 COURT: There's common ground that there was a meal.

11 MR PILLAI: That's common ground.

12 COURT: You say lunch, they say dinner, that's fine. For  
13 convenience, let's call it a meal.

14 MR PILLAI: Grateful, your Honour.

15 Thereafter, according to you, you went through the  
16 account opening documentation with them. That's the  
17 sequence; correct?

18 A. No.

19 Q. No?

20 A. No.

21 Q. The next item in the sequence is you went through the  
22 DSPP pamphlet with them? Is that your sequence?

23 A. Correct.

24 Q. Let me just double-check that.

25 Before I move on, the PWM brochure is about 33

1 10:51 pages. You have already given evidence as to what are  
2 the pages you went through, at least from the best of  
3 your recollection.

4 A. Correct.

5 Q. The DSPP pamphlet is about two pages. We went through  
6 that yesterday, and then you had a short discussion with  
7 Prof Lim on this product, didn't you?

8 A. On this product is?

9 Q. The DSPP pamphlet.

10 A. Yes.

11 Q. Again, I'm going in sequence. And then there was an  
12 occasion when Prof Lim wrote a note; do you remember  
13 that? About what you were explaining orally to them.  
14 Do you remember that?

15 A. The DSPP pamphlet and the notes should be -- happen  
16 together.

17 Q. Yes. That's why the note that you have referred to is  
18 a note on the back of an account opening documentation.  
19 Do you follow, Mr Wan?

20 A. Right.

21 Q. So Prof Lim could not have written the note before you  
22 had the discussion on the account opening documentation  
23 because she wrote the note on the back of the account  
24 opening documentation. Do you follow, Mr Wan?

25 A. Mm.



1 10:53 Q. Tell me, after the PWM, after you went through the PWM  
2 brochure, didn't you provide Prof Lim with the account  
3 opening documentation?

4 A. Maybe when we discussed at the time, because we have --  
5 we have no paper at the time, so if she wants to jot  
6 down the notes, then just grab it from there.

7 Q. You gave an account opening documentation to Prof Lim  
8 because she couldn't find any paper, and therefore you  
9 just gave this document so that she could write some  
10 notes. Is that your evidence?

11 A. Otherwise, how could it be?

12 Q. Well, let me suggest to you that she was. After the  
13 presentation, she said yes, she was impressed by your  
14 presentation and she decided to open an account.  
15 Therefore, you took out the account opening  
16 documentation, you presented to her. That is what  
17 happened; correct?

18 A. No. That was not what happened because the -- during  
19 the conversations, if there was no paper or something  
20 available, and -- maybe we just grabbed the material.  
21 But that was the time that I did not really presented  
22 this to her. It was after the discussions, after  
23 everything was done, so that I said, "Okay, this is the  
24 account opening document for you two to consider".

25 Q. Mr Wan, again one assumes there's a logic to the things

1 10:55 that you do. Just because Prof Lim needed a paper, you  
2 presented one whole booklet to her and basically allowed  
3 her to write on the back of the book. That doesn't make  
4 sense, Mr Wan. Do you agree?

5 A. I don't agree because --

6 Q. It's okay.

7 A. That's what happened. I mean, that's what happened,  
8 because we don't -- we don't have anything, then we just  
9 grab and ...

10 Q. All right. Let me move on.

11 A. Okay.

12 Q. After you went through the DSPP pamphlet and you had  
13 this discussion pursuant to which Prof Lim took some  
14 notes, you also wrote something on the same note --  
15 sorry, on the same document. Do you remember that?

16 A. Yeah.

17 Q. After that, you went through the Protected Investment  
18 Alpha Notes pamphlet, that's 28 pages, commonly known as  
19 PIANO?

20 A. I show -- I show her.

21 Q. Yes. So you showed her? What did you do? You just  
22 showed her or did you go through the pamphlet as well?

23 A. I believe I summarised that what was available and there  
24 are two tranche, US dollar and Euro, the approximate  
25 interest rate. That was it.

1 10:57 Q. Did you show the disclaimer that appears -- to be fair  
2 to you, I'd better show you the document so that we are  
3 on the same page. This will be at tab 5. Could you  
4 please turn to the back. After the DSPP pamphlet you  
5 will come to the PIANO pamphlet.

6 A. Right.

7 Q. There is a disclaimer at page 28. Do you see that?  
8 It's 14AB 6290 on the right-hand corner, top right-hand  
9 corner.

10 Mr Wan, did you highlight this disclaimer to  
11 Prof Lim and Dr Chang? Because you went through the  
12 PIANO pamphlet, according to you. Did you highlight  
13 this disclaimer?

14 A. I didn't went through, I just show them this, "It's what  
15 we have at this moment". They appeared not really  
16 interested in it, so I --

17 Q. According to you, you did not show this disclaimer that  
18 appears in the PIANO pamphlet. That's your evidence.

19 A. But I told them to read, if they have time.

20 Q. How do you read when you have not even given them a copy  
21 of the PIANO pamphlet?

22 A. Yeah, but that's a -- I give it -- I give it to them,  
23 I remember, this one.

24 Q. Mr Wan, I've been quite careful. I asked you whether  
25 you went through the disclaimer page that appears with

1 10:59 the PIANO pamphlet, and you said no. You said you just  
2 described this product generally.

3 Then, you say that you asked them to read it to  
4 themselves. And I pointed out to you, that you only had  
5 one copy of this pamphlet and you didn't give it to  
6 them. Now what is your evidence?

7 A. After the meal -- after the meal, I gave them the PIANO.  
8 I just forgot that whether they actually took it.

9 Q. Let me just check what you said in your AEIC.

10 Look at paragraph 53, page 18 of your AEIC.

11 At the end of the meeting after the meal, you don't  
12 state here that you also gave the PIANO pamphlet to --

13 A. As I -- as I said, I gave it to them, but I forgot  
14 whether they have actually took it, because to the best  
15 of my recollection, is, I tried to give them everything  
16 I got, but they said they had business to do and they  
17 need to go to -- they need to went to different lecture,  
18 so it's not convenient. But I make sure that they have,  
19 of course, the account opening and the standard  
20 marketing material.

21 The rest, I couldn't remember whether --

22 Q. Mr Wan, you specifically stated, just a few minutes ago,  
23 that you told Prof Lim and Dr Chang to read this  
24 disclaimer. That is your evidence. I'm just reminding  
25 you of your evidence.

1 11:01 A. I said --

2 Q. I'm just reminding you of your evidence.

3 A. I said --

4 Q. Hold it, I have not asked the question yet. We'll hear  
5 you in due course.

6 Now you say that they were in a hurry to go to  
7 another appointment, and therefore they didn't even want  
8 to receive this pamphlet.

9 Before that, you said you gave them this pamphlet.  
10 Which version is true, Mr Wan?

11 A. Okay. I gave them the pamphlets at the end of the meal,  
12 or at the end of the meeting.

13 COURT: The PIANO?

14 A. The PIANO. I tried to give them everything, and at the  
15 time they said, "Okay, because we have many things", so  
16 when I told them to read through the material, that was  
17 during the meal. You --

18 MR PILLAI: Mr Wan, I did not ask you about reading through  
19 the material. My question was specific. I asked you  
20 whether you directed their attention to the disclaimer,  
21 and you specifically stated in court that you told them  
22 to read the disclaimer.

23 A. I told them to read the whole thing.

24 Q. So you did not point out the disclaimer to them, did  
25 you?

1 11:03 A. You mean the PIANO?

2 Q. That's correct. We're talking about the PIANO pamphlet.

3 A. They were not even interested at the time, so I couldn't  
4 even ...

5 Q. Thank you. Now we come to the disclaimer in the DSPP  
6 pamphlet, which is in the same tab, page 6294. This is  
7 entitled "Important Information".

8 Did you point out this disclaimer or highlight  
9 this -- I call it disclaimer, but I think I should call  
10 it "Important Information".

11 COURT: On the copy that I have, it's not necessarily  
12 paginated. Is it common ground that this is the  
13 information that is the last page of the DSPP pamphlet?

14 MR PILLAI: Your Honour, my client's case is that they were  
15 not given --

16 COURT: The first question is very simple. The one I have  
17 here at page 6294, there does not appear to be  
18 a "page 4" to indicate that this necessarily follows  
19 from the two-page -- because he keeps talking about  
20 two-pagers. And now you have a third -- this last page,  
21 which is not, at least in my copy, necessarily attached  
22 to that two-page DSPP.

23 My question to both counsel is: is it common ground  
24 that it is part and parcel of the same document?

25 MR PILLAI: Your Honour, unfortunately we have not taken

1 11:04 a view or position on this because this is a bank  
2 document.

3 MS TAN: Your Honour, just to assist the court. The one in  
4 this tab comes as an attachment to the 19 March e-mail,  
5 so I think it should be common ground that at least the  
6 copy here, this is the complete copy.

7 COURT: No. It comes from the attachment, and in the  
8 attachment there is no pagination to this --

9 MS TAN: This is exactly how it looks like in the attachment  
10 to the e-mail.

11 COURT: The question here is what transpired on the 15th,  
12 not on the 19th.

13 MS TAN: For that -- I mean, it's for the witness to say  
14 then.

15 MR PILLAI: Your Honour, the difficulty we have is that we  
16 have not seen the document.

17 COURT: Okay.

18 Mr Wan, when you had this copy of the DSPP pamphlet,  
19 what had been so far referred to as a two-page  
20 document --

21 A. Right.

22 COURT: -- is that important information part and parcel of  
23 that DSPP document which you say you handed to Prof Lim  
24 and Dr Chang on 15 March?

25 A. Correct.

1 11:06 COURT: Is it or is it not part? Was it or was it not part?

2 A. Your Honour, I don't really understand, really follow.

3 COURT: Look at page 6292 and page 6293. Page 6292 is

4 a simple tabulation of the performance of DSPP in

5 respect of several counters in Singapore, Japan,

6 Hong Kong, Europe and US; correct?

7 A. Correct.

8 COURT: The next page is a very short presentation of how

9 the product works. Correct?

10 A. Correct.

11 COURT: It's very simple information. Is it your evidence

12 that you need to have a wordy page 6294, or you do have,

13 such important information as part of a two-page

14 pamphlet?

15 A. So, is this included?

16 COURT: That's the question.

17 A. Yes.

18 COURT: Yes.

19 A. Yes.

20 COURT: In all the DSPP pamphlets --

21 A. Yes.

22 COURT: -- you have one full page of thin print, full

23 words --

24 A. Yes.

25 COURT: -- even though the document is very simple?



1 11:07 A. Yes, yes. All the DSPP pamphlet --

2 COURT: Have this important information?

3 A. -- must have this information.

4 COURT: The one you say you handed to Prof Lim and Dr Chang  
5 also had this information?

6 A. Yes.

7 COURT: All right, fine.

8 MR PILLAI: Thank you, Mr Wan.

9 Did you draw Dr Chang and Prof Lim's attention to  
10 this important information when you went through this  
11 DSPP pamphlet? "Yes" or "no"? Or you can't recollect?

12 A. Let me think. Yes. That information -- I said  
13 information, you can read about it, it's important.

14 Q. So you just said, "This is important information, you  
15 can read about it"?

16 A. Yes.

17 Q. This is exactly what you did in relation to the PWM  
18 brochure as well, when you dealt with the important  
19 information like the last page, you said, "This  
20 information, you can read about it". That's your  
21 evidence yesterday. I'm just reminding you.

22 A. I said "That's important information, please read about  
23 it".

24 Q. Yes. Apart from going through the PIANO pamphlet, you  
25 then went through the GIM brochure; correct? That's, as

1 11:09 his Honour has pointed out, 35 pages of the brochure.

2 Did you go through the important note right behind?

3 If you look at tab 17, you'll see "Important Notes"

4 right behind, the last page.

5 Did you go through these notes with Prof Lim and

6 Dr Chang?

7 A. This one, they were not interested, so I believe, to the

8 best of my recollection, no.

9 COURT: Your answer is "No"?

10 A. No. Because they were not interested at the time.

11 MR PILLAI: But you did discuss the product that is

12 described in this brochure; correct?

13 A. I did discuss different accounts.

14 COURT: What does the GIM relate to?

15 A. It's the -- it's our house discretionary account.

16 MR PILLAI: You also discussed with Prof Lim and Dr Chang

17 the Renewable Opportunity Certificates with accrual,

18 that's ROCA. Correct?

19 A. We had a discussion about that.

20 Q. Then you went through the account opening documentation,

21 according to you, with Dr Chang and Prof Lim; correct?

22 A. That was after the meal almost ended, then I present

23 these two information to them, I said, "Okay, here is

24 the account opening form, let me just go over with you.

25 Here is the service agreement, here's the disclosures,

1 11:11 you can read about it, think about it. If you were  
2 interested to open account, you know, please let me  
3 know".

4 Q. Please look at paragraph 37 of your affidavit, page 12.  
5 Somewhere in the middle, you recall specifically that  
6 you went through "each and every page of the Service  
7 Agreement briefly with them and told them to read all  
8 the sections", and it was amended, " ... to themselves".  
9 That's your own evidence in your affidavit.

10 A. Correct.

11 Q. When you say "service agreement", I think we have now  
12 settled that you are referring to that account opening  
13 documentation, and that has 13 pages. Yes, tab 1.

14 So you went through each page with Dr Chang and  
15 Prof Lim?

16 A. Yes.

17 Q. Correct?

18 A. Yes.

19 Q. Now we've confirmed that you also went through the other  
20 documents, namely in tab 2, the account application, you  
21 went through each page as well?

22 A. Yes.

23 Q. Then tab 3, you went through this, nomination of  
24 Deutsche Bank intermediary.

25 A. This is Dr Chang's.

1 11:12 Q. Yes, I'm talking about the form --

2 A. On 15th or ...

3 Q. On 15 March, that a those kinds of documents because  
4 your lawyer kind of directed your attention to this  
5 brochure, so I'm just using it for convenience.

6 A. Everything is in it, yeah.

7 Q. Then we come to security agreement. Did you go through  
8 page by page as well?

9 A. So this is the security agreement --

10 COURT: When you say "I went through with them", what do you  
11 mean?

12 A. Meaning, is this is the security agreements from --

13 COURT: Remember, we spent a whole day yesterday trying to  
14 understand what you meant about going through the PWM.  
15 Okay?

16 A. Yes.

17 COURT: Really, what you did was you said, "I flipped  
18 through the pages I highlight add few things".

19 Do you mean the same thing here, or do you mean --

20 A. This one, it's a little more detail to that, because  
21 I need to tell them that the service agreement, your  
22 instructions, written instructions --

23 COURT: What does that mean? You read them each paragraph  
24 in the service agreement --

25 A. No, it's not --

1 11:14 COURT: -- and risk disclosure statement, or what did you  
2 do? What exactly did you do?

3 A. It's not possible to read --

4 COURT: So what did you do? When you say "I also went  
5 through them"?

6 A. I said this is the service agreement --

7 COURT: "... each and every page of the Service Agreement  
8 briefly with them", what does that mean?

9 A. That means the instructions here --

10 COURT: No. What did you do?

11 A. I show it to them, I said this --

12 COURT: Show.

13 A. Yes, I show it to them, and then I read through those --  
14 at least the oral written instructions, your  
15 instructions --

16 COURT: You read the headings?

17 A. Yes, read the headings.

18 COURT: You read the headings?

19 A. Yes, and then I tell them to read through this.

20 COURT: All right. So you went through the headings of the  
21 service agreement --

22 A. The hold mail services, yes.

23 COURT: How about the risk disclosure statement?

24 A. The risk disclosure statement, yes --

25 COURT: What did you do? Headings or the entire text?

1 11:15 A. Let me go into it.

2 COURT: The question is: what exactly did you do when you  
3 say "I went through with them"?

4 A. I went through with them is --

5 COURT: You could have shown them the page and then you say  
6 "These are the headings".

7 A. Yes, these are the headings, these are the important  
8 information, like hold mail, if you want us to hold the  
9 mail, so that, you know -- we can do it for you, there  
10 will be a charge.

11 The fee, how we charge a fee --

12 COURT: You went through each and every section of the  
13 headings. You were not selective in which was -- you  
14 thought of --

15 A. No, I was not selective.

16 COURT: So it's your evidence that for the service  
17 agreement, you went through each of the headings.

18 A. Headings.

19 COURT: Headings?

20 A. Yes.

21 COURT: Then, in terms of explanation, you -- certain things  
22 you elaborated.

23 A. Certain things I elaborated, yes.

24 COURT: Fair enough. The risk disclosure statement, what  
25 did you do?

1 11:16 A. The same.

2 COURT: What?

3 A. I read the headings, and then certain things

4 I elaborated.

5 COURT: Okay.

6 Let me take you through just to clarify. This is on  
7 tab 9. I am very interested in how you took them  
8 through the risk disclosure statement.

9 The service agreement, that's simple enough. The  
10 risk disclosure, what did you do? Just take a look at  
11 it, page 86 in the tab 9 of the defendant's core bundle.

12 There is the document you have, tab 9, page 86,  
13 entitled "Risk disclosure statement".

14 A. Page 86.

15 COURT: Yes. Do you have it?

16 A. Yeah.

17 COURT: What did you highlight?

18 A. As to the best of my recollections --

19 COURT: What did you highlight?

20 A. This is a general terms, margin requirements, if you  
21 trade with us, you know, you can do margins and we can  
22 accept, stop-loss orders. Of course, trading margin you  
23 have to be careful with the leveraging, and then we  
24 have -- if you trade with us, the options, call options,  
25 put options, the risk of buying different options. You

1 11:18 can spend --

2 COURT: This is a customer --

3 A. Right.

4 COURT: -- who, you only know, had bought or sold Cheung  
5 Kong shares before.

6 A. Yeah, but I need to --

7 COURT: Yes, I understand. So you went through each of what  
8 the headings say; option risk, margin trading, stop-loss  
9 orders?

10 A. Yeah, this is the risk disclosure. It's just a standard  
11 practice that we --

12 COURT: I understand. I'm just trying to understand what  
13 exactly did you tell them. You said, okay, there are  
14 margin requirements if you do margin, there are  
15 stop-loss orders if you place stop-loss. Carry on.  
16 What else?

17 A. Then, if you do the options, there are the options --  
18 you have to be careful. I don't know whether they do  
19 option at the time, but I said, "this is the option, if  
20 you want to do. Look at the risk of different options".  
21 And then, "We are also capable of doing forward trade,  
22 swap risks -- I don't know whether you -- you guys are  
23 doing the swap".

24 So if they have no objections, then I just move on,  
25 like that. Every single title.



1 11:19 COURT: You basically highlighted the headings of the risk  
2 disclosure statement.

3 A. Yes. Yes. I told them to read through because there  
4 are different type of risk. Some people, they don't  
5 necessarily utilise it, but since it's there, so I said,  
6 this currency risk, liquidity risk, please read through  
7 the whole pages, if you have time.

8 COURT: Carry on.

9 A. That's why I said it's impossible to open the account  
10 right at the spot. Not -- not our practice. It's ...

11 COURT: Carry on.

12 A. So I'm on page 90. Of course I tell them that's there's  
13 some funds that is not registered --

14 COURT: You have finished the risk disclosure statement;  
15 right? You've done with that?

16 A. Almost.

17 COURT: Then you go on to page 92. Did you take them  
18 through the security agreement?

19 A. Yeah, the security agreement is basically you agree to  
20 pledge your asset towards --

21 COURT: No, I know what it means. The question is: did you  
22 take them through any of the headings?

23 A. Yes. It was just my practice to go through the  
24 headings.

25 COURT: I understand. So you took them through this

1 11:20 document and you said here is the headings --

2 A. Yes, the required value, the negative pledge --

3 COURT: Charges --

4 A. Yes.

5 COURT: -- realisation --

6 A. Yes --

7 COURT: -- negative pledge?

8 A. Yes, of course.

9 The bank also have the rights to give you margin,  
10 not give you margin, you know, that's -- it's all there.

11 COURT: Did you take them through the risk disclosure  
12 statement for foreign exchange and derivative  
13 transactions?

14 A. Yes.

15 COURT: You did all this in Mandarin?

16 A. Yes. The title, I use English to say, but the  
17 conversation is always in Mandarin.

18 COURT: Okay.

19 A. Because they -- highly educated, English is not  
20 a problem.

21 COURT: The same thing with the risk disclosure statement  
22 for foreign exchange and derivative transactions?

23 A. Yes.

24 COURT: It covers the same ground though.

25 A. Yeah, but -- that's just the practice. We've been doing

1 11:21 this for --

2 COURT: So you go through it again just to make sure that --  
3 to tick the box --

4 A. Make sure -- I draw their attentions --

5 COURT: -- you have to make sure you do it?

6 A. Yes, because my way of doing things is, as I said  
7 before, I don't want to really skip a lot unless there's  
8 no choice, but normally I would just go through one by  
9 one, one by one, one by one.

10 COURT: Okay.

11 MR PILLAI: Mr Wan, so that I understand your evidence, just  
12 now, when you were recounting what you went through, was  
13 it by reference to what you normally do or what you  
14 actually did on 15 March 2007?

15 A. That's what my normally do and actually did.

16 COURT: He is getting on to you.

17 A. It becomes a habit.

18 MR PILLAI: I may not get a thumbs-up any more.

19 Mr Wan, is your evidence, that you met Dr Chang and  
20 Prof Lim, the first time to introduce the bank's  
21 services, then you said that in the beginning there were  
22 some disruptions when you were going through the PWM  
23 brochure. When you were going through some product  
24 information, you had to cut short the time because they  
25 didn't appear interested.

1 11:22 Now you say that you went through the account  
2 opening documentation, and you went through each header  
3 and took some pains to go through and summarise the  
4 contents of the account opening documentation.

5 I put to you, Mr Wan, that you could not have done  
6 that. Do you agree or disagree?

7 A. I disagree. May I explain?

8 Q. Let me finish my "put", then you can explain.

9 I put to you that you are now saying that you went  
10 through the account opening documentation to basically  
11 portray the fact that Dr Chang knew about the terms and  
12 conditions governing the account as early as in 15 March  
13 2007. So you purposely want to say that you highlighted  
14 all these conditions to him.

15 That's your motive; correct?

16 A. Disagree.

17 Q. You wanted to explain something?

18 A. Yeah. Your Honour, may I explain.

19 Because the -- at that moment of time, was the last  
20 opportunity for me to try to open an account, so the  
21 product itself, it just an introductory. The part, why  
22 it last longer, is, I still want them to open account  
23 with me. So I take some time, I hope that -- I was  
24 sincere about it, I explain everything to them, I hoped  
25 that period of time could longer so that I can open the

1 11:25 account, I can be -- I mean, could be -- this could be  
2 a successful one for me.

3 COURT: I understand that. The point is, it's your evidence  
4 that this lunch was about 90 minutes, interrupted by  
5 waiters, ordering, the porridge coming in, the dishes  
6 coming in, and your presentation of the PWM and all  
7 these documents. So I think counsel is just trying to  
8 figure out whether -- it's taken you a day and a half to  
9 take me through what you did.

10 A. But that was the -- that was the facts.

11 COURT: Carry on.

12 A. But that was the fact that I gave, because I was trying  
13 very hard to do what I supposed to do.

14 COURT: That's why his question is very simple: yes, in an  
15 ideal world, this is what we would all do and the  
16 question he is trying to put to you, his position is:  
17 given that time and given what you have said so far, you  
18 could not have possibly done all that. That's his  
19 position.

20 A. That's what -- I don't agree with his --

21 COURT: Okay.

22 MR PILLAI: Mr Wan, didn't Dr Chang, after the presentation,  
23 tell you that he is an academic who doesn't have time to  
24 manage his investments?

25 A. No.

1 11:26 Q. Didn't Dr Chang tell you that he basically needs  
2 a financial advisor to take care of his investments  
3 because he doesn't have the time to manage his  
4 investments?

5 A. No.

6 Q. Didn't Dr Chang tell you that he is a conservative  
7 investor, in that he would like to have his capital  
8 protected with some growth?

9 A. No.

10 Q. Didn't you tell him that Deutsche Bank is able to meet  
11 his investment objectives and is prepared to be his  
12 financial advisor?

13 A. No.

14 Q. You see --

15 A. I just want him to open an account with me at the time,  
16 your Honour.

17 Q. If you want him to open an account, basically you can  
18 just say yes to whatever Dr Chang says and you have an  
19 account opened; agreed?

20 A. What should I said, that --

21 Q. You said your primary objective is to open the account.

22 A. My primary objective, of course I want him to open an  
23 account --

24 Q. Yes.

25 A. But he told me he has no money, he's not interested at

1 11:27 this time, so he rejected me. So what -- what shall  
2 I say? I still going to say, oh, yeah, how good our  
3 bank is and -- I mean --

4 COURT: You gave him an account opening form.

5 A. Yeah, I want them to consider. I want them to think  
6 about it.

7 MR PILLAI: Mr Wan, you knew that Dr Chang, at least, had  
8 about US\$5 million from your days in Standard Chartered.  
9 You also knew that his net worth was about US\$26 million  
10 from your Standard Chartered days. That's the evidence  
11 you have given earlier in court.

12 A. Correct.

13 Q. So he was definitely a person of high net worth.

14 A. Yes.

15 Q. On 15 March, you would have been interested to recruit  
16 him as your client. That's why you gave him the account  
17 opening documentation.

18 A. Yes. You -- you correct on this part. May I explain  
19 a little bit?

20 At the time, I didn't have much expectation because  
21 our -- as you know, our business, the relationship --

22 COURT: Yes, you didn't know whether the client would open  
23 the account.

24 A. Yeah, and a lot of the time our clients are -- took  
25 a lot of time to think themselves. So I was -- no way

1 11:29 that I can tell when he will open an account. But at  
2 the time he said that "I don't have money, I don't want  
3 to open an account". That's basically I considered --

4 COURT: Listen to counsel's question, because he's not going  
5 there.

6 A. Okay.

7 MR PILLAI: Mr Wan, my focus is on the fact that you wanted  
8 Dr Chang to open an account with your bank. That is  
9 your objective; correct?

10 A. At the time --

11 Q. Just a short answer will do. I think we more or less  
12 have the drift of your answer. Just a short answer will  
13 do.

14 We've heard your explanation, so just a short answer  
15 to this question will do.

16 A. My focus was on Prof Lim to open an account with us.  
17 And Dr Chang, of course, I would be -- appreciate that  
18 if he can open an account also.

19 Q. If Dr Chang had told you that he has these concerns,  
20 that he doesn't have time to manage his own investment  
21 affairs, and he needed a financial advisor to manage it  
22 in accordance with his objectives, since you wanted to  
23 open an account, you could have easily said yes, and he  
24 would eventually open an account with you.

25 A. But he did not say that. He did not said that, to me.



1 11:31 He said only said that "I don't have money, so I'm not  
2 open account ..."

3 COURT: Mr Wan, there are two possibilities. You went to  
4 Taipei to persuade Prof Lim to open an account.

5 A. Correct.

6 COURT: The other possibility is, you went to Taipei to  
7 visit Prof Lim and Dr Chang to open an account. Whether  
8 they would then, thereafter or much later, that's not  
9 the question. Do you follow?

10 That's counsel's question, really.

11 A. I don't get it.

12 MR PILLAI: Mr Wan, the question is not about opening an  
13 account at that point in time. You basically wanted  
14 Dr Chang to open the account with Deutsche Bank  
15 eventually.

16 That's really the thrust, and my question is  
17 this: Dr Chang has these investment needs which I've  
18 outlined earlier. He told you that he didn't have  
19 enough experience, so if he had wanted to open the  
20 account with him, couldn't you have said yes?

21 A. But the thing is, he didn't tell me that. He told me,  
22 was, "You have experience dealing with bond before?"  
23 I say yes --

24 Q. Let me take it -- let's assume that he did not tell  
25 you -- sorry, rather, let's assume that he told you. We

1 11:32 heard you. You say you did not say this but let's  
2 assume for the moment, Mr Wan, that he told you that  
3 he's an academic, he has no time, he has no experience  
4 in managing his investments, and he needs a financial  
5 advisor to help him manage in accordance with his  
6 investment objectives.

7 We have gone through your internal policies  
8 governing a relationship manager two days ago. What  
9 would your answer be?

10 A. What do you mean, our internal policy?

11 Q. The internal policies we've gone through about the RM  
12 making sure there is client suitability, the RM looking  
13 at issues of risk, so what is the difficulty in using --  
14 in you saying, "Yes, I will do it for you. Please open  
15 the account"?

16 A. But you're assuming --

17 Q. I'm assuming. Assume.

18 A. I have no clue that -- because no one assume that to me,  
19 so --

20 Q. Sorry, Mr Wan. Let's assume that Dr Chang told you  
21 this. I know your position that he did not say this.  
22 We understand that. For the moment, please assume that  
23 Dr Chang told you his background, his lack of  
24 experience, the fact that he wants a financial advisor  
25 to manage his investments according to his objectives.

1 11:34 This is an assumption. On that basis --

2 MS TAN: I'm sorry, your Honour. I was trying not to  
3 object, but I think there's too many assumptions here  
4 and it's creating some difficulty for the witness  
5 because he is essentially asking the witness to  
6 speculate on something, assuming that it happened.

7 COURT: Carry on.

8 MR PILLAI: Thank you, your Honour.

9 What would your answer be?

10 A. As I said, just too many assumptions. You can assume  
11 this --

12 COURT: What do you mean by "What would your answer be?"

13 MR PILLAI: Sorry. Let me start again, your Honour.

14 COURT: Yes.

15 MR PILLAI: I'll just reformulate the question, with your  
16 Honour's leave.

17 You went through the presentation. The presentation  
18 says that Deutsche Bank can provide customised  
19 solutions, Deutsche Bank aspires to be the lead, trusted  
20 advisor, so on and so forth.

21 Then, let's assume this: Dr Chang says, "I'm  
22 impressed with your presentation. I have this money  
23 that I need to invest. I'm an academic; I don't have  
24 the experience, I don't have the time. I need  
25 a financial advisor who can manage this investment in

1 11:35 accordance with my objectives".

2 That's the scenario. What would your answer be?

3 If Dr Chang were to pose this to you, what would you say  
4 to him?

5 A. I don't know.

6 COURT: I think again your theory is a bit too open-ended.

7 Your question really is: would you invite him to  
8 open an account? Is that where you are headed?

9 MR PILLAI: That's exactly it, your Honour.

10 COURT: Why don't you ask him?

11 MR PILLAI: Let me just rephrase the last part.

12 Wouldn't you, Mr Wan, invite Dr Chang to open an  
13 account with Deutsche Bank and assure him that, yes,  
14 Deutsche Bank can achieve the objectives that he had in  
15 mind?

16 A. No, I think it's a different issue here, because -- of  
17 course I want him to open an account, but there are also  
18 many things to consider: if he is busy, if he has time  
19 to work with us, to try to understand what we doing.  
20 I mean, there are a lot of things that we need to  
21 consider. If you just --

22 COURT: I think the question is very simple: if he told you,  
23 having listened to your presentation, he says, "Okay,  
24 I'm an academic. I don't have much money now but  
25 I still have about 5 million plus, and I'm expecting to

1 11:37 come into money in a few months' time". Would you then  
2 say "Yes, why don't you an open an account with us"?

3 He may not have done it immediately, but the  
4 question is, would you say "We can help you"?

5 A. I think I would say "We can discuss about it, yeah".  
6 That's the possibility that we can do. Because I want  
7 to find out what exactly that he wants, whether our  
8 service can really provide to him, because there are  
9 people -- your Honour, if you can excuse me, there are  
10 people out there that they would come to you -- come to  
11 me, say, "I'm a conservative investor. You give me  
12 30 per cent return every year -- 30 per cent every  
13 month, I'm happy."

14 I mean, there are people like that, and we've been  
15 in this business for long -- I had the -- the housewife  
16 can come to me, "I'm very conservative, I tell you, but,  
17 you know, 30 per cent return every month, I'm happy  
18 about it. Can you do it for me?"

19 This is the thing that I'm talking about. So if you  
20 just saying that, oh, under these circumstances would I  
21 be -- love to open account, I said "Let's think about  
22 it. Let's discuss about what type of service that we  
23 can actually provide to you". If not, I mean, you  
24 may -- you may have a wrong expectation from us, and it  
25 end up could be a nasty one. So --

1 11:38 MR PILLAI: I think I get your answer.

2 Mr Wan, I put it to you that in fact, on that day,  
3 on 15 March 2007, you agreed, on behalf of Deutsche  
4 Bank, to be Dr Chang's financial advisor, to manage his  
5 account on the basis of his objectives. Would you agree  
6 or disagree?

7 A. Disagree.

8 MR PILLAI: Your Honour, I wonder whether this is an  
9 appropriate time for a short break.

10 COURT: All right.

11 (11.39 am)

12 (A short adjournment)

13 (12.02 pm)

14 MR PILLAI: We are grateful for the short adjournment, your  
15 Honour.

16 Mr Wan, just before the break you mentioned that on  
17 the assumption that Dr Chang had spoken to you about his  
18 needs pertaining requiring a financial advisor to help  
19 him with his investment objectives, you said he would  
20 discuss the matter with him. Do you remember your  
21 evidence on that?

22 A. Yes.

23 Q. Let me just pursue that.

24 Say, for example, you went through the presentation  
25 with him as you did on 15 March 2007. After that, you

1 12:03 introduced the discretionary services through the GIM  
2 brochure, according to you.

3 Then, you went through the account opening  
4 documentation for an advisory account, as you have done  
5 on 15 March 2007.

6 If Dr Chang had told you that he wanted a financial  
7 advisor to help him with his financial objectives, would  
8 you have pointed out to him that the advisory account  
9 doesn't mean what it says, because Deutsche Bank does  
10 not take responsibility for advices it gives to such  
11 clients?

12 Do you understand my question, Mr Wan?

13 A. So you -- you went into assumption.

14 Q. The assumption is a short assumption, that Dr Chang  
15 wanted a financial advisor to help him.

16 A. Mm-hmm.

17 Q. You have gone through the presentation, you have gone  
18 through the GIM brochure -- according to you -- then you  
19 went through the account opening documentation for an  
20 advisory account.

21 Wouldn't you have pointed out that the advisory  
22 account doesn't mean what it says, because under this  
23 account Deutsche Bank doesn't take responsibility for  
24 advices it gives?

25 A. But I don't understand why you going so far away, going

1 12:05 to the responsibilities, and -- we haven't even started  
2 to discuss about the --

3 Q. What's the difficulty you have with my question? You  
4 don't understand my question?

5 A. Not exactly. You're saying that --

6 Q. Let me, perhaps, try again.

7 You have Dr Chang, who wants to have a financial  
8 advisor to manage his investments. At that point in  
9 time, you have already introduced him to the bank's  
10 services as presented in the PWM brochure. You have  
11 talked about the advisory service, as well as the  
12 discretionary service that the bank gives.

13 A. Mm-hmm.

14 Q. You then have already gone through the account opening  
15 documentation for the advisory account. Do you follow?

16 A. Mm-hmm.

17 Q. In those circumstances, wouldn't you have pointed out  
18 that this advisory account actually doesn't mean what it  
19 says, because under this account Deutsche Bank, is not  
20 supposed to take any responsibility for advice it gives?

21 A. I think I would explain to him that there are two  
22 different type of accounts, but if he's looking for  
23 a financial advisors to manage his investments, we are  
24 just a bank. We're just middlemen. We cannot be the --

25 Q. In your presentation there's a mission statement, "We



1 12:07 want to be your lead, trusted advisor."

2 Let's assume that message went through and Dr Chang  
3 understood the bank's mission statement. All right?

4 A. Mm-hmm.

5 Q. After the presentation, Dr Chang says, "Yes, I'm very  
6 impressed with your presentation. I've heard about your  
7 advisory service, I've heard about your discretionary  
8 service. You've gone through the account opening  
9 documentation with me. This is my objective. I want to  
10 have a financial advisor who will take care of my  
11 investment objectives."

12 Wouldn't you, in those circumstances, have pointed  
13 out that the advisory account actually doesn't mean what  
14 it says, because -- let me finish -- because Deutsche  
15 Bank doesn't take responsibility for advices given under  
16 that account?

17 A. Okay, let me to try to answer your questions part by  
18 parts. Is, okay, first of all, the trusted advisor --  
19 I think in the brochure, means we have different  
20 products and different services for clients. We can  
21 direct you to the proper departments for you to get  
22 those services.

23 For example, if you want wealth management, we can  
24 set up the trust services. We can have -- introduce the  
25 trust people, help you to set up life insurance, help to

1 12:08 you set up wills. We mean -- the "advisor" is --  
2 I think the difference is, the "advisor" word, in our  
3 view, is, you have to take a -- look at it, it's, we  
4 have many different departments, needs a person to  
5 liaise to different departments.

6 So how it jumps to the advisory account, there could  
7 be no -- no linkage.

8 Q. Again, you're dealing with laypeople. You have  
9 a presentation. The word used is "advisor", "lead,  
10 trusted advisor", and then this person was introduced to  
11 the advisory account services. Then you have the  
12 discretionary services.

13 In the context of your explanation, really, if he  
14 were to then say, "Yes, I'm interested to open this  
15 advisory account", and you went through the terms and  
16 conditions with him, at that point in time, knowing his  
17 investment objective, wouldn't you have highlighted to  
18 him, "Wait a minute, you should be aware that under this  
19 account, Deutsche Bank doesn't take responsibility for  
20 its advices"?

21 A. I think we are still a little unclear, is that --  
22 because you to try to use the name "advisory account" to  
23 imply that the advisor role, it's -- I think it's --  
24 it's because the account itself, we call it the name  
25 "advisory account", but in fact it's non-discretionary

1 12:10 account. We provide information, and the service  
2 agreement, everything stated very clear.

3 Q. I understand that.

4 A. We give you opinion, we give you recommendations, but  
5 still up to you to decide; at the end of the day, you  
6 decide your own investment decisions.

7 Q. Yes.

8 COURT: Let me try to summarise what you say. In short  
9 you're saying, when your mission statement says "We want  
10 to be your trusted advisor", it bears no connection to  
11 what you are selling?

12 A. I can say in summary it's a slogan, it's not written by  
13 me --

14 COURT: The marketing people?

15 A. Yeah, the other people. And if that makes my role  
16 difficult -- I mean, it's not --

17 COURT: You clearly understand what your private banking  
18 unit is providing or able to provide as services.

19 A. Right.

20 COURT: And in your charge sheet, when you refer to  
21 "advisory services", at the very narrowest you're  
22 saying, that does not connect to your trusted mission  
23 statement. Right?

24 A. Your Honour, that's -- I will refer to -- it's "advisory  
25 account". That's why I make it very clear every time

1 12:12 when I speak to a customer, "It's just a regular  
2 account, you make your own decisions. We can provide  
3 you informations, you still need" --

4 COURT: It's an unfortunate choice of words to say advisory  
5 services?

6 A. I cannot say because it's not up to me to choose the  
7 word. It's the name, it's right there, and I -- as  
8 a frontline person, I need to explain, I told the  
9 client, "This is a regular account, we call it  
10 'advisory', we provide you information, recommendations,  
11 house view". Even though the standard marketing  
12 material itself says 3 months, 12 months, it's our view.  
13 We share the view with our clients, and it's up to them  
14 to choose what they really want, and we are there to  
15 help them to choose what they want.

16 We are a big firm, have different departments. You  
17 can't just walk in and say, "Oh, I want this", because  
18 you need someone to liaise with you. Maybe the client's  
19 need is wealth management, but he didn't know where to  
20 get started. So the first contact would be me to direct  
21 him to the wealth management department, and we can  
22 introduce our specialist to help him to set up his  
23 trust, to help him to source for life insurance  
24 policies. We can -- we can take care those service for  
25 them. So it's just a nature of -- the name, it's called

1 12:13 "advisory".

2 COURT: A layman comes to you and says, "I'm an academic.  
3 I have about 5 million investible assets now. I'm  
4 expecting to come into a large amount of money in  
5 6 months' time. I need your help".

6 A. Okay.

7 COURT: "I can trust you, according to your" -- what do you  
8 provide and what's the disconnect in what his  
9 expectations may be?

10 A. Then I need to find out that -- what he really need --

11 COURT: Did you?

12 A. We talk about it. We talk -- I said we have two types  
13 of accounts. I explain to them that this is normal type  
14 of accounts, self-directed, you make your own decisions,  
15 we give you information --

16 COURT: Did you ask him, "What really do you want us to help  
17 you with?"

18 You come to a doctor in a clinic and say you have  
19 cancer. The doctor would ask you what exactly do you  
20 need, would he examine you -- I think that's part of  
21 where he is coming from.

22 A. Right.

23 COURT: You are the frontline person.

24 A. Right.

25 COURT: "We can help you, can we help you" -- "maybe we

1 12:14 cannot help you, that's fine.

2 A. Right.

3 COURT: That's where we are. It may well be Dr Chang has  
4 a very different impression of what his expectations are  
5 from you, and from that presentation. Do you follow?

6 So the question is then, did you probe, what exactly  
7 do you need and whether we can provide it? We may not  
8 be able to provide it. Do you want a will for your  
9 children, do you want the company to preserve your  
10 assets, protect your assets against claims. You have a  
11 whole -- "We are a supermarket, I have a lot of services  
12 for you, but still you may want something I don't have.  
13 I can't provide".

14 The question where counsel is leading is, how did  
15 you clarify for yourself what exactly Dr Chang was  
16 looking for from you, or from your bank?

17 A. Or --

18 COURT: Or did the discussion go straight into DSPPs?

19 A. No. Of course we discussed. That's the reason --  
20 I think, your Honour, you understand our situation,  
21 is -- that's why I didn't expect we'll have anything  
22 happen at the beginning. Because the process itself,  
23 for some people, would take a lot of time. For some  
24 other, could take shortened time. It really depends on  
25 how the conversation going. It really depends on what

1 12:16 the prospect itself presented, what he wants to do with  
2 it, with their money or -- but we were not there yet, on  
3 15 March.

4 COURT: Okay. I want to take you through paragraph 39 of  
5 your affidavit to clarify. You have a twin objective  
6 here. Your immediate attention is actually Prof Lim,  
7 but you also have Dr Chang as a potential customer;  
8 right?

9 A. Correct.

10 COURT: Look at paragraph 39. I'm just trying to clarify  
11 what exactly transpired here, according to you.

12 All this is at the meal; right? Over the meal, is  
13 that correct?

14 A. Yes.

15 COURT: In paragraph 38, you already say, at that time you  
16 already knew from Dr Chang that he expected to receive a  
17 significant amount of moneys shortly.

18 A. At the time I know that he mentioned we'll receive  
19 amounts --

20 COURT: Either you knew or he mentioned. Which?

21 A. Actually, Prof Lim first time came to --

22 COURT: Hong Kong?

23 A. -- Hong Kong, say open account for Dr Chang, and then  
24 the second time was the 15 March, Prof Lim also told me  
25 that he is going to sell his companies, so might receive

1 12:18 some moneys. That's the background of it. But exactly  
2 how much, I --

3 COURT: If you look at your call report at that time, you do  
4 put in some information about Dr Chang.

5 A. My call report?

6 MR PILLAI: PB 392, the second line.

7 A. Yeah. I put down the facts at the time.

8 COURT: Which are?

9 A. We met --

10 COURT: About Dr Chang?

11 A. He does not have money at this moment.

12 COURT: Yes. Anything else?

13 A. So Dr Lim would like to open an account first.

14 COURT: Anything else about Dr Chang?

15 A. I said we have GIM portfolio and a bond portfolio  
16 related to Dr Chang.

17 COURT: What does that suggest?

18 A. We mention those two --

19 COURT: If he had no money, you would have no interest.

20 MR PILLAI: In fact there's another line which will show.

21 There's something else, right? Under "Additional  
22 notes".

23 A. "Will follow up with Dr Chang."

24 COURT: Yes.

25 A. He told me, at the end of the meal --



1 12:20 COURT: Basically, on 15 March, you, at least by then, knew  
2 that Dr Chang was going to come into significant funds  
3 shortly.

4 A. Your Honour, when you mentioned about "significant  
5 funds", I probably need to further elaborate a little  
6 bit.

7 COURT: Sure.

8 A. We have people always -- we have prospects, say, "Yeah,  
9 I have significant funds, we'll give it to you" --

10 COURT: No. Zero in on this. Zero in on Dr Chang. I'm  
11 familiar with what the market is like.

12 A. Okay.

13 COURT: Just zero in on Dr Chang.

14 A. This call report was done on 20 March. It's  
15 a combination of the information that I got, and I went  
16 back and put it down, just help my memory.

17 As I mentioned before, I didn't even kept the  
18 original of the call reports, so I want to follow up,  
19 but just I didn't do that.

20 COURT: What is it you are disagreeing with? That you did  
21 not know that Dr Chang was coming into significant cash?

22 A. I didn't know the amounts at all.

23 COURT: We are not talking about the amount. The question  
24 is: significant cash.

25 A. Right. So at the time I thought, okay, if he can open

1 12:21 an account or has a relationship with us, that's fine.

2 COURT: That's not the question. The question is on

3 15 March; by which time did you know that Dr Chang was

4 coming into significant cash?

5 A. That's been mentioned, that.

6 COURT: That's all.

7 Go back to paragraph 39 of your affidavit. Your

8 immediate contact, according to you, is Prof Lim.

9 Right?

10 A. Correct.

11 COURT: In the way you've drafted your affidavit, you are

12 saying that at the lunch she told you she wished to buy

13 Cheung Kong shares which she had sold earlier.

14 A. She mentioned that.

15 COURT: Or was this something in Standard Chartered Bank

16 in December?

17 A. In December 2006, she sold it, the position. I don't

18 remember exactly the price, but was --

19 COURT: It's very simple. The question is, she told you she

20 wished to buy Cheung Kong shares.

21 A. At the 15 March, we had a discussions regarding the

22 Cheung Kong shares. She mentioned something like, oh,

23 yeah, now it's more expensive.

24 COURT: Hold it. Look at your own paragraph 39. I'm just

25 trying to clarify what you're saying. You're saying, on

1 12:23 15 March she informed you that she wished to buy Cheung  
2 Kong shares.

3 A. Right.

4 COURT: Is that correct?

5 A. Correct.

6 COURT: Then, she also told you she had sold her holdings  
7 around December.

8 A. Correct.

9 COURT: At Dr Chang's suggestion.

10 A. We were -- three were there at the Standard Chartered  
11 Bank.

12 COURT: Prof Lim told you that Prof Lim sold her Cheung Kong  
13 shares at Dr Chang's suggestion?

14 A. I was there with them in December 2006.

15 COURT: You're not answering my question. You say that  
16 Prof Lim told you that she had sold the shares in  
17 December at Dr Chang's suggestion.

18 A. Right. Correct.

19 COURT: She's told you that?

20 A. That this is the fact that I know.

21 COURT: You know that Dr Chang had told her to sell?

22 A. Yeah, because all three of us were at the Standard  
23 Chartered Bank at the time. I make the phone call for  
24 them.

25 COURT: I understand. It's not that the shares were sold,

1 12:24 do you follow? The question is that they were sold at  
2 Dr Chang -- this is Prof Lim's shares, not Dr Chang's  
3 shares.

4 A. Yes, they discussed and Dr Chang said, just sell it.

5 COURT: They discussed and Dr Chang gave you instructions to  
6 sell?

7 A. Yeah.

8 COURT: Fair enough. And then --

9 A. Your Honour. Sorry, just to clarify. They discussed,  
10 and then Prof Lim asked Dr Chang, "Shall we sell this?"  
11 Dr Chang says "Sell it". But the account, it was a  
12 joint account, Dr Chang's name is not on there.

13 COURT: Your affidavit is pretty precise, but as I probe you  
14 it gets more ambiguous. They may have had a discussion,  
15 but it's her shares. It's for her to decide to sell.

16 A. Right.

17 COURT: Do you follow? She may have agreed, "What's your  
18 view? What do you think?"

19 But from you say here, the implication here is  
20 Dr Chang was directing her whether it's a good time or  
21 bad time to sell.

22 A. Exactly.

23 COURT: Is that what you are saying?

24 A. Yes.

25 COURT: You are?

1 12:25 A. Yes.

2 COURT: He made the decision? Or she had a discussion?

3 A. He made the decision for her on behalf of -- I --

4 COURT: No, you said all three of you were there. Either

5 they were discussing and she looked at him and said

6 "What do you think?" Or, you say, he suggested, "Sell".

7 A. They discussed --

8 COURT: "Discussed" is different from saying he suggested

9 that she sell. It's her shares.

10 A. The final -- the final decision, they discuss first, and

11 the final decision was Dr Chang said "Just sell it

12 then".

13 COURT: Am I missing something?

14 MR PILLAI: Mr Wan, you're referring to the December 2006

15 meeting in Standard Chartered Bank, aren't you, in this

16 paragraph 39?

17 A. Yeah. No --

18 COURT: That's the problem I have, because in sequence, in

19 paragraph 38 he is talking about the meeting on

20 15 March. And then in paragraph 39, you say "She also

21 informed me". So the first question is: was this at the

22 lunch or was it in December?

23 A. Oh, I see. I'm sorry, your Honour.

24 The background of the --

25 COURT: Paragraph 39.

1 12:26 A. -- paragraph 39, the background information were  
2 from December 2006 at the time.

3 COURT: You need to be precise here.

4 A. Okay.

5 COURT: In paragraph 39, you make the first point, "she  
6 wished to purchase Cheung Kong shares". So it cannot  
7 have been in December 2006. This must be at the  
8 15 March meal --

9 A. This 15 March meal.

10 COURT: -- that you say she told you she wanted to purchase  
11 Cheung Kong shares.

12 A. Yes.

13 COURT: All right?

14 A. Yes.

15 COURT: Then, "as she had sold hers ... in ... December ...  
16 at Dr Chang's suggestion". So if this conversation took  
17 place on 15 March, what I'm trying to clarify is: is it  
18 on 15 March she had told you that Dr Chang had suggested  
19 she sell, or are you saying "This is my impression or  
20 conclusion from your meetings with them in December at  
21 StanChart when she sold her shares"?

22 A. This was my impression and conclusions.

23 COURT: When? 15 March or December 2006?

24 A. December 2006.

25 COURT: Dr Chang's suggestion is a conclusion you draw from

1 12:28 the December 2006 --

2 A. Yeah.

3 COURT: But you just said all three of you were discussing  
4 it. So why do you say it was his suggestion? It's her  
5 shares.

6 A. Yeah. Okay, let me go back to the December 2006.

7 COURT: Do you understand why I'm asking you for  
8 clarification?

9 A. Not quite. I'm sorry.

10 COURT: Because it carries an implication that Dr Chang is  
11 pretty savvy on the stock market, on Cheung Kong shares  
12 in Hong Kong in December 2006. You don't intend that  
13 implication?

14 A. Well, I ...

15 COURT: It's one thing for them to discuss with you, and  
16 then she says "What's your view?" and then he says, you  
17 know -- but it's another to say he suggested that she  
18 sell. In which case he turns out to be, even then,  
19 a bad investor.

20 A. Well, that's the impression or the conclusion, because  
21 in Standard Chartered Bank --

22 COURT: No. If that's your impression it's fine, but the  
23 way it's written here, it sounds as though he suggested  
24 she sell. That's what I'm trying to clarify.

25 A. Oh, that's -- exactly, that is -- because the --

1 12:29 Prof Lim asked about the price, and then I called our  
2 Standard Chartered Bank desk, get the price, and then  
3 the couples, they discuss about the situation of Cheung  
4 Kong shares. And then they ask me, the price was at the  
5 52-week -- whatever, I can't really recall that, so  
6 I provide them the -- I believe from the phone call to  
7 the desk, to the trading desk -- so they talk amongst  
8 themselves, and then --

9 COURT: Beyond your hearing?

10 A. I -- usually I don't want to hear that, so I stay away  
11 a little.

12 COURT: So you couldn't hear them talking amongst  
13 themselves.

14 A. No. Then --

15 COURT: Then?

16 A. And then I -- and I believe the -- Prof Lim asked --

17 COURT: No, don't "believe". I want what you remember.

18 What do you remember?

19 A. Okay, I remember was Prof Lim asked Dr Chang, say,

20 "Shall we sell it?"

21 COURT: I thought you just said you couldn't hear them.

22 A. But, yeah, they have a little talk, but -- at the end --

23 COURT: They are whispering?

24 A. Yeah, whispering a little bit, but the final two

25 sentence is a little bit louder, that -- because I think



1 12:31 they pretty much -- they finished, so --

2 COURT: Then Dr Chang told you he agreed that it should be  
3 sold?

4 A. Yeah.

5 COURT: But the point is, following a discussion between the  
6 two of them, he conveyed her decision -- no? It could  
7 be; right? It's not as precise as saying that "he  
8 suggested that she sell". It could be they were  
9 discussing --

10 A. Made the final decision.

11 COURT: But he told you what?

12 A. Because I -- I remember Prof Lim asked Dr Chang, "Shall  
13 we sell it?" Then Dr Chang said, "Sell it".

14 COURT: Okay.

15 A. Then I go and pick up the phone and make the phone call  
16 for them.

17 COURT: All right. So his role there is being consulted by  
18 her, and his view then was to sell?

19 A. Right.

20 COURT: All right.

21 A. Yes.

22 COURT: Then you say -- and the price had risen, so this  
23 must be by 15 March. The sale was in December.

24 A. The sale was in December.

25 COURT: When you say "the price had since risen", "since"

1 12:32 means 15 March 2007?

2 A. Yeah. Yes.

3 COURT: Right?

4 A. Yes.

5 COURT: Now, the next sentence. When did Prof Lim tell you  
6 she heard about a financial product available in the  
7 market? Remember, she's an academic in Taipei.

8 A. Yeah, that's --

9 COURT: She told you that?

10 A. Yeah.

11 COURT: At the lunch meeting or in the telephone call before  
12 you came?

13 A. The lunch meeting.

14 COURT: Sorry, the meal. Let's call at the meal.

15 A. Okay.

16 COURT: Your recollection that it is lunch.

17 So she told you at the meal that she was aware that  
18 there is a financial product in Hong Kong to accumulate  
19 shares at a discount.

20 This is a woman who only has Cheung Kong shares from  
21 her father, talks only about fixed deposits, and  
22 suddenly can tell you about accumulators?

23 A. That's what happened.

24 COURT: Okay. All right.

25 MR PILLAI: Mr Wan, just to clarify this discussion in

1 12:33 December 2006. Wasn't it your suggestion to Prof Lim  
2 that she sell her Cheung Kong shares because the price  
3 had risen to the year's high? That's in her affidavit.  
4 Wasn't it your suggestion, Mr Wan?

5 A. No. Not my suggestion.

6 COURT: Was it at the year's high?

7 MR PILLAI: According to --

8 COURT: That's easily verifiable.

9 MR PILLAI: Yes, that's easily verifiable, and in fact  
10 Mr Wan made a reference to 52-week just now --

11 COURT: That would normally -- so basically --

12 A. No, they asked me informations, and they asked me  
13 information about the price --

14 COURT: So you call the trading desk and they give you the  
15 current price, and they give you a range, then they told  
16 you what the year-high and the year-low was; right?

17 A. Something like -- I have a vague memory on that, yes.

18 COURT: So basically, in December 2006, was Cheung Kong  
19 trading at the year-high or low, or in between?

20 A. That, I don't remember. I mean --

21 MR PILLAI: You could remember a 52-week just now.

22 A. No, I said a 52-week something --

23 COURT: It's very easily -- they can just go back to the  
24 Hang Seng Index and take a look at it. I think it was  
25 already somewhere in the documents.

1 12:34 MR PILLAI: Yes.

2 COURT: It's a question of fact. Right now, you can easily  
3 verify whether in December 2006, the trading prices of  
4 Cheung Kong at that time were at the market high or low  
5 for the year.

6 A. Yeah, I -- I don't remember, because -- yeah.

7 COURT: Maybe you want to fish it out in due course.

8 MR PILLAI: Yes, your Honour we will check that.

9 COURT: Because you are making the point that Prof Lim says  
10 it was at the market high for the year.

11 MR PILLAI: That's right, and that the suggestion came from  
12 Mr Wan.

13 A. Wait, wait --

14 COURT: So each of you suggest that each other suggested --

15 A. Wait. I not follow. Where are we now?

16 COURT: Paragraph 39.

17 You say Dr Chang suggested.

18 A. Yeah.

19 COURT: Counsel is putting to you, according to his witness,  
20 he says you suggested it was at the high.

21 A. No, I didn't suggested. Don't confuse with the  
22 suggestions. I was just giving them the information  
23 that they asked for. I mean, I didn't suggest anything.

24 COURT: Fair enough.

25 MR PILLAI: That's your position.

1 12:35 COURT: Then the question becomes --

2 A. No, because it was very, very clear --

3 COURT: You were just conveying to them the information of  
4 the performance of the share --

5 A. Right.

6 COURT: -- for the 52 weeks and for that period.

7 A. Right.

8 COURT: Carry on.

9 A. May I explain further?

10 COURT: Sure.

11 A. Is, at Standard Chartered Bank, it's also an information  
12 provider. We have very strict --

13 COURT: You were a priority banker then, not a private  
14 banker.

15 A. Well, we actually are more information provider to the  
16 customer. We want them to make their own decisions.

17 It's always the same, it's -- nothing ever changed that.

18 COURT: Basically, it's your evidence that you provided them  
19 with the information of the trading desk --

20 A. Right.

21 COURT: -- and the 52-week high and low and the current --

22 A. The current price, yeah.

23 COURT: -- then basically they discussed it --

24 A. Yes.

25 COURT: -- and then Dr Chang confirmed his view to Prof Lim.

1 12:36 Then --

2 A. Correct.

3 COURT: -- he conveyed to you, he agreed to sell?

4 A. Right. So I made the phone call for them.

5 COURT: Okay, fine.

6 MR PILLAI: Mr Wan, did you answer their query as to whether  
7 it was a good time to sell the Cheung Kong shares?

8 COURT: Did he make a query?

9 MR PILLAI: Well, according to Prof Lim.

10 COURT: Then you have to put it to him.

11 MR PILLAI: Yes. I will rephrase, your Honour.

12 Do you recall Prof Lim asking you as to whether it's  
13 a good time to sell the shares?

14 A. He didn't -- I mean, she didn't ask me, she asked -- she  
15 asked Dr Chang at that time.

16 Q. Then I will not pursue the next point.

17 Just one area, your Honour, before I seek your  
18 indulgence.

19 Mr Wan, I come back to the scenario again. You  
20 mentioned just now you told Dr Chang that the advisory  
21 account -- in Mandarin -- is a self-directed account  
22 where you provide information.

23 Let me again reiterate the position of Dr Chang:  
24 he's heard your presentation, he noted the mission of  
25 Deutsche Bank is to be the "lead, trusted advisor", he

1 12:38 went through the services, the discretionary services  
2 and the advisory services, and you described the  
3 advisory services as a self-directed account with you  
4 providing information.

5 He states his lack of experience, he states his  
6 objective, as I outlined earlier. In those  
7 circumstances, would you have taken the view that the  
8 advisory account is the service that he was looking for?

9 A. I don't know. I cannot answer that because it's --

10 Q. If you can't answer that, let me just point out that  
11 according to you, the advisory account, there is not  
12 supposed to be any reliance on advice given by the bank.  
13 According to you, correct?

14 A. According to the service agreement.

15 Q. Fine. In those circumstances, the advisory account will  
16 be a wrong account for Dr Chang, given his objective was  
17 to really put in place a financial advisor to take care  
18 of his investment objectives.

19 A. But he didn't --

20 MS TAN: Is my learned friend still asking the witness to  
21 assume his objective rather than given his objective?

22 MR PILLAI: Sorry, what did you say --

23 COURT: Yes, assume it's the objective.

24 MR PILLAI: Yes, assume.

25 A. I think I need much more than just the --

1 12:40 MR PILLAI: So you still entertain the possibility that the  
2 advisory account is probably the right account for  
3 Dr Chang; you're not sure?

4 A. No, because it's very simple, that you really have to  
5 know what he wants. He wants to look for what type of  
6 service. It's very important that, you know -- if  
7 it's -- we can only provide self-direct and the  
8 discretionary. There are people out there can provide  
9 different type of service, I don't know, but this is  
10 only the two that we available, at the time.

11 Q. Okay. So he then says, "I want a financial advisor to  
12 basically manage my investments, and this is my  
13 investment objective". Would the advisory account be  
14 the right account?

15 A. I don't know whether the advisory account would be the  
16 right account or not, but if you want the financial  
17 advisor, then we are a bank, not his financial  
18 advisor --

19 COURT: Did you tell him that?

20 A. He -- he didn't ask me these questions, and he didn't  
21 even -- we didn't even have started with this.

22 COURT: Let me try to simplify the question.

23 These are laymen. These are academics. You make  
24 a call to see them and pursue -- see them and say, "This  
25 is what we do, we provide all this advice".



1 12:41 Let's be a little precise in the jargon that we use.

2 A. Okay.

3 COURT: He may well be looking for what, in the market, is  
4 called financial planning advice. Do you understand  
5 what "financial planning advice" is?

6 A. Yes.

7 COURT: Okay. So, basically, "I've got these assets". What  
8 is it you want to do? You want to take care of your  
9 children, your retirement, your health care, you want to  
10 invest. Financial planning.

11 A. Yes.

12 COURT: Let's assume that's what "financial planning" means,  
13 so we are clear.

14 A. Yes.

15 COURT: If a customer or potential customer says, "I need  
16 help in financial planning", and you say "I'm your  
17 trusted advisor", and you've been pretty diligent and  
18 he's very impressed. Okay?

19 A. Okay.

20 COURT: In the range of services that you have shown him,  
21 financial planning is not one of the things that  
22 Deutsche Bank provides; right?

23 A. Financial planning -- it's not, because financial  
24 planning services, it's you pay someone, an independent  
25 person, a fee.

1 12:43 COURT: I know that.

2 A. Your Honour, you got me.

3 COURT: All right? I know that. So it could well be --  
4 it's not within the range of services you've taken him  
5 through, with all the data you showed him.

6 A. No.

7 COURT: Right? Deutsche Bank doesn't provide financial  
8 planning advice, as defined in the way I've defined it.  
9 Or does it?

10 A. We have a group of service --

11 COURT: That could do that?

12 A. The trust service, they will based on clients'  
13 assumptions and needs --

14 COURT: Trust services is actually asset protection.

15 A. It's a protection, and also --

16 COURT: Planning.

17 A. Trust planning, we can have a lawyer to help them --

18 COURT: No. Remember, I'm trying to understand, first of  
19 all, "I need somebody to advise me, I'm coming into  
20 US\$100 million, I don't know what to do, help me work  
21 out a plan". Then, after we discuss it -- and, you say,  
22 interactive -- we come up with a plan then you say,  
23 "Okay, this amount you can invest in this, that and the  
24 other". Then you come up with an asset allocation,  
25 given the goals of the customer.

1 12:44 I will call that for the moment, so that we are both  
2 clear, financial planning. Financial planning advice.

3 A. Correct.

4 COURT: Then there will be execution. So he says, "I want  
5 to take care of my children, asset protection", so you  
6 say, "Okay, the trust division can do this for you".  
7 Right? "I want to invest in equities, bonds and  
8 accumulators", then "I can do this for you". So  
9 basically --

10 A. Correct.

11 COURT: The first question is, in the entire presentation  
12 that you put to him, to your understanding, is financial  
13 planning advice something within the range of services  
14 that Deutsche Bank, in that brochure, can help with?

15 A. No.

16 COURT: No?

17 A. I don't think it's -- because the financial planning,  
18 it's mostly independent.

19 COURT: I understand.

20 A. The bank is acting --

21 COURT: I understand.

22 A. -- yeah, acts as an investment vehicle for --

23 COURT: So the answer is no, right?

24 A. I believe, no.

25 COURT: So "We can do this for you, we can do that for you",

1 12:45 but --

2 A. Right.

3 MR PILLAI: So if Dr Chang were to say to you that he needs  
4 a financial advisor to manage his wealth, what would  
5 your answer be?

6 A. Well, I will ask him, the "financial advisor", what does  
7 it mean, what does he expect from a financial advisor?  
8 And we have to, because in the market, in business --

9 COURT: I'm familiar with the market.

10 A. Yeah. Many people's namecard are "financial" --

11 COURT: I'm familiar with the market as to what you do. I'm  
12 just trying to probe and better understand, what did you  
13 understand Dr Chang to be looking for -- and if you  
14 didn't because it was all very generic, that's fine,  
15 because the key is he says he has a different  
16 assumption, and I'm trying to better understand.

17 A. What I understand from him is he wants to have an  
18 account, like -- Citibank, and then he wants to be in  
19 control of his money. He wants to --

20 COURT: Citibank was all mutual funds, right?

21 A. At that time, I don't know. I just know that Citibank.  
22 Citibank could be many divisions, the Citi Smith  
23 Barney --

24 COURT: But the Smith Barney account is basically a mutual  
25 fund --

1 12:47 A. A brokerage -- no, it's a brokerage account, a brokerage  
2 account.

3 COURT: Brokerage. Okay.

4 A. Well, in short, your Honour, you can also call us -- the  
5 advisory account a brokerage account, because the  
6 function --

7 COURT: No. Don't worry about the labels. I am just trying  
8 to understand, functionally, what happened. So  
9 basically, you assumed that he had a Citi Smith Barney  
10 account, which is a brokerage account.

11 A. Right. So we are actually the same type of animal in  
12 the -- I cannot say "animal", but same type of companies  
13 in that environment. So if he has a Citibank account,  
14 then, of course, I want him to have a Deutsche Bank  
15 account. That's the -- the understanding. There's no  
16 magic to it.

17 MR PILLAI: Do I understand you to say that if he had  
18 mentioned this request to you, you would probe further  
19 and try and ascertain what his true objective is, and  
20 then introduce the correct service to Dr Chang? Would  
21 that be a fair understanding of your answer?

22 A. I think it would be better that we --

23 Q. You answer the question first, please, before you  
24 explain.

25 A. (Reading) -- what request? You mean the financial

1 12:48 advisor?

2 Q. Mr Wan, I believe you are savvy enough to understand the  
3 question. Just now, you had said that if Dr Chang just  
4 conveyed his request that he wants a financial advisor  
5 for his investment objectives, given his experience, you  
6 would probe further to understand what he meant by  
7 "financial advisor".

8 A. Correct.

9 Q. So you would probe further before recommending an  
10 appropriate service of the bank to him; correct?

11 A. Of course, would probe further.

12 MR PILLAI: Your Honour, I wonder whether this is an  
13 appropriate time for lunch.

14 (12.46 pm)

15 (The luncheon adjournment)

16 (2.42 pm)

17 MR PILLAI: May it please your Honour. May I proceed with  
18 the cross-examination.

19 Grateful, your Honour.

20 Mr Wan.

21 A. Good afternoon, your Honour.

22 Good afternoon, Mr Pillai.

23 Good afternoon, everyone.

24 Q. Mr Wan, we were talking about what you would do when  
25 Dr Chang requests for a financial advisor to help him

1 14:42 with his investments just before the lunch break.

2 A. Correct.

3 Q. We have your answer on record.

4 I put to you, Mr Wan, that you recommended Dr Chang  
5 open an advisory account even though you knew that he  
6 wanted the services of an advisor whose advice you can  
7 rely on. You can either agree or you can disagree.

8 A. Disagree.

9 Q. Mr Wan, at the meeting on 15 March 2007, didn't Prof Lim  
10 ask you as to whether she sold her Cheung Kong shares  
11 too early in December 2006?

12 A. I believe she mentioned that she sold it too early.

13 Q. Yes. And the reason why she thought she sold it too  
14 early was because the share price of Cheung Kong shares  
15 climbed after she sold her shares in December 2006.

16 A. But at 15 March I didn't know the Cheung Kong share  
17 price.

18 Q. Did you generally know that the share price of Cheung  
19 Kong shares climbed after the end of December 2006?

20 A. I did not follow that particular stock. I couldn't  
21 remember.

22 Q. But you did agree with me earlier that you believed she  
23 mentioned she sold the Cheung Kong shares too early.

24 A. That was the understanding from her.

25 Q. Yes. Wasn't it in this context that you suggested to

1 14:45 her that she purchase Cheung Kong shares through  
2 accumulator programme?

3 A. Well, I did not suggest to her. It's she mentioned, she  
4 said that "I heard of some products that can buy back  
5 the shares at discount, is that certain type of product  
6 that's available", then -- because at the time,  
7 accumulator was popular at the time, so that makes me  
8 believe that that was the -- probably she was mentioning  
9 about the accumulator at the time.

10 Q. I put to you, Mr Wan, that it was you who brought up the  
11 topic of accumulators at the meeting on 15 March 2007.  
12 You can agree or disagree.

13 A. Disagree.

14 Q. Please look at 1AB 79.

15 Your Honour, please bear with me. It will soon be  
16 in a convenient bundle, but for this one I just make  
17 a disparate reference.

18 Do you see the note written by Prof Lim and  
19 yourself?

20 A. Yes.

21 Q. Up to the line, do you see the phrase "I assume loss"?

22 A. Yes.

23 Q. Up to this line, Prof Lim wrote the note; correct? Do  
24 you understand my question? From the top of the page,  
25 all the way to the line which has the words "I assume



1 14:47 loss", Prof Lim wrote the note; right?

2 A. Correct. Don't know about whether the "106" is -- 106  
3 per cent on the first line.

4 Q. Let's put aside the 106 per cent. Apart from that 106  
5 per cent which appears on the top right-hand corner,  
6 everything else there, from the first line all the way  
7 to "I assume loss" is written by Prof Lim?

8 A. Yes, right.

9 Q. We all know that this was written on the back of the  
10 account opening documentation, we saw the original  
11 earlier.

12 A. Yes.

13 Q. Prof Lim wrote this note while she was listening to you,  
14 wasn't that the case?

15 A. We would discuss about it.

16 Q. While she was listening to you and you were talking  
17 about the features of an accumulator, Prof Lim took down  
18 this note; that's what happened? Correct?

19 A. That's -- yeah, that's -- that should be --

20 COURT: Counsel, before you proceed. Just to put the matter  
21 beyond doubt.

22 MR PILLAI: Yes, your Honour.

23 COURT: On the original, the witness is absolutely correct,  
24 it's not just the handwriting is different, the ink is  
25 also very different.

1 14:48 Basically, the first seven lines are in blue ink and  
2 Prof Lim's handwriting, and the rest of the document is  
3 in black ink and Johnny Wan's handwriting. The "106%"  
4 on the first line is in black ink, and presumably this  
5 is your handwriting. Also the underlining of "90" on  
6 the second line is in black ink and presumably yours.

7 That's what the original document indicates.

8 A. Yes.

9 COURT: Do you want to take a look at it, so that you are  
10 quite clear that there's no dispute as to what you were  
11 talking about. (Handed.)

12 MR PILLAI: I'm obliged, your Honour.

13 A. Yes.

14 COURT: Yes, that's correct?

15 A. My handwriting, "106".

16 COURT: And the underlining of "90".

17 A. And the underline, yes.

18 MR PILLAI: Just for the record, you used the pen with black  
19 ink, whereas Prof Lim used the pen with blue ink?

20 A. I used black ink.

21 Q. At the time when she wrote the note, could you see this  
22 note? Could you see what she was writing?

23 A. I don't remember.

24 COURT: What are you suggesting? She's across the table at  
25 11 o'clock or 1 o'clock? Could you see her writing or

1 14:50 could you see what she was writing?

2 MR PILLAI: Could you see her writing as opposed to what she  
3 was writing?

4 A. I was -- I believe I was lean against her (indicating).

5 Q. If you are leaning against her, you definitely would  
6 have noticed her writing; would that be correct?

7 A. Not necessarily, because the food and many things, okay.

8 COURT: Did you notice her writing?

9 A. I cannot remember.

10 MR PILLAI: Mr Wan, subsequently you took over this note, so  
11 at some stage you must have known that she's making  
12 a note of your discussion on accumulators; would you  
13 accept that?

14 A. By look at the facts, yeah, it's -- it's the facts here.

15 Q. I hope you understand my question before you agree with  
16 me.

17 Since you subsequently took over this note, at some  
18 stage you must have known she's making a note of your  
19 discussion on the accumulators. Would you accept that?

20 A. Yes.

21 Q. A further question, and please let me know whether you  
22 have a recollection of this or not: did you notice what  
23 she was writing? That means the contents.

24 A. The "100" and "90" and the.

25 "400,000 USD - 52 weeks.

1 14:51 Buy today.

2 Get shares after 2 weeks.

3 If 106 ..."

4 Yeah, I -- yes.

5 Q. Yes. How about the last line:

6 "If less than 90, I assume loss."

7 You saw that too?

8 A. Yes.

9 Q. So you took over the note after she wrote this last line

10 "I assume loss", didn't you?

11 A. Yes.

12 Q. Then you wrote the following lines. In fact, you, in

13 your scenario, you put there "84". Do you see a number

14 "84"?

15 A. Correct.

16 Q. Let me read the whole thing:

17 "84 buy additional 100%."

18 Do you see the line there?

19 A. Yes.

20 Q. Then I'll take the next two lines:

21 "If 90 we buy 1000 shares."

22 A. Mm-hmm.

23 Q. "If drop equal or below 84, we buy 2000 shares."

24 Do you see that?

25 A. Yes.

1 14:53 Q. Basically what you were conveying through these three  
2 lines which I just read, is a scenario whereby if the  
3 share price goes below 84 per cent -- sorry, I don't  
4 know whether it's expressed in per cent, I'll just say  
5 "84" -- then there is a need to buy an additional  
6 100 per cent, which means there's a need to buy double.  
7 That's what you're trying to convey in these three  
8 lines; correct?

9 COURT: That's the gearing effect.

10 MR PILLAI: Yes.

11 That would be the gearing effect, as his Honour  
12 pointed out.

13 A. Yes.

14 Q. Yes. You use the phrase "Buy additional 100%" in the  
15 first line.

16 A. Mm-hmm.

17 Q. Then that's beside 84, and then at the third line:

18 "... drop equal to or below 84 we buy 2000 shares."

19 Do you see that?

20 A. Yes.

21 Q. Let me just suggest to you, what you were trying to  
22 convey in these three lines is that this accumulator  
23 programme is suitable to Prof Lim and Dr Chang because,  
24 whatever the price, you are able to average the costs of  
25 acquiring the shares. Do you agree with that?

1 14:54 A. Disagree.

2 COURT: What were you trying to explain?

3 A. Your Honour, may I explain? I believe we started with  
4 the normal version first, so today's price is 100, and  
5 the discount is the strike price is 90 per cent. So the  
6 knock-out, it's 106. I believe I was referred to the  
7 DSPP pamphlet at the time. May I take a look at the  
8 DSPP pamphlet?

9 MR PILLAI: Certainly. It's at the core bundle, tab 5.

10 This is the DSPP pamphlet we have.

11 A. Okay.

12 Q. The last three pages. Which page are you referring to,  
13 Mr Wan?

14 A. Page 6292.

15 Q. Yes.

16 A. For the easy illustrations, I just took Cheung Kong at  
17 the page 6292, the knock-out 106 per cent. For the easy  
18 illustrations, the normal strike was 92.05, but I just  
19 put it 90.

20 COURT: Round it up.

21 A. Yeah, round it up. So you can see, the knock-out is on  
22 the normal or geared version. Both could be applied.

23 So the 106 per cent, it's the -- I believe it's my  
24 handwriting. So I was referring to this page at the  
25 time, and she was writing.

1 14:56 So we were in some discussions about the normal  
2 version, say, if that's your questions about DSPP, I can  
3 show it to you. The pricing for the normal version is  
4 like that: if you hold it, the share for a long time and  
5 you want to just reinstate your position at the time,  
6 and since you have about \$1 million, you sold -- the  
7 sale proceeds was about \$1 million, so you might want to  
8 look at these here, is also you can use the normal  
9 versions to just reinstate back the DSPP.

10 But as a normal practice that we do, we will not  
11 just explain one part without the other parts, because  
12 there are geared versions. So for the illustration  
13 purposes, I would assume that the gear versions can --  
14 the gear version here is -- I just use the 84 instead of  
15 88. The whole thing was we talk about 100 and then 90,  
16 and then I add 106, and then we -- I talk about, okay,  
17 if you want to go into the margin, also you can do that,  
18 that's a 52 weeks, okay. That means you buy today, you  
19 can --

20 COURT: Where is the margin discussed here?

21 A. I said this DSPP can enter into whatever amounts --

22 COURT: No. For now, just looking and construing the  
23 handwriting, is there any reference there to margin?

24 A. I believe the 400,000 that she put down was when  
25 I mention about "If you go into margin, that means you

1 14:58 need to have a collateral value of 400,000. The whole  
2 contract last for 52 weeks, you can get share after two  
3 weeks". If bigger -- if the share --

4 COURT: So 400,000 according to you there, is the cash  
5 collateral she has to put in?

6 A. Yes, the cash collateral.

7 COURT: To acquire how many shares? There is no indication  
8 here until you go to the second half of the page.

9 A. Your Honour, this is for illustration purposes.  
10 I assume everything is US\$1 million at the time. The  
11 total notional amount.

12 COURT: Let's go through the page itself. The \$1 million  
13 only occurs in the second half of the page, and you say  
14 it's 105 per cent.

15 A. Yeah, I just assume that's -- that's the --

16 COURT: I want you to explain what is there first, then you  
17 can tell us what else you -- so the first half of the  
18 page until the line that goes across --

19 A. The first half of the page.

20 COURT: -- she is taking down in seven lines what you  
21 presumably told her.

22 A. Yes.

23 COURT: Right?

24 A. Yes.

25 COURT: Then the last three, the last four lines, three



1 15:00 lines of the first half of the page is in your  
2 handwriting?

3 A. Right.

4 COURT: In which you elaborate the effects of gearing?

5 A. Right.

6 COURT: Correct?

7 A. Correct, your Honour.

8 COURT: The way it is written, you are explaining an  
9 accumulator as a means by which you buy the mother  
10 share, because you keep saying, "If we buy, if it drops  
11 below, we buy double", instead of saying "You are  
12 obliged to purchase". The way you have pitched it is,  
13 "If you want to buy the mother share, this is the way an  
14 accumulator allows you to buy these shares".

15 A. The explanation is, if you want buy Cheung Kong at  
16 discount, okay -- if you want buy Cheung Kong at  
17 discount or the price that you sold at the time, we just  
18 need to calculate if the -- the contract value is  
19 correct, because the strike price is the -- actually  
20 it's the amount that she is going to pay.

21 So at the time, a normal first, and then I explain,  
22 I said this accumulator, also, if you go into margin --  
23 you can go into margin -- but, since your situation is  
24 you only reinstate whatever the position that you have  
25 sold -- I remember it's around US\$1 million at the time,

1 15:02 because the --

2 COURT: That is beyond this page; is that correct? Are you  
3 telling me the second half of the page must mean --

4 A. No, I'm still on the --

5 COURT: -- margin was discussed?

6 A. I'm still on the first --

7 COURT: Where in the first half is there any indication of  
8 any discussion about margin?

9 A. Just the \$400,000, put in as the collateral value.

10 COURT: So \$400,000 here --

11 A. Let you buy up to \$1 million worth of --

12 COURT: Where does it say that?

13 A. It doesn't -- because we're talking. We're talking. So  
14 she jot down the -- it's not like, okay, I write down --  
15 because this (indicating) already here. So we were  
16 talking, discuss, and she put down the notes, and  
17 I helped her to put down additional notes. I said this  
18 is -- just go down to the line that says "84", that  
19 means the strike price, if you going to gear version,  
20 okay, if drop below this price --

21 COURT: You will double up?

22 A. Yeah, "You have to buy double. You have to buy double".  
23 If it's \$90, it's normal version --

24 COURT: You don't say "You have to buy", you say "We buy".

25 MR PILLAI: Yes.

1 15:03 A. We have to buy double.

2 COURT: Yes, but the handwriting here says "We buy". It's  
3 pitched in a fashion which sounds as if this is a good  
4 way to buy the mother share at a discount, and if the  
5 market goes below 84, wonderful. You can double up. Is  
6 that what it looks like?

7 A. Your Honour, you can -- but that's --

8 COURT: That's why you call it a discounted share purchase  
9 programme. Right?

10 A. I said it -- when I said it, we have to buy. It's  
11 not --

12 MR PILLAI: "You have to buy".

13 A. Still, your Honour, I'm not a lawyer, I mean --

14 Q. The point is --

15 A. After this, you know, I will be very careful with my  
16 writing, I say "You have to buy", but at this point of  
17 time --

18 COURT: We are just trying to understand what is on that  
19 page, and the meaning -- if you tell me -- although you  
20 wrote \$400,000 and there's no reference to margin --  
21 that the example was the margin --

22 A. If we are going to margin.

23 COURT: And although it's not in the document, that was what  
24 you told her, that's fine.

25 A. That's the document for what -- just recorded when we

1 15:04 discuss the information.

2 COURT: I'm trying to understand, when you talk to somebody  
3 like Prof Lim or Dr Chang, if you talk to them -- so  
4 far, all you know about her is she had some shares from  
5 Cheung Kong, from her father, and then she sold them,  
6 and you know that, and then she told you to put that  
7 into fixed deposit interest-bearing. That's all you  
8 know; right?

9 I'm trying to understand the conversation. When you  
10 talk about margins with such a person, you may assume,  
11 but does she understand what margin means, from these  
12 documents? That's my only question.

13 A. The way we do is we always --

14 COURT: Your example must always have margin?

15 A. We must explain normal and margin --

16 COURT: Why? Because someone has a finite amount of cash,  
17 having cashed in the Cheung Kong shares, she thought she  
18 sold too early, she wants to buy more, so you say, "Hey,  
19 a good example is to let you go and buy at a discounted  
20 price".

21 A. Right.

22 COURT: So where does margin come into that conversation?

23 A. It was after the normal -- it was just a practice of us  
24 that we explain --

25 COURT: No, I understand your practice. I'm trying to

1 15:06 understand this conversation and this page.

2 A. This conversation and this page --

3 COURT: You say the "\$400,000" there --

4 A. Right.

5 COURT: -- implicit is margin.

6 A. Actually, what I mean is because if she open account,  
7 she has more than --

8 COURT: You know how many Cheung Kong shares she had when  
9 she sold, right? Roughly.

10 A. Roughly, yeah.

11 COURT: So you know that. Then you know the proceeds of the  
12 sale was about a million dollars US; right?

13 A. About right.

14 COURT: Correct? So you know that. So she says to you,  
15 "I think I sold too early, I would like to buy it back".

16 A. Right. That's where the normal version been explained  
17 at -- at the first place, say, that would be -- you can  
18 think about is -- you use the original amount, we have  
19 already set the price, anyway, you're going for a long  
20 term, so one year we just keep deliver the price to you.

21 COURT: So your target would be: enter into accumulators,  
22 either to reach the number you had at a discounted  
23 market.

24 A. Yes.

25 COURT: Where does margin enter into that equation?

1 15:07 A. That doesn't enter into the equation at that time.

2 COURT: That's what I'm trying to understand.

3 A. Right. That doesn't enter into the equation at that  
4 time. So I explained that first, but I don't remember  
5 whether is she ask me or brought up -- it's because the  
6 discounts are different.

7 COURT: That would necessarily be so, but the key is in the  
8 first half of the page, either you say "\$400,000, I used  
9 as an example and in my mind, I had in mind margin".  
10 That's fine. All I'm trying to say is it's not on the  
11 page. Is there anything in the page that necessarily  
12 indicates that there is margin, in this example?

13 A. It's not there.

14 COURT: It's not there; right?

15 A. Not there. We just discussed.

16 COURT: Fair enough.

17 MR PILLAI: Thank you, Mr Wan.

18 A. Thank you.

19 Q. Really, in fact, from the sequence that you mentioned,  
20 you would only need to talk about margin after dealing  
21 with the normal example.

22 If that is to be believed, then by natural  
23 consequence, the reference to US\$400,000, which is  
24 written before the normal example, could not be  
25 a reference to the margin example.

1 15:08 COURT: No, it could or it could not. There is no necessary  
2 indication.

3 MR PILLAI: Yes, your Honour, I understand.

4 But maybe this question will be more helpful. You  
5 took over the note after Prof Lim wrote "I assume loss",  
6 you had in fact then had the opportunity to go up and  
7 write the knock-out level at 106 per cent. Do you see  
8 that on your right-hand side?

9 A. Yes.

10 Q. So if there's any missing information, you had the  
11 opportunity -- that's all I would say -- to fill up in  
12 this note.

13 A. Fill up what?

14 Q. To clarify any missing information that, you know, from  
15 what you have discussed, you had the opportunity to fill  
16 it up? Do you understand, it's a very limited question,  
17 a very narrow question. You had the opportunity to fill  
18 it up, like what you did in respect of the knock-out  
19 level.

20 A. Your Honour --

21 Q. No, answer the question first, then you can explain.

22 A. When we --

23 Q. Sorry, Mr Wan, answer the question first, then you can  
24 explain.

25 I'm just saying, you had the opportunity to fill up

1 15:09 any missing information from what you have discussed at  
2 that point in time, like what you did for the knock-out  
3 level.

4 A. But we were on discussion --

5 COURT: All he said, you had an opportunity. You did not do  
6 anything, that's fine. But you could have --

7 A. Yeah, I could have.

8 COURT: That's all he's asking.

9 MR PILLAI: That's all.

10 Mr Wan, you say that you made reference to the DSPP  
11 pamphlet, but really, apart from the knock-out level of  
12 106 per cent, the normal strike is 92.05, which is  
13 obviously different from 90, indicated in your example  
14 in the note. Do you agree with that?

15 COURT: He explained that he had rounded it off.

16 MR PILLAI: Yes.

17 Let's go to the second example, which involves  
18 a gearing. In the DSPP pamphlet, it's 88.52. Even if  
19 you were to round it off, you can't reach 84 per cent.  
20 Do you agree?

21 A. Then?

22 Q. So you could not have referred to this DSPP pamphlet  
23 when you wrote this note; do you agree?

24 A. Your Honour, if you take a look at --

25 Q. Sorry, Mr Wan. There is a procedure in this court, you



1 15:11 answer my question first --

2 COURT: Answer first, then you can explain.

3 MR PILLAI: Then you can explain.

4 A. It was -- just a number, I put it there, 88.52 --

5 COURT: No, Mr Wan, counsel is being very careful. He's not  
6 disputing your example. What he's asking you to clarify  
7 is what you said earlier, that your example was culled  
8 and rounded off from the DSPP brochure.

9 A. Correct.

10 COURT: If you rounded up 92.5 to 90, that may make sense.  
11 What was it?

12 MR PILLAI: 88.52.

13 COURT: 88.52 doesn't get rounded off to 84.

14 A. Yeah. There are a lot of -- okay, you can easily  
15 just --

16 COURT: It's okay to say "I took these numbers off the top  
17 of my head", but you said something more than that; you  
18 said "I looked at the DSPP sheet".

19 A. Yeah, I looked at the DSPP sheet, maybe it's just very  
20 normal that the gear version here, the first one --

21 COURT: No, but the reason for you doing that is you're  
22 trying to imply that indeed -- you see, this handwriting  
23 shows that I showed them the DSPP brochure. Counsel is  
24 taking issue with you on that.

25 A. Yes. That's why I want to show, if --

1 15:12 COURT: So he's showing you that cannot be the case. If you  
2 say 92.5, you round off to 90, okay; how about 84? It  
3 went from 88 or whatever it is to --

4 A. I don't remember.

5 COURT: -- rounding off would be 85 at the nearest.

6 A. I don't remember, but if you take a look at the geared  
7 version --

8 MR PILLAI: If you don't remember, it's okay. I'll move on.  
9 But what we don't want is a guess.

10 COURT: Do you know what he has basically detached from your  
11 evidence -- if you are saying that "This indicates I was  
12 showing them and using the DSPP brochure", it does not.

13 A. I -- I don't agree, because, your Honour, if you take  
14 a look at page 6292 on the City Developments, I can  
15 easily just pick up a number of 84 right there, the  
16 first one. I mean because --

17 MS TAN: If I could just interrupt before. The problem with  
18 using this document's reference is that this is a  
19 19 March document, it's not the 15 March document. So  
20 the figures -- I don't know whether they would be the  
21 same.

22 COURT: Yes. But the point is, the witness is being  
23 cross-examined on his explanation of this handwritten  
24 information, including his own --

25 A. Your Honour --

1 15:13 COURT: -- and if you stick to it, you're fine. But when  
2 you try to draw a link, that's where he's been probing  
3 you.

4 MR PILLAI: This is the only DSPP pamphlet that the bank has  
5 given discovery.

6 COURT: So unless you are telling me that on 14 or 15 March,  
7 there could well have been another DSPP pamphlet, and  
8 the numbers could be exactly this, that is not in  
9 evidence yet.

10 A. The linkage is there, as your Honour --

11 COURT: Two parts. Either you say, "In this example, which  
12 is handwritten, I took exactly the numbers from the DSPP  
13 pamphlet that I had then in hand, which is not in  
14 evidence here today" -- you're not saying that, are you?

15 A. What I remember was I was referred to the page --

16 COURT: It could mean many things. You could have plucked  
17 any number from anywhere. Do you follow?

18 If all you are only saying is "I had it in hand",  
19 that's fine. Do you follow?

20 Here, you're being asked to just explain these  
21 numbers in your handwriting, and you take an excursion  
22 to try to link, even here, to that document. And  
23 counsel is pointing out to you, you can't do that --

24 A. Okay.

25 COURT: -- because it is not here, and if that document of

1 15:15 the 19th is the one you're talking about, the numbers  
2 don't tally.

3 A. The number's right there. It's 84, you could easily  
4 pick one.

5 COURT: "84" from where?

6 A. The first line here, the.

7 COURT: Of what?

8 A. The "Singapore Country[sic] CIT" --

9 COURT: I thought you were talking about Cheung Kong.

10 A. Yeah, I know. I'm -- just the number, I mean the number  
11 itself --

12 COURT: Why do you need to refer to a page? You can take  
13 a number from the air, 106 per cent, 90 per cent, 92 per  
14 cent --

15 A. That's the number from the air, it's --

16 COURT: Your evidence now is it's from the air?

17 A. 84 -- because 88.52 --

18 COURT: How can you be so sure?

19 A. 88.52 is just too many digits.

20 COURT: Yes, so you say 88 or you say 85. Why 84? Why not  
21 81, or 80?

22 A. I just refer back to --

23 COURT: You don't have to remember to anything. You just  
24 took an example, which is fine.

25 A. Yeah, I took it as an example.

1 15:16 COURT: As an example, it's perfectly all right.

2 A. Yes, as an example.

3 COURT: So now you concede there's no linkage to the DSPP  
4 term sheet or the --

5 A. There are linkage to the DSPP --

6 COURT: There could be, but it's not in evidence.

7 A. We talk about a possibility, yes, I believe there's  
8 a linkage.

9 COURT: That's different. We are talking about this page.

10 A. Okay, right.

11 COURT: Do you follow? You separately had given evidence  
12 that you did have that sheet with you and you took it.  
13 That's fine. I'm just trying to make sure, if you say  
14 there is a connection here, I would like to understand  
15 how. That's all.

16 A. Okay.

17 MR PILLAI: At least we come to a settled point, Mr Wan,  
18 that there is no linkage between the figures you  
19 referred to just now at the DSPP pamphlet, and the  
20 numbers here? Would you agree?

21 A. I would say the -- without a direct linkage, but it must  
22 be something from --

23 COURT: We are lawyers here.

24 MR PILLAI: I think we know the answer, your Honour.

25 COURT: Do you want to explain the rest of the page? No.

1 15:17 MR PILLAI: Well, your Honour --

2 COURT: No?

3 MR PILLAI: No, it's not necessary. Grateful, your Honour.

4 COURT: But counsel is free to do that later if you want to.

5 MR PILLAI: Yes.

6 Mr Wan, let me just show you a decision of the  
7 Taiwanese court. (Handed.)

8 Just to set the stage, your Honour, this is  
9 a decision of the Financial Supervisory Commission of  
10 the Taiwanese Executive Yuan. It's a judgment.

11 COURT: You are referring to the Mandarin?

12 MR PILLAI: There is an English translation, thankfully, for  
13 most of us, your Honour.

14 There are two decisions, your Honour, both involving  
15 Goldman Sachs bankers working in Hong Kong, coming over  
16 to Taipei.

17 The name of the first accused in the first case is  
18 Mr Hsu Han Qiang, that's in respect of reference number  
19 2.09800170041, and the other accused is Mr Huang Pu Yi,  
20 with the serial number 2.09800170042. So there are two  
21 accused.

22 This is in the context of exposure while soliciting  
23 business in Taipei, your Honour.

24 Mr Wan, the news of this decision hit the financial  
25 world around May 2009. Do you recall, since you are

1 15:19 a private banker and you say you operate in North Asia,  
2 news that the Executive Yuan of Taipei found two  
3 Goldman Sachs bankers guilty of soliciting and promoting  
4 financial products in Taipei?

5 A. I don't remember.

6 Q. You don't remember?

7 A. No.

8 COURT: This is a regulatory decision --

9 MR PILLAI: Yes, your Honour.

10 COURT: -- not a court decision?

11 MR PILLAI: Well, it's a different system.

12 COURT: Financial Supervisory Commission.

13 MR PILLAI: I understand your point, your Honour. It's

14 a Financial Supervisory Commission. It has, as

15 I understand, some judicial function, that's why they

16 handed a judgment, as your Honour sees. I'm just

17 interpreting it.

18 I'm looking at the English version, your Honour.

19 COURT: So am I.

20 MR PILLAI: I wonder whether these two documents could be

21 marked as a bundle, your Honour.

22 MS TAN: Your Honour, I have some difficulties with this

23 document. I'm still unclear as to what the relevance of

24 this document is for.

25 MR PILLAI: Let me assist my learned friend. The relevance

1 15:20 is, the Financial Supervisory Commission of Taiwan has  
2 sanctioned two --

3 COURT: Have you put the question to the witness?

4 MR PILLAI: I just asked him whether he knew about this  
5 case.

6 COURT: And this is in 2009?

7 MR PILLAI: That's so, your Honour. May 2009.

8 COURT: The date of the judgment is May 2008. One of them,  
9 Mr Hsu, is May 2008.

10 No, both of them are May 2008.

11 MR PILLAI: I see. I understand from my colleague that the  
12 way they have described the year is different. It's  
13 8 May 2009. That's what I am told, your Honour.

14 COURT: Where is the "2009"? Republic of China Year 98.

15 MR PILLAI: ROC Year 98, I am told, is the Gregorian year  
16 2009. That's what I am told, your Honour.

17 MS TAN: My difficulty with this document is that this is  
18 obviously -- I assume it's a Taiwanese document and none  
19 of us here are qualified to talk about what the purport  
20 of this is, the Financial Supervisory Commission, what  
21 role it plays. And this seems to me like it's evidence  
22 from the Bar, really.

23 COURT: No, no. The evidence from the Bar is only as to the  
24 year of this document.

25 MR PILLAI: Yes, your Honour.



1 15:21 COURT: That can be verified subsequently, if necessary.

2 But what's the question you put to the witness?

3 MR PILLAI: Yes --

4 COURT: Assuming these two decisions were issued and  
5 reported in 2009, what's the question to the witness?

6 MR PILLAI: Mr Wan, really, the reason why you deny that you  
7 made a PowerPoint presentation to Dr Chang and Prof Lim  
8 on 15 March 2007, is because once these proceedings  
9 commenced, you knew that you would have exposure under  
10 Taiwanese securities law, and that's why you had to say  
11 that there was no such presentation, you couriered these  
12 documents up to Taipei. You can agree or disagree.

13 A. I disagree.

14 MR PILLAI: That's the relevance, your Honour.

15 COURT: Were you aware of this? Was this reported in  
16 Hong Kong?

17 A. No. No. I was not aware of it. It was just my general  
18 practice.

19 COURT: In the industry of people who operate from Hong Kong  
20 and travel to Taipei regularly, this is not something  
21 that is discussed or --

22 A. This is -- for many years our practice would be courier,  
23 will be -- no computer, because first of all our company  
24 did not assign me a computer.

25 Second of all, just I don't use my personal

1 15:23 computer. I've been repeatedly response to these  
2 questions.

3 MR PILLAI: Mr Wan, your evidence in court was that it was  
4 "your practice" to courier, not the "company practice"  
5 for many years to courier. You chose --

6 MS TAN: His evidence in court, my learned friend, is that  
7 it was "our general practice". I just checked the  
8 transcript.

9 COURT: Only now?

10 A. Our general practice.

11 MR PILLAI: Now. I'm talking about -- earlier.

12 MS TAN: Obligated to my learned friend.

13 MR PILLAI: I'm talking about earlier.

14 Sorry, before we were interrupted, let me remind  
15 you -- hold on, Mr Wan. Your evidence earlier in court  
16 was that the reason you couriered were for two  
17 points: one, it was too heavy, and number two, it is  
18 your own general practice to courier. That was the  
19 reason you gave before --

20 A. It was our practice.

21 Q. Sorry, Mr Wan can you please hold it --

22 A. It was our company practice --

23 Q. -- don't worry, we will come to your explanation.

24 Now you say that it is the company's practice for --  
25 consistent practice? Yes, general practice.

1 15:24 Now you say it's the company's practice to courier  
2 documents to Taiwan. Which is the truth? Is it your  
3 practice or the company's practice?

4 A. Your Honour, I work for the company. It's the practice  
5 that we've been using for many years.

6 COURT: You only joined the company in March or February.

7 A. Other -- other institutions, the same, it's just the  
8 practice.

9 MR PILLAI: So the evidence you gave earlier in court, that  
10 the couriering is because the documents were heavy and  
11 it's your own general practice to courier documents,  
12 that's a false statement, correct?

13 A. That's not a false statement.

14 COURT: Counsel, I have just looked at these two decisions.

15 MR PILLAI: Yes, your Honour.

16 COURT: Is it your position that the witness is denying  
17 having a laptop presentation because of these decisions?

18 MR PILLAI: The position we are taking, your Honour, is that  
19 he's denying making a PowerPoint presentation for the  
20 purpose of soliciting our clients as Deutsche Bank's  
21 clients because he's aware of the exposure under  
22 Taiwanese securities law.

23 COURT: But these two decisions have nothing to do with  
24 PowerPoint presentations.

25 MR PILLAI: It is not, your Honour, but as your Honour sees

1 15:25 here, the facts involve the accused persons going to  
2 Taipei to solicit and promote certain products. It is  
3 certainly not the same as making PowerPoint -- the  
4 question is what constitutes soliciting.

5 COURT: Yes, but if you are trying to adduce this as an  
6 indication that that's the reason why he denies having  
7 a laptop, it doesn't quite help, because the gist of the  
8 complaint, paragraph 3, for instance, the Goldman Sachs,  
9 the first one, is that they solicited the companies in  
10 Taiwan on non-approved transactions, transmitted  
11 information over the telephone, fax and e-mail --

12 MR PILLAI: Yes.

13 COURT: -- all of which was done. So it doesn't meet the  
14 point that he is making that "I did not make a laptop  
15 presentation, a PowerPoint presentation".

16 MR PILLAI: I follow your Honour. Again, I accept that the  
17 context is factual. The issue is --

18 COURT: The laptop is not material. Even if he knew about  
19 these, with or without a laptop, it makes no difference  
20 to the --

21 MR PILLAI: I completely agree, your Honour, with or without  
22 the laptop it doesn't make a difference.

23 The question is, when you are dealing with the fact  
24 scenario where documents are couriered, purportedly at  
25 the request of Prof Lim, who wanted to know about the

1 15:27 services --

2 COURT: Yes, it goes to the second part which is, very  
3 simply, his evidence that everything that he brought and  
4 gave them were pursuant to requests that she initiated.

5 MR PILLAI: That's correct, your Honour.

6 COURT: All right.

7 MR PILLAI: Your Honour, just for good order, I'll put that  
8 question to this witness so that it's clear.

9 Mr Wan.

10 A. Yes.

11 Q. Your testimony that you couriered the bank brochures and  
12 pamphlets pursuant to Prof Lim's request is not true,  
13 and the reason why you say that is because you were  
14 trying to escape exposure under Taiwanese securities  
15 law. Do you agree or disagree?

16 A. I disagree.

17 COURT: To be more precise --

18 A. I --

19 COURT: I haven't put the question yet. To be more precise,  
20 your account that she had telephone calls, mobile  
21 telephone calls with you, quite apart from your e-mail  
22 asking to see her, at which she requested -- according  
23 to you -- information about financial products of the  
24 bank --

25 MR PILLAI: Yes.

1 15:29 COURT: -- because there's no evidence other than your  
2 evidence now, because e-mails are in evidence, so we  
3 know that you sent her an e-mail saying, "Can I meet you  
4 when I'm coming to Taipei?" That's there. But you have  
5 now on the stand started referring to prior phone calls  
6 by her to you, or vice versa, between the time of  
7 5 March and 15 March.

8 A. Our conversations was in Hong Kong that at the time  
9 I told her that I'm going to leave the company, then she  
10 said, "Once you settle down, you can come to Taiwan and  
11 visit us".

12 COURT: The point is about products, not about getting in  
13 touch.

14 MR PILLAI: Yes.

15 COURT: Counsel's case that he is putting to you is: the  
16 reason you have been very careful in your evidence  
17 here -- because it's not in your affidavit, neither is  
18 it on your evidence that there were these phone calls  
19 between Prof Lim and you during the short period before  
20 you met her on 15 March. So he's saying, the reason you  
21 now are saying that is because you are familiar with  
22 these Taiwan regulatory decisions.

23 A. No. Your Honour -- no. May I explain?

24 COURT: Sure.

25 A. Because I didn't go to Taiwan that often, it was just

1 15:30 once in a blue moon, and I didn't have, like, a lot  
2 of --

3 COURT: You joined the bank on 22 January.

4 A. Right.

5 COURT: 15 March, you are in Taipei.

6 A. Right.

7 COURT: What blue moon are you talking about?

8 A. In the whole year, I only twice, it's not --

9 COURT: I understand. You have not done this frequently,  
10 that's fine.

11 A. Right. And I was not -- as the counsel suggest, that I  
12 know about this and I know about that. I was just get  
13 everything from my memory. May be that because the  
14 counsel, you thinking into the -- I mean, maybe that you  
15 think too far, because what I give the evidence, which  
16 was just it happens, I said no PowerPoint presentation.  
17 Because very simple, I just don't have a laptop.

18 COURT: That's fine. We have moved beyond the PowerPoint  
19 point.

20 The line he is pursuing is that your account, now on  
21 the witness stand, that Prof Lim called you to ask for  
22 financial products, should not be accepted or believed,  
23 and the only reason you're saying that is because you're  
24 aware of this Taiwan regulatory -- then it may not have  
25 been, but now -- he's basically taking the position that

1 15:32 you know, and because you know, you are now careful and  
2 saying, "Oh yeah, she invited me, she asked me for it."

3 That's all he is saying. You can disagree, that's  
4 fine?

5 A. I disagree. I disagree.

6 MR PILLAI: Your Honour, I wonder whether these documents  
7 can be marked as a bundle, D10.

8 MS TAN: Your Honour, I'm still struggling to understand how  
9 this document is relevant or even suitable for marking  
10 at this point because we don't know whether it's --

11 COURT: What's the problem with marking it?

12 MS TAN: As in whether my learned friend is taking it that  
13 I am not objecting to, for instance, the authenticity,  
14 or whether this indeed sets out what Taiwan law effect  
15 is on. I'm just putting it on record that -- my  
16 objections to this document.

17 COURT: What objections, on what ground?

18 MS TAN: The admissibility of it, your Honour.

19 COURT: The admissibility for what? What is he using it  
20 for?

21 MS TAN: That is what I am struggling to understand. What  
22 is my learned friend using this for?

23 COURT: So far, what he seems to have said is, as of 8 May  
24 2009, there have been two Taiwanese regulatory decisions  
25 about these activities from Hong Kong financial



1 15:33 institution representatives that may be in violation of  
2 Taiwanese regulation. That's all.

3 MR PILLAI: Yes, that's absolutely all.

4 COURT: You are disputing that this is authentic or are you  
5 disputing it's irrelevant or what?

6 MS TAN: On both grounds, actually.

7 COURT: You are free to make submissions. You are free to,  
8 when you re-examine the witness, raise the question.

9 It's very tangential. It's not core.

10 MS TAN: I'll leave it at that, your Honour. I just want to  
11 make clear that we have issues with this document.

12 COURT: Yes, you may have issues but if you want to object  
13 to its marking or admission, I need to hear you.

14 MS TAN: Much obliged.

15 MR PILLAI: May this be marked D10, your Honour.

16 COURT: As a bundle, both the Mandarin and English versions.

17 MR PILLAI: That's so, your Honour, with your Honour's  
18 leave. Grateful.

19 Mr Wan, could you please turn to paragraph 140 of  
20 your affidavit, page 54.

21 Do you have the paragraph, Mr Wan?

22 A. Yes.

23 Q. This paragraph deals with:

24 "In accordance with the Bank's internal practice for  
25 granting of a Margin Trading Facility ..."

1 15:35 We have moved forward to November 2007. We will  
2 certainly have to move back at some point in time, but  
3 I just need to deal with this issue.

4 You prepared a Margin Trading Checklist - Derivative  
5 Trading Products in respect of Dr Chang's account. Do  
6 you remember that?

7 A. Yes.

8 Q. This was circulated to bank officers and approved  
9 internally by 20 November 2007. That's at page 55, just  
10 the next page. I'm just reading it out from the next  
11 page, the second line from the top.

12 Then you say that the checklist was prepared on the  
13 basis of Dr Chang's estimated net worth after receipt of  
14 sale proceeds from his Tanox shares. Do you see that?

15 A. Mm-hmm.

16 Q. Skipping the remainder of the sentence:

17 "In this regard, the Margin Trading Checklist stated  
18 that [his] net asset value [is] ... Close to  
19 US\$135 million."

20 Do you see that?

21 A. Yes.

22 Q. Then the next line:

23 "It also stated his risk appetite to be 'Medium to  
24 High Risk (35 millions USD)' and his investment strategy  
25 to be 'a buy-and-hold strategy ...'"

1 15:36 I'll skip the remainder.

2 Let me show you a document. Please take up  
3 14AB 6494. My apologies.

4 That is a call report. The date of the call is  
5 3 August 2007. In this call, Dr Chang told you that he  
6 received confirmation that he's entitled to  
7 US\$136 million cash. Do you see that?

8 A. Yes.

9 Q. Now we come to the core bundle again. Please look at,  
10 firstly, tab 10. The document we looked at two days  
11 ago.

12 A. Okay.

13 Q. This is a document that you have informed the court that  
14 you prepared around August 2007. This appears to be  
15 dated 8 August 2007. You can see that from 8AB 3510.

16 Just one small point I just want to check with you  
17 before I move on to another document. You see at  
18 page 3506 --

19 A. Yes.

20 Q. -- the estimated net worth is 20 to \$25 million; do you  
21 see that?

22 A. Yes.

23 Q. At the time when you inputted this, it was entirely  
24 possible that you may have inputted this before the  
25 3 August call, which I referred you to just now.

1 15:39 A. Right.

2 Q. But at the time you inputted this, as far as you  
3 recollect, this net worth of US\$20 to 25 million was  
4 based on your recollection of what he owned when you  
5 were at Standard Chartered Bank in December 2006;  
6 correct?

7 A. That was the best estimate at the time.

8 Q. Yes.

9 COURT: Have you finished with the call reports?

10 MR PILLAI: The call report, yes, your Honour.

11 COURT: You have finished.

12 MR PILLAI: I was just thinking of a separate point.

13 COURT: On page 6494, is that your first call report on  
14 Dr Chang? 3 August 2007.

15 A. That was after the account opened, with the account  
16 number on it.

17 COURT: That's your first?

18 A. Excuse me?

19 COURT: That's your first call report?

20 A. I believe so.

21 COURT: It's a call report of a telephone call you made to  
22 him at 10.11 am on 3 August.

23 A. Yes.

24 COURT: That's when he tells you that "I have an offer with  
25 my shares and soon I'll have US\$136 million"?

1 15:41 A. Yeah, but I wrote the call report on 5 September.

2 COURT: Where is that indicated?

3 A. The dates.

4 COURT: At the bottom of the page?

5 A. Yes.

6 COURT: And then, in the needs analysis, you cross

7 "Investment Communication/Update" and "Investment  
8 Diversification".

9 A. Yes.

10 COURT: Correct?

11 A. Correct. Your Honour, may I make a note here?

12 COURT: Yes.

13 A. I'm not too sure why I put down the cross, because  
14 usually we don't really -- it could be just the template  
15 itself.

16 COURT: What the?

17 A. I said this is just a template that I use, because  
18 there's no additional notes, so likely I didn't -- I  
19 didn't take out the two cross -- two mark around there,  
20 "Investment Communication" and "Investment  
21 Diversification".

22 COURT: I don't understand. These are default crosses that  
23 you have to take out, or you --

24 A. It could be the last -- the last call report that I used  
25 the same template.

1 15:42 COURT: But this is the first, 3 August 2007.

2 A. Right. Your Honour, what I say was -- because we use  
3 a template, the call report we use a template --

4 COURT: Yes.

5 A. -- so the additional notes, since I didn't put down  
6 anything, these two should not be there. It could be  
7 the last call report, not necessarily Dr Chang. Someone  
8 else.

9 COURT: Your assistant is so deficient that you can have  
10 historical -- go to the next page.

11 MR PILLAI: Yes. The next page, 6496.

12 COURT: 6495, 22 August.

13 MR PILLAI: Yes.

14 COURT: You marked "Call Objectives", and up there you say  
15 "Update KYC information". That's know-your-customer;  
16 right? Page 6494. Correct? That's not a mistake or  
17 a previous customer?

18 A. I could not remember, because normally I would --

19 COURT: Let's go through it. There's only three or four of  
20 them.

21 On 5 September, one month later, you filed this  
22 3 August call report, recording a telephone call, and in  
23 the call objectives you say this is "Update KYC  
24 information" where you put a cross, and "Investment  
25 profiling" where you put a cross. And below, in "Needs

1 15:43 analysis" you put a cross in "Investment  
2 communication/update" and "Investment diversification".

3 What are you saying, that this is something from  
4 a previous customer?

5 A. No. Your Honour, I just -- because the additional  
6 notes, the part was blanked --

7 COURT: Was what?

8 A. Was blank, there's nothing there. I didn't write  
9 down --

10 COURT: You didn't put in a narrative?

11 A. Usually if --

12 COURT: You didn't have any comments to add?

13 A. I didn't have any comments to add.

14 COURT: I didn't say you had comments. I just said that you  
15 crossed two boxes.

16 A. Right. If I put down the comments to add, then I will  
17 put down the crosses. If there's nothing there, it  
18 should not be there.

19 COURT: Okay. Take the next page, page 6495, 3 October.

20 You have call objectives and it's investment profiling,  
21 you say, and additional notes, there's nothing, there's  
22 no narrative and there's no boxes that are ticked.

23 Correct?

24 A. Correct.

25 COURT: Page 6496, 19 November, call objective is investment

1 15:45 profiling, there's a narrative. Additional notes, there  
2 are no narratives, but "Capital Growth" is ticked.

3 A. This one, probably I put down, "Capital Growth". This  
4 one I put down "Capital Growth".

5 COURT: You can recall where you put an X and where you did  
6 not?

7 A. Because on this one here, there's no -- for me, there's  
8 no linkage on that, because the call itself, the call  
9 itself only, we talk about the shares that the money  
10 could come in.

11 COURT: Which one are you talking about, 19 November or  
12 3 August?

13 A. 3 August.

14 COURT: Yes.

15 A. These two crosses may not be there.

16 COURT: They are there.

17 MR PILLAI: They are there.

18 COURT: So what's your explanation? They should not be  
19 there?

20 A. They should not be there.

21 COURT: Why not?

22 A. Why not? Because there's nothing about that --

23 COURT: -- you did not tick them?

24 A. There's nothing about that. There's nothing about  
25 mentioning the communication.



1 15:46 COURT: I understand that you didn't type out what  
2 additional notes or follow-up actions, and you didn't  
3 say it in a narrative form. My question is, there are  
4 two boxes out of nine in which a cross is typed in.

5 A. I don't see the linkage, so it shouldn't be there.

6 COURT: That's not the question. The question is: are those  
7 crosses there?

8 A. They are there.

9 COURT: They are there?

10 A. They are there, yes.

11 COURT: It's your call report.

12 A. Right.

13 COURT: What are you telling me? I should ignore it?

14 A. You should ignore it, these two.

15 COURT: Why?

16 A. Huh?

17 COURT: Why?

18 A. Why? Because it was not the intention of putting that.

19 COURT: Okay. Let's go to page 6496. No narrative either,  
20 but there is a cross on "Capital Growth".

21 A. Yes.

22 COURT: And in this case you say there is an intention to  
23 put it there.

24 A. Yes, because the whole thing is --

25 COURT: Three years after the event you can remember when

1 15:47 you had intentions and when you didn't.

2 A. Because this one is the next day almost, the  
3 20 November. Sometimes you can see the call report  
4 dates, one is 22 August --

5 COURT: Go on to the next one. 6 March 2008, you file  
6 a report on 7 March. Again there's no narrative, and  
7 then, still "Investment Diversification" and "Investment  
8 Communication/Update".

9 I'm trying to understand. Are you telling me  
10 I should just ignore all the entries with respect to  
11 additional -- "Needs Analysis", or do they mean  
12 something?

13 A. The 3 August --

14 COURT: Only 3 August should be ignored?

15 A. Ignore.

16 COURT: Why?

17 A. The 19 November, it's there. I put it down. The  
18 "Capital Growth".

19 COURT: You go on, 14 March 2008, page 6499, "Needs  
20 Analysis", no narrative, "Investment Communication",  
21 "Investment Diversification" -- there is at least some  
22 repeated call reports that you fill in in which you have  
23 similarly marked "Investment Diversification".

24 A. Your Honour, as I explained before, the --

25 COURT: The first one should be ignored, the rest are okay?

1 15:48 A. The rest are okay.

2 COURT: The rest of them should be ignored because?

3 A. Because it should not be there. It's just the --

4 COURT: But it is.

5 A. Yeah, it's the -- the --

6 COURT: How can you tell me, three years later, that it  
7 should not be there? What's the reason?

8 A. Because the phone call is just to record the money  
9 that -- the buy-out --

10 COURT: You can tell me, now you think that then, you should  
11 not have put in, but it is there.

12 It's inconveniently there, is that what you are  
13 saying?

14 A. It should not be there, these two.

15 COURT: Because now you think it should not be there.

16 A. It just -- makes no reason to me --

17 COURT: It doesn't make sense?

18 A. Yeah, it doesn't make sense to me.

19 COURT: It doesn't make sense to you, today?

20 A. Today.

21 COURT: Fair enough. Okay.

22 MR PILLAI: Mr Wan, at least you acknowledge that on the  
23 same call report, 3 August 2007, page 6494, two  
24 objectives you identified, "Update KYC information" and  
25 "Investment profiling". Those boxes were ticked

1 15:50 correctly?

2 A. You mean the page 6495?

3 Q. Page 9494.

4 A. Page 6494.

5 Q. Yes. "Update KYC information", "Investment profile".

6 Do you see that?

7 A. Yeah.

8 Q. Those were ticked correctly?

9 A. Correctly.

10 Q. Yes. I showed you the -- I believe you call it a CAPRE

11 form, which is at tab 10.

12 COURT: It's a know-your-customer form.

13 MR PILLAI: Yes, your Honour, it's a know-your-customer

14 form.

15 This again was signed off at different dates, but

16 the last date appears to be 8 August 2007.

17 Coming to the amount, the details of source of

18 wealth, do you see that at page 3506? This information

19 that you received from the phone call was not updated

20 into this form yet. Do you agree? About Dr Chang being

21 worth now about US\$135 million?

22 A. It's not dated, because this form was prepared earlier

23 than the 3 August.

24 Q. Now we come to the margin trading checklist at tab 13.

25 Do you see that document at tab 13, 6AB 2648.

1 15:52 First and foremost, let me just establish: it is  
2 your responsibility on behalf of the bank to fill up  
3 this margin trading checklist; correct?

4 A. Correct.

5 Q. Turn to the next page, page 2649.

6 A. Yes.

7 Q. Under the column "Client suitability", do you see that?

8 A. Yes.

9 Q. Really, this margin checklist is required pursuant to  
10 your internal procedures that we have gone through about  
11 two days ago?

12 A. Yes.

13 Q. Under "What is client's product notwithstanding with  
14 regards to proposed investments?"

15 Do you see that?

16 A. Yes.

17 Q. On the right-hand side:

18 "Client has more than 20 years of experience in  
19 blue-chip stock and experience."

20 A. Right.

21 Q. The word "experience" is repeated:

22 "He understands structure products such as ROCA and  
23 DSPP. He is well aware the risk involves in those  
24 product such as losing of principle" -- you meant  
25 "principal", P-A-L -- "and commitment of time."

1 15:53 A. Yes.

2 Q. I'll skip the last line -- I'll read it:

3 "Furthermore, is he only interested in blue chips  
4 such as US stock such as Citibank and General Electric  
5 and seldom involved in any speculative shares."

6 A. Yes.

7 Q. Right?

8 A. Yes.

9 Q. Pausing there. You say that Dr Chang has more than  
10 20 years of experience in blue-chip stock and  
11 experience. Which blue-chip stock are you referring to?  
12 Mind you, this document was filled up on 19 November  
13 2007.

14 A. The blue-chip stock, we --

15 Q. Twenty years experience in blue-chip stock. What is the  
16 basis of you asserting that he has more than 20 years in  
17 blue-chip stocks?

18 A. That's what he told me.

19 Q. Sorry?

20 A. That's what he told me.

21 Q. You're saying that he told you he has more than  
22 20 years' experience in blue chip stock?

23 A. Yeah, that's what he told me on 19 November, and some  
24 informations are from before. This is a combination  
25 of --

1 15:54 Q. You say that he told you --

2 A. The information from him.

3 Q. No. Hold it. You said "That's what he told me on

4 19 November. That's what he said". So on

5 19 November --

6 A. I complete this --

7 Q. Hold it. We can't be talking at the same time,

8 otherwise there's going to be a bit of confusion.

9 A. Okay.

10 Q. Your evidence is that on 19 November 2007, Dr Chang told

11 you that he has more than 20 years' experience in

12 blue-chip stocks; is that your evidence?

13 A. Let's put it this way --

14 Q. Please answer the question and then you can explain.

15 A. Let me explain to you.

16 Q. Answer the question first, please.

17 A. The whole thing is --

18 Q. Mr Wan, you understand English. Please answer the

19 question and then you can explain.

20 Did Dr Chang tell you, on 19 November 2007, that he

21 had more than 20 years' experience in blue-chip stock?

22 "Yes", "no", then you can proceed to explain.

23 A. As I said, this is a combination of the information --

24 Q. You didn't say that. What you said just a few seconds

25 ago was that on 19 November 2007 --

1 15:55 A. May I correct then?

2 Q. Yes. You want to now correct your evidence. What is  
3 the right answer?

4 A. Okay. This, I prepare it on 19 November. Some  
5 information from 19 November, some are from the  
6 combination of different conversations.

7 Q. Yes.

8 COURT: Take each one of them.

9 MR PILLAI: Yes, your Honour.

10 Could you please tell us -- we are still at the  
11 blue-chip stock -- when you say "combination of  
12 different conversations", can you identify these  
13 conversations?

14 A. This one.

15 Q. You are still at 20 years of experience in blue-chip  
16 stock. Can you identify this combination.

17 A. Informations are collected from various occasions. Some  
18 are from the way that I know about him, some are from  
19 his own work, but if you ask me when, exactly where,  
20 I don't think I can remember. But informations are  
21 through him, because we had a phone conversations on  
22 19 November, we had a call on 19 November which -- it's  
23 the lunchtime he call me, he said that "I want to do  
24 this and I want to be like Warren Buffett, I want to be  
25 like" -- he said he read an article about --



1 15:57 COURT: About Prince Alwaleed?

2 A. Yeah, and he said he read an article about that during  
3 the business trip. And then I said, "Oh, okay, so this  
4 is what you want to do?" He said, "Yeah, this is what I  
5 want to do".

6 COURT: Mr Wan, he's taking you through line by line.

7 A. Yeah.

8 COURT: Sentence one, you didn't have Dr Chang on the phone  
9 on the other side as you went through these questions in  
10 order to fill it up, and say, "Dr Chang, how many years  
11 of experience do you have in blue chips" or whatever?  
12 You didn't do that; right?

13 A. No.

14 COURT: So this is your sentence that you put together.

15 A. Yes.

16 COURT: Counsel is asking you: how do you get this  
17 information that he had 20 years' experience in blue  
18 chip stock?

19 A. Through various conversations.

20 COURT: You have seen his Smith Barney account?

21 A. No, I haven't seen his --

22 COURT: Previously he sent you a Fidelity account and you  
23 saw mutual funds and the like. Or you didn't?

24 A. I know he had a Fidelity account at the time.

25 COURT: Yes. What does Fidelity sound like and Smith Barney

1 15:58 sound like?

2 A. Brokerage account.

3 COURT: Yes, but what kind of account -- his investments  
4 were?

5 A. I mean, the stock, mutual funds --

6 COURT: Primarily mutual funds?

7 A. Yeah.

8 COURT: But here you say "blue chips". It's fine to say he  
9 had 20 years of experience in mutual funds, that kind of  
10 thing.

11 A. Also, on the -- 22 August, we talk about some options,  
12 like, he asking me, what's the meaning of selling the --  
13 uncover the call. Okay.

14 COURT: We understand that. He may well have done all of  
15 that, but what has that to do with 20 years' experience  
16 in blue chips?

17 A. That's the implication -- that's the image that I got in  
18 my mind.

19 COURT: You filled in whatever you imagined?

20 A. No, not my imagine. I cannot -- something cannot come  
21 from nowhere, it's --

22 COURT: Some things do.

23 A. It's something that, you know, we discussed, something  
24 that here --

25 COURT: Did he tell you, "I've got 20 years' experience,

1 15:59 I've been investing in blue chips all my 20 years", did  
2 he say anything of that sort?

3 A. He said he wants to do the blue chips --

4 COURT: "Wants to do" is different. Explaining backwards is  
5 different.

6 A. Yeah, but I put everything together.

7 MR PILLAI: Yes.

8 A. Because the KYC process and the information is --

9 COURT: It's just to fill in forms?

10 A. No. Your Honour, we take every possible way, at that  
11 moment of time, that we know about this customer. So  
12 that was the impression that I got it from him.

13 COURT: What you know about the customer and your impression  
14 are two different things.

15 A. Yeah, but, your Honour, this -- you can ask the  
16 customer. They don't -- I mean, if you ask them, they  
17 don't necessarily tells you everything. They can tell  
18 you a piece of here, a piece of there. We always have  
19 an incomplete picture. It's not like --

20 COURT: And then you compose a picture.

21 A. Yes, we compose the picture.

22 COURT: Okay. I hear you.

23 A. With the -- the 12 years' experience, to compose, you  
24 think and you talk to different -- talk to people, and  
25 you know they talk about here, talk about there, and

1 16:00 those are the combination, you combine it together, you  
2 put in.

3 The KYC is we do the best possible way, and then at  
4 that moment of time, the limited information, that's how  
5 we compose.

6 COURT: Yes, the word is "compose".

7 MR PILLAI: "Compose".

8 A. To write it down.

9 Q. I think we get the gist of your answer, Mr Wan.

10 You say here that he understands structured products  
11 such as ROCA and DSPP.

12 A. Right.

13 Q. Do I take it that he understood the structured products,  
14 these two products, from you? He understood --

15 A. Not necessarily from me. We've been discussing about  
16 it. At least, if you looking back to the account,  
17 because I was handling his account, and the dual  
18 currencies, the nature of dual currencies is the same as  
19 ROCA, but the mother shares versus the mother  
20 currencies, so the US dollar linked with the Australian  
21 dollar, if the Australian dollar go down, then you have  
22 to buy it. It's the same concept as the ROCA.

23 COURT: It's a different subject matter.

24 A. Yes, a different subject matter. So we've been doing  
25 this for many, many years, and --

1 16:02 MR PILLAI: What you're saying is that in his account  
2 relationship with you, he had dealt with dual currency  
3 products?

4 A. Yes.

5 Q. Dual currency options?

6 COURT: He doesn't say that.

7 MR PILLAI: Sorry, your Honour.

8 COURT: He doesn't say that. The entry here is he  
9 understands ROCA and DSPP.

10 MR PILLAI: Sorry, I was referring to his evidence orally,  
11 your Honour, because he tries to draw a parallel between  
12 the dual currency -- because the facts are there was no  
13 ROCA that was purchased by Dr Chang.

14 COURT: I think he was answering in that context.

15 A. Your Honour, the --

16 COURT: ROCA is a mirror image of DSPPs, except one is  
17 currency, the other one is mother shares. Is that what  
18 you're saying?

19 A. I said the ROCA, the concept of ROCA --

20 COURT: Is the same conceptually with DSPPs?

21 A. Not DSPP, is the dual currency. Dual currency. Because  
22 we've been doing, even before 19 November.

23 COURT: He's been doing?

24 A. Yeah.

25 COURT: He's been doing with you?

1 16:03 A. Yes.

2 MR PILLAI: I'll come to that.

3 Just to understand you, Mr Wan, there were dual  
4 currency options that Dr Chang entered into through your  
5 assistance; correct?

6 A. Dual currency?

7 Q. Yes.

8 A. Through me.

9 Q. Yes, through you.

10 A. Yes.

11 Q. So, because the features of these dual currency options  
12 are similar to the features of ROCA, you then took the  
13 view that Dr Chang understood ROCA?

14 A. Okay. That was one part --

15 COURT: What does a dual currency -- how does it work, is it  
16 a 52-week commitment?

17 A. No, it's like -- can be one month, can be two weeks.  
18 Very short period of time.

19 COURT: Then how is it similar to ROCA?

20 A. A ROCA could be one month, three months --

21 COURT: Also?

22 A. Yeah. Could be the same, so actually, we discussed the  
23 ROCA idea on 15 March when we were there, so these are  
24 the combination of everything that I got from him. It's  
25 the best estimate at that time, because when we talked

1 16:04 to customer, he sometimes -- sometimes he tell me this,  
2 sometimes he said that, and we have to combine together.

3 We can -- of course we can ask them, say, "Dr Chang,  
4 please let me know how much money you have", or "Dr Lim,  
5 could you tell me exactly how much money you have with  
6 other bank? Not -- every single one of it. What did  
7 you do there? What did you do there?" I mean, it's not  
8 practical.

9 MR PILLAI: Your Honour, I wonder whether we could have  
10 a short break.

11 (4.05 pm)

12 (A short adjournment)

13 (4.19 pm)

14 MR PILLAI: We are obliged for the short break, your Honour.  
15 Mr Wan.

16 A. Yes.

17 Q. We were at section 2, client suitability, of this  
18 document, the margin trading checklist, tab 13.

19 A. Yes.

20 Q. Let's go to the same paragraph. Right on top,  
21 right-hand corner. You say there:

22 "He is well aware the risk involves in those product  
23 such as losing of [principal] and commitment of time."

24 Let's take losing of principal. What's the basis of  
25 this statement?

1 16:20 A. What do you mean by the basis?

2 Q. You say this is your own statement, "He is well aware  
3 the risk involves ... losing principle ..."

4 I believe it's spelt wrongly, it's P-A-L. What is  
5 your basis of saying he's aware of the risks, that he  
6 may lose his principal?

7 A. From the combination of the conversation with him, he  
8 realised that if he buys stocks or bonds, could lose  
9 value, could lose principals. And also, the structure  
10 product have time commitments, like doing the dual  
11 currencies, doing the bond that I introduced to him, are  
12 not principal-protected.

13 Q. So, would have discussions prior to 19 November, on  
14 DSPPs and ROCAs with the client, where he conveyed that  
15 his knowledge that he would loss his principal; correct?  
16 I'm just paraphrasing your answer.

17 A. Correct.

18 Q. Thank you.

19 A. May I explain further.

20 Q. Very well. Please carry on.

21 A. This, you can ask me one by one, there's no problem, but  
22 I want to communicate a message is, this is  
23 a combination of all the information for me at the time,  
24 at the period of time. If you ask me exactly what  
25 happened here, I may not be able to --



1 16:22 COURT: Mr Wan --

2 A. Yeah.

3 COURT: -- let me simplify it. Turn back to the front page  
4 of this form. Page 2648.

5 A. Yes.

6 COURT: The bank requires you to go through these checklists  
7 and the first line is something, I assume, you bear in  
8 mind.

9 A. Yes.

10 COURT: The reason why the bank has a checklist is for the  
11 bank to determine the client's investment suitability  
12 and expertise, not just to trade on derivative products,  
13 but on margin.

14 A. Yes.

15 COURT: Margin means you are going to lend him money, and  
16 you are going to multiply his risk.

17 A. Yes.

18 COURT: Right?

19 A. Yes.

20 COURT: So that's the form that you are filling.

21 A. Yes.

22 COURT: For the bank to make this judgment, it's relying on  
23 to you answer the first question: well, what's this  
24 client's experience in the proposed investments?

25 The proposed investments are derivatives, ie

1 16:23 accumulators --

2 A. Correct.

3 COURT: -- and margin trading, ie leverage.

4 A. Correct.

5 COURT: Carry on.

6 MR PILLAI: I was at the point when you had just explained  
7 that you had these several conversations with Dr Chang  
8 prior to 19 November, through which you can now confirm  
9 that Dr Chang is aware that he could lose his principal  
10 through trading with structured products such as DSPPs.  
11 That's your evidence earlier.

12 What do you mean by "commitment of time"? Do you  
13 see the reference to "commitment of time"?

14 A. The commitment of time could be the different product  
15 they have time commitment, for example, the ROCA. Could  
16 be a two years' one, could be a three years' one, and it  
17 could be three months.

18 So when you does this kind of product, the  
19 commitment of time is important to notice, for example,  
20 even though the dual currency, you can do up to one  
21 year, two years, or one months, two months, so the  
22 commitment of time, it's there.

23 Q. Thank you. Taking it again from the second sentence:

24 "He understands structure[d] products such as ROCA  
25 and DSPP. He is well aware of the risks involved, such

1 16:24 as losing [principal] and commitment of time."

2 A. Right.

3 Q. You basically got this information from Dr Chang through  
4 your conversations with him prior to 19 November 2007?

5 A. Including the 19 November.

6 Q. Prior to and including 19 November 2007?

7 A. Yes.

8 Q. Can you identify, prior to 19 November 2007, how many  
9 times you had such discussions? You can estimate.

10 A. I don't know how many times, because --

11 Q. Let me help you. Is it more than five times?

12 A. I think it's more than that.

13 Q. More than 10 times?

14 A. That, I don't know, but must be bigger than five times  
15 at least.

16 Q. At least bigger than five times?

17 A. Yeah, because there are a lot of conversations, are  
18 regarding the medallion guarantee, calling to the  
19 different -- like the computer share, USA to --

20 Q. Sorry to interrupt, Mr Wan, but we are really focused on  
21 these two products. There is no point talking about  
22 other products. What we understand from you is that  
23 there's at least more than five calls. My next line is,  
24 could it be more than 10 calls? I just want to  
25 understand through --

1 16:26 A. I don't remember. I mean, I don't count calls -- if I  
2 have 20 client, how am I going to count calls.

3 MS TAN: Perhaps it will assist the witness if my learned  
4 friend breaks up ROCAs and DSPPs, because you are  
5 lumping them together and that may be why the witness is  
6 having some difficulty.

7 MR PILLAI: I don't think so, your Honour. May I just  
8 proceed? Yes.

9 Now we come to the same question, we're talking  
10 about structured products.

11 You say that you had at least five calls, you said  
12 that you can't recall specifically how many, and  
13 I perfectly understand that.

14 But, you must have a sense that he must understand  
15 these products, because otherwise you would not have  
16 written it down in this serious document. You must  
17 agree with that.

18 A. Okay. Let me reply to --

19 Q. Answer first. Answer the question. You must be  
20 satisfied that he understood the products --

21 COURT: When you say he understands that he can lose his  
22 principal, in a case of buying shares, what does that  
23 mean?

24 A. Buy share means just buying the stock.

25 COURT: Would he lose his principal by buying shares?

1 16:28 A. Yes.

2 COURT: It depends on his holding. Remember, this is  
3 a margin trading derivative checklist.

4 A. Right.

5 COURT: You are saying here that he understands that he  
6 risks the loss of his entire principal.

7 So the question is: in relation to the ROCA, what  
8 does that mean? In relation to DSPPs, what does that  
9 mean?

10 A. If you buy DSPP, the share go down all the way, you lose  
11 your principal. If you buy ROCA, you lose your -- for  
12 example, two years commitment, if the --

13 COURT: You lose your principal, but if you have the staying  
14 power of 52 weeks or 50 weeks, you still have the  
15 shares.

16 A. Yes, your Honour. If -- but if the underlying is  
17 Lehman Brothers, the investor --

18 COURT: That's different. Right now you don't know about  
19 Lehman Brothers. Do you follow? Don't to try to  
20 telescope back your understanding today, backwards. Do  
21 you follow? Here, in November --

22 MR PILLAI: 2007.

23 COURT: -- 2007, you were basically trying to answer  
24 a questionnaire of your bank as to the suitability of  
25 this customer to trade on margin. Do you follow?

1 16:29 Because margin carries higher risk -- no?

2 A. Your Honour, may I explain a little.

3 COURT: Do you follow? The bank has a system and process,  
4 and the reason why they go through this process is  
5 because they are going to lend money to the customer to  
6 leverage the derivative trading. And so, for their own  
7 protection, as well as making sure the client knows what  
8 he's doing, you are asked to fill in this form.

9 A. Correct.

10 COURT: Right? Then you say he's well aware he can lose his  
11 entire principal. In the case of DSPPs --

12 A. Your Honour, may I just go a little forward before this?  
13 This one is completed on 19 November.

14 COURT: He's already done a few dual currencies with you.

15 A. Yes, dual currencies, it's not margin tradings.  
16 Although, if you can -- you want to do it, it's also  
17 possible we can have the FX margin trading, but we never  
18 talk about it, so we just forget about it. The  
19 reason --

20 COURT: By 19 November he's already done a few DSPPs?

21 A. No.

22 MR PILLAI: That's the first day.

23 A. No, because he specifically, on 19 November, called me,  
24 said, "Johnny, I need to do the DSPP". Okay, whatever  
25 reason, okay.

1 16:31 Then I fill out this -- because at the very, very  
2 beginning, look at the last call report that I had --  
3 COURT: No, no. I'm just trying to understand the context.  
4 Don't conflate what you know now. Just go back to  
5 19 November 2007.

6 A. Right.

7 COURT: A man, according to you, at that time already you  
8 know he's got US\$135 million, of which he's going to put  
9 US\$26 million into your account. Okay? Then he says to  
10 you --

11 A. Correct.

12 COURT: -- "I'm interested in buying shares in a depressed  
13 market". Okay?

14 A. Correct.

15 COURT: So he has not entered into any DSPPs yet.

16 A. No. No, he called and then --

17 COURT: Did he ask for a margin trading account or what?  
18 What happened?

19 A. If you do DSPP --

20 COURT: You must do margin trading?

21 A. Yeah.

22 COURT: Why?

23 A. Just the ...

24 COURT: I have \$26 million in deposit.

25 A. Yeah, but the margin trading facilities is granted if he

1 16:32 does the derivatives products.

2 COURT: Otherwise, no margin?

3 A. You can not use margin. I mean -- or you can just --

4 COURT: Did he ask you for this or did he not?

5 A. If he does the derivatives products, it's on the -- on  
6 the service agreement already saying that "We will grant  
7 you the margin trading".

8 COURT: That's not the question. The question is: did he  
9 ask you for margin on 19 November?

10 A. But it's already in the master agreement that he signed.  
11 The master agreement --

12 COURT: Does the master agreement say, "Please give me  
13 margin facilities"?

14 A. Yeah, because the margin agreement is derivatives  
15 trading. It goes into the margin. And the security  
16 agreements also mentioned, it's in the margin --

17 COURT: The moment you sign an account opening form, you are  
18 obliged -- you have requested the bank to give you  
19 margin trading?

20 A. No. The moment you sign the security agreements, you  
21 agree to the bank --

22 COURT: If you take margin, then whatever you have is  
23 collateral for what you owe the bank?

24 A. Correct.

25 COURT: But that's not the same as saying that on



1 16:33 19 November, Dr Chang asked you for margin.

2 A. If he wants to do the DSPP, he has to sign the master  
3 agreement. The master agreement itself says that "We  
4 grant you the margin trading facilities". He can  
5 reject, he say -- he can reject to it, say "I don't want  
6 to use it", then he have 14 days to do it. We will send  
7 him letters, exactly tell him that "We're going to grant  
8 you margin trading facilities". He does not need to use  
9 it. But we'll give it to him.

10 MR PILLAI: You are not a lawyer, so I will be fair to you.

11 A. Okay.

12 Q. The master trading agreement -- sorry, you mean master  
13 agreement for forex transactions and derivatives  
14 transactions?

15 A. Yes.

16 Q. That's at tab 8 of the bundle of banking agreements.  
17 Take a look.

18 You mentioned to his Honour that when you sign the  
19 master agreement, it's tantamount to the bank offering  
20 margin trading facilities.

21 I do appreciate that you're not a lawyer, but look  
22 at the document.

23 A. That's the security agreements.

24 Q. We are not talking about the security agreement.

25 I think we all know what the security agreement is. It

1 16:35 is that later, when you take up a loan facility or  
2 margin fault, then --

3 A. As I understand --

4 Q. Let me just finish my point.

5 A. Okay.

6 Q. A security agreement is a bit different, as his Honour  
7 pointed out. You mentioned the master agreement is the  
8 document through which the bank offers margin  
9 facilities. We know that you're not a lawyer, but look  
10 at tab 8, through which you can find the master  
11 agreement. Can you tell me which part of the document,  
12 through which the bank offers margin facilities?

13 A. If you -- you need to do the derivatives trading, it has  
14 to be -- we have to grant you the margin trading.

15 COURT: Why?

16 A. It's just the -- just the way it is.

17 COURT: A man who has \$26 million gives you a deposit. Why  
18 does he need margin?

19 A. He can -- not to use it, just use whatever, see -- your  
20 Honour, if we progress, okay, if he has only  
21 \$26 million, he can just stick with the \$26 million, he  
22 does not have to use margin. Just, the facility is  
23 there.

24 If he said, "Okay, Johnny, I don't want to use  
25 margin, just I want to buy DSPP, can I do that?"

1 16:36 I say, "Yeah, you can do that", we just do exactly  
2 \$26 million, then there's no margin.

3 You don't have to utilise it.

4 COURT: So you're saying it's up to the customer to tell you  
5 specifically that he doesn't want margin financing?

6 A. Once he does the DSPP, the margin trading facility will  
7 be granted to him and we will send out letters.

8 COURT: Whether or not he requests it?

9 A. Yeah.

10 MR PILLAI: I think that's fine.

11 COURT: Okay.

12 MR PILLAI: On the facts of this case, Mr Wan, just to close  
13 the loop, at least on 19 November 2007, as at that date,  
14 Dr Chang never requested for a margin trading facility,  
15 did he?

16 A. This one, as I said, if you want to do the --

17 Q. I don't need an illustration. I'd be grateful for an  
18 answer, and if you want to explain, you can proceed.

19 The question stands.

20 COURT: You know why the questions are being asked? Because  
21 about three columns down, the bank asks you to say  
22 what's his overall trading strategy and the risks  
23 accompanying. Then you say it's very simple: this man  
24 just wants to buy and hold shares for investment for the  
25 long term.

1 16:38 A. Yes. Yes. So -- but just the -- you asked me why I --  
2 just the way it is --

3 COURT: If I wanted to buy shares and I put \$26 million into  
4 my account with you --

5 A. Right.

6 COURT: -- the question you must ask me is: how much do you  
7 want to buy, no? To decide whether I need margin or  
8 not.

9 A. Yeah. But -- well, it's just there.

10 COURT: In a vanilla case, do you follow, the guy has no  
11 money and then he says "Can I buy", then you say "Okay,  
12 can I lend you, are you creditworthy", and that kind of  
13 stuff. But here the man is putting in \$26 million into  
14 your account, you know he has \$138 million. So this man  
15 doesn't need financing. It would appear; right?

16 A. Right.

17 COURT: Then you say that the man wants to buy shares. He's  
18 actually interested in the shares to invest and for the  
19 long haul.

20 A. That's what he told me.

21 COURT: So you put it there.

22 A. Right.

23 COURT: All right?

24 A. Yes.

25 COURT: So the question you must ask the man is, "Okay,

1 16:39 \$26 million, how much do you think you want to buy?"

2 A. He only buy one contract at a time.

3 COURT: But you asked the guy, "Okay, over one year, what is  
4 your target number of shares? Do you want to buy 10 per  
5 cent of Citibank or what?" Then you definitely need  
6 margin. You are not Prince Alwaleed.

7 A. Your Honour --

8 COURT: You don't go to through analysis?

9 A. Your Honour, if you were me, you -- put yourself into my  
10 shoes at the time, a customer come to me, it's  
11 unsolicited trade, he needs to buy DSPP. One, one  
12 contract. DSPP. He has \$26 million, okay. And I  
13 didn't expect -- that's why I didn't prepare this at the  
14 time, because the account opened for --

15 COURT: Since August.

16 A. -- since August, and he never mentioned about the DSPP  
17 to me, and I never mentioned about the DSPP. Then all  
18 of a sudden he said, "I want to do the trade", so -- in  
19 order to do the trade, this is the form that I need  
20 (indicating), and by filling in this form, the margin  
21 trading would be granted to him, and he will receive  
22 a letter. "You have 14 days to reject". If he said,  
23 "I don't want that, please", then he can reject, but the  
24 just the way that is set up, it's like that. So --

25 MR PILLAI: Mr Wan, do you know the implication of what you

1 16:40 just said?

2 A. I don't know.

3 Q. Let me explain that to you. Basically you've suggested  
4 that here, you have Dr Chang who suddenly, on  
5 19 November, wants to enter into an accumulator trade.

6 You just facilitated that by filling up this form,  
7 and the contents of this form are just to facilitate the  
8 margin trading facility to be provided to Dr Chang so  
9 that he can do the trade. That's what you just said.

10 A. No.

11 Q. No?

12 A. No.

13 Q. In fact --

14 A. This is a questionnaire for margin trading checklist.

15 Q. Yes.

16 A. Okay, the client wants to do --

17 Q. I'm just trying to clarify your evidence earlier. You  
18 said out of the blue this client came, in fact you very  
19 colourfully --

20 A. I received a call, okay. Don't use that. I received  
21 a call --

22 Q. Out of the blue, this client called you, and he wanted  
23 to do this accumulator trade, and you had to fill up  
24 this form, according to you. Right?

25 A. This is the requirement.

1 16:41 Q. Yes, this is the requirement. So you had to fill this  
2 up to make sure that the bank processes and provides  
3 margin facility because according to you, that's  
4 important, for him to do a DSPP trade or an accumulator  
5 trade. Correct?

6 A. I don't know whether it's important or not important,  
7 but this is the step that we have to take.

8 Q. Okay, this is the step. I'll use your words. This is  
9 the step that you have to take. So you need to portray  
10 Dr Chang as a person of sufficient experience,  
11 sufficient knowledge, so that he can satisfy this  
12 checklist; correct?

13 A. Not true.

14 Q. Not true?

15 A. I know whatever that I know, I put it down, okay. I put  
16 it down, does not mean it would automatically be granted  
17 to him.

18 Q. I know. So you had to make sure that it would be  
19 granted to him. That is your objective --

20 A. How am I going to make sure?

21 Q. Yes.

22 A. I mean, this is -- I mean, you are putting -- you are  
23 putting me into a difficult situation, is, say, I have  
24 to do this.

25 I tell you, I don't have to do this, because there

1 16:43 are many products that we can do. I know what I need to  
2 put in, then I put in there, because this is the  
3 information that I know.

4 Q. See, Mr Wan --

5 A. If the company said, "I don't think this fits", so they  
6 do not have to grant. The master agreements also are  
7 both side. It does not mean Dr Chang signs it, we have  
8 to grant.

9 Q. Sure. I understand that.

10 A. Right?

11 Q. Let me just pursue this.

12 As far as Dr Chang is concerned, he never asked you  
13 for a margin facility. You already agreed; correct?  
14 I'm just reiterating your evidence, Mr Wan. Do you  
15 understand the question?

16 A. But if you need to do this product --

17 Q. Yes.

18 A. It's in margin.

19 Q. So he never asked for it. In your mind, he --

20 A. Okay.

21 Q. Hold it, Mr Wan. I'm trying to summarise, because we  
22 need to move on and we need to make submissions on your  
23 evidence.

24 A. No -- no, you have to listen --

25 Q. I certainly will listen to you, but let me just



1 16:44 summarise your evidence.

2 A. You have to listen, is --

3 Q. Mr Wan --

4 A. -- who initiate this.

5 Q. Mr Wan, hold on.

6 A. Who initiate this. Right?

7 Q. Mr Wan, hold on let me try to summarise so we can  
8 appreciate your evidence in a calibrated way.

9 The point is this. According to you, Dr Chang, for  
10 the first time, telephoned you and asked to enter into  
11 an accumulator trade. He never asked for a margin  
12 trading facility. So far, is that correct?

13 A. If he signs the derivative tradings --

14 Q. Sorry. There's no need to paraphrase my question. The  
15 question is capable of a "yes" or "no" answer. He did  
16 not ask you for a margin trading facility; "yes" or  
17 "no"?

18 A. Your Honour -- your Honour, this is not as simple as  
19 a "yes" or "no" answer, because the request was for  
20 a client, and this is the bank's --

21 Q. Mr Wan, the question stands, did he or did he not ask  
22 you for a margin trading facility?

23 A. If he needs to do this, it's on margin.

24 Q. Mr Wan, the question stands: did he or did he not ask  
25 you for a margin trading facility; "yes" or "no"?

1 16:45 A. He asked for a DSPP trading. It's on margin basis.

2 Q. Let me clarify.

3 COURT: You are saying, any client who asks you that he  
4 wants to trade on DSPP must trade, as far as the bank is  
5 concerned, on margin?

6 A. That's as far as I understood.

7 COURT: That cannot be the bank's position, which is why the  
8 bank asks you to fill in this form.

9 A. The derivatives products, it's enter into margin. You  
10 may utilise it or you may not utilise it. If you want  
11 to utilise it, you can use it. If you don't want to use  
12 it, there will be a letter sent in saying "We grant you  
13 the margin trading facilities, you have 14 days to  
14 reject".

15 MR PILLAI: Okay. Now, Mr Wan --

16 A. So you're putting me into --

17 Q. Mr Wan, I have not asked the question. Hold it, hold  
18 it.

19 A. I understand. You are putting me into a difficult  
20 question, is, say, okay, he didn't ask for it -- but he  
21 asked for the product, and that's the way it is.

22 Q. That's the way --

23 A. Then how am I going to say "yes" or "no" to you?

24 Q. Mr Wan, normally -- I won't --

25 A. I mean, normally it is --

1 16:46 Q. Mr Wan, hold it.

2 Mr Wan, really, you are giving evidence in a court  
3 of law, and when I ask to you stop giving evidence, you  
4 should, all right --

5 A. Sorry.

6 Q. -- subject to his Honour's directions. Is that clear?

7 A. Yes.

8 Q. Otherwise, there is no coherence, and we are really  
9 wasting time.

10 A. Yes.

11 Q. Mr Wan, your evidence is that he did not specifically  
12 ask for margin trading facility, but as far as you  
13 understand, when anybody wants to trade in accumulators,  
14 you would, as a matter of course, fill up this  
15 checklist. That's your evidence; correct?

16 A. Correct.

17 Q. From your perspective, this checklist is filled up for  
18 the purpose of facilitating his accumulator trade;  
19 correct?

20 A. Correct.

21 Q. Now we come to the contents.

22 COURT: Was it facilitating? Because the form by itself  
23 says, whether he is suitable.

24 MR PILLAI: Yes, your Honour, in fact I was -- yes.

25 The point is this.

1 16:47 A. May I add something, your Honour?

2 MR PILLAI: Wait, just before you add --

3 COURT: Listen to the question first.

4 MR PILLAI: The purpose of this margin trading checklist is  
5 to gauge Dr Chang's suitability to trade derivative  
6 products on margin; correct? Do you understand the  
7 question?

8 A. I can say that this checklist for derivatives trading  
9 products, DSPP, just one of it, you can trade a lot  
10 different things in there. So this is just not for --  
11 only for DSPP. For all the derivatives trading.

12 COURT: Let me see if I can simplify it for you.

13 The bank goes to the trouble of having a specific  
14 checklist filled in, firstly, because it is derivatives.  
15 Right?

16 A. Correct.

17 COURT: So derivatives already, by a class of trading, carry  
18 a different type of risk. If the guy wanted to buy  
19 mother shares, you won't have to do this form?

20 A. No.

21 COURT: Correct?

22 A. Correct.

23 COURT: The reason for this checklist is twofold: the risky  
24 nature of the product; and, the bank needs to be  
25 satisfied that these products are suitable for the

1 16:49 client.

2 A. Correct.

3 COURT: Secondly, because it's margin, there's leverage so  
4 the risk gets intensified; right? So the bank says, is  
5 he suitable? So when you fill in this information, the  
6 bank is looking to you to provide a basis upon which its  
7 higher management can decide.

8 A. Correct.

9 COURT: Right? Okay.

10 A. One more thing I would like to add, your Honour, is,  
11 I cannot, just by filling up this margin trading  
12 Dr Chang would get margin trading facilities.

13 COURT: We know that. It requires approval. At least there  
14 were the group head, senior investment consultant who  
15 had signed off as well.

16 A. Another prerequisite for this is, he has to sign the  
17 master agreement first. If he was not interested in  
18 this, he can -- just elect, said "I don't want the --  
19 I don't want to sign the master agreements", because the  
20 master agreements are basically saying the risk of  
21 trading derivatives, the risk of trading different  
22 products. So that has -- that master agreement has to  
23 be signed --

24 COURT: You cannot trade in derivatives without first  
25 signing the master trading agreement --

1 16:50 A. Exactly, your Honour.

2 COURT: -- which points out to you all the risks of  
3 derivatives.

4 A. Exactly. Exactly. And this is in addition to the  
5 master agreement --

6 COURT: For the purposes of leverage, which enhances the  
7 risk.

8 A. Yes.

9 COURT: Right?

10 A. Yes.

11 MR PILLAI: Mr Wan, the information you put in section 2 is  
12 clearly to assist the bank to find out whether this  
13 client is suitable for the purpose of being allowed to  
14 trade on a margin basis; correct?

15 A. Not correct. May I explain?

16 Q. In section 2. Yes, please.

17 A. We need to fill up the information to the best of our  
18 knowledge --

19 COURT: Mr Wan. Section 2 has two sections. Section 2 is  
20 entitled "Client suitability". Okay?

21 A. Correct.

22 COURT: The first series of questions are product knowledge  
23 and proposed investments, and the second is his previous  
24 experience in derivatives trading.

25 A. Right.

1 16:52 COURT: Okay? And then, section 3 goes into financial  
2 analysis, as to basically what is his net worth and  
3 assets.

4 A. Correct.

5 COURT: Then section 4 is, "What we are to propose". So  
6 there's a coherent logic to this form.

7 A. Correct, your Honour.

8 COURT: So "suitability" means what? He is experienced in  
9 investment knowledge?

10 MR PILLAI: Yes.

11 A. Correct.

12 Q. This is to enable the bank to assess whether or not  
13 Dr Chang may be allowed to trade on a margin basis.

14 A. Correct.

15 Q. Thank you. Therefore, you know that you need to provide  
16 information, or you need to state the information in the  
17 boxes with the level of accuracy so that the bank is in  
18 the best position to make a decision whether or not to  
19 allow Dr Chang to trade on a margin basis; correct?

20 A. No.

21 Q. It must follow.

22 A. Not correct.

23 Q. Not correct?

24 A. I -- I need to fill out information that I know --

25 Q. Yes.

1 16:53 A. -- to let the bank decide. So whatever information to  
2 me is available at the time, to the best of my  
3 knowledge, I put it in. It does not mean the bank will  
4 automatically grant it.

5 Q. I didn't say that. What I meant was that you put in  
6 information to the best of your knowledge, and this  
7 information must be accurate, to the best of your  
8 knowledge. That's my point. Do you agree with that?

9 A. I cannot say -- because I don't know the answer. It's  
10 the best estimate at the time. You were saying the  
11 accuracy is -- you are implying, saying that, did I go  
12 to ask Dr Chang, "How much money you have? How many  
13 account you have? Please let me know". The way that we  
14 put it, it's the best estimate at the time with the  
15 available information at the time. So if you ask me --

16 Q. Mr Wan, I think we understand the thrust of your  
17 explanation. Really, you don't have to get so  
18 defensive.

19 I had very fairly told you, to the best of your  
20 knowledge. What I said was that you put in information  
21 that's accurate to the best of your knowledge. That's  
22 all that you are required to do. You don't have to  
23 ascertain, verify or investigate this. You just put in  
24 this information that, to your knowledge, is accurate;  
25 correct? That's your duty?



1 16:55 A. Correct. Correct.

2 Q. With that, we go back to the first square on client  
3 product knowledge with regards to proposed investments.  
4 Twenty years' experience in blue-chip stock. This is  
5 accurate information, to the best of your knowledge?

6 A. All the information here are to the best of my knowledge  
7 at the time.

8 Q. Accurate to the best of your knowledge at the time.

9 A. That was the information that's available to me at the  
10 time, through different conversations.

11 Q. Yes. Maybe it's easiest to take up just one example.

12 You see the reference to where client has been  
13 trading in derivative markets, just below the "Client's  
14 Experience in Derivative Trading", Standard Chartered  
15 Bank, Citibank.

16 Then you put there:

17 "How long has client been trading in derivative  
18 markets? 15 years."

19 Do you see that?

20 A. Yes.

21 Q. You compare this with your earlier submission to your  
22 bank in tab 10. Look at tab 10. It is a submission to  
23 the bank dated 3 August, I believe. Turn to page 3509  
24 where, in respect of derivative products, you put there  
25 that he has a low experience level in derivative

1 16:56 structured products. Okay?

2 A. Correct.

3 Q. Can you give us an explanation --

4 Sorry, your Honour. I was looking at tab 10, page  
5 3509, which is the earlier CAPRE form on the top level.

6 COURT: Yes.

7 MR PILLAI: You must accept, Mr Wan, that at least as  
8 at August 2007, the information, to the best of your  
9 knowledge, is he has low experience in dealing with  
10 derivatives and structured products.

11 In November 2007, he suddenly has 15 years'  
12 experience in trading and derivative markets, has been  
13 trading through Standard Chartered Bank and Citibank.  
14 Can you give us a good explanation for this?

15 A. Yes. On the 22 August, we've been in Taipei, we  
16 discussed about options, then I remember there was  
17 a conversation regarding, he said that he had trade  
18 options in the United States.

19 Q. You said he had traded options in the United States.

20 A. Yeah, we had a discussions on that --

21 Q. Yes.

22 A. -- so that's to the best of my knowledge and --

23 Q. Yes.

24 A. -- and the best of my recollections on the 22 August.

25 Q. Yes.

1 16:58 A. Then I -- even I asked him on that day, I said,  
2 "Dr Chang, you want to do this? You sure, you know,  
3 this?"

4 He said "Yeah, don't worry, I know what I'm doing".

5 Q. You are saying on 22 August --

6 COURT: That's a different point. How different are options  
7 from derivatives or accumulators?

8 A. Options, it's part of the derivatives.

9 COURT: I understand. The question is, again we are looking  
10 at risk and leverage. Right?

11 A. Right.

12 COURT: In the context of this form, assuming you had the  
13 conclusion that he has traded in options in the US, what  
14 does that mean?

15 A. That he has knowledge about the derivatives and the DSPP  
16 is just --

17 COURT: Is he opening this form or looking for margin to  
18 trade in options?

19 A. As I said, the margin comes with it, your Honour.

20 COURT: No. The point is, was he talking to you about  
21 trading in options so that you can say safely say that,  
22 yes, he's been trading in options for 15 years?

23 A. That's my best recollection at the time.

24 COURT: The form you are filling in relates, according to  
25 you, to a sudden desire to trade in DSPP, not options.

1 16:59 A. Yeah, but the -- a question here is, how long have been  
2 trading in derivatives markets.

3 COURT: So you consider options to be a derivatives  
4 market --

5 A. Yeah.

6 COURT: Of the same risk element as --

7 A. The same categories of -- the same categories, because  
8 the DSPP is -- consist of options.

9 MR PILLAI: Mr Wan, this questionnaire is quite specific  
10 because it also puts, "Where has client been trading in  
11 derivatives markets?" Do you see that?

12 A. Yeah.

13 Q. Your answer is:

14 "Standard Chartered Bank, Citibank."

15 You didn't say the US.

16 A. Yeah. At the time the only thing that I know about  
17 the -- it's Citibank and the Standard Chartered Bank.

18 COURT: As far as you could tell, he hadn't even opened an  
19 account in Standard Chartered.

20 MR PILLAI: Yes.

21 A. At the time was 19 November --

22 COURT: You are assuming he had opened an account.

23 A. Yeah, right.

24 COURT: You also further assumed that he was trading  
25 derivatives with Standard Chartered Bank in a priority

1 17:00 banking account.

2 A. Because he told me -- he told me, a previous bank, so  
3 suddenly the previous bank, then -- must be -- that's  
4 the two names that I know. Maybe I forgot about the  
5 Fidelity, but that's the name that I know, come to my  
6 mind.

7 MR PILLAI: So you compose this "Standard Chartered Bank and  
8 Citibank", and you kind of linked it up to his supposed  
9 answer to you that he was trading in options in the US?

10 A. That was the best knowledge that I had at the time.

11 Q. Look at your affidavit --

12 COURT: It's not knowledge.

13 MR PILLAI: Sorry, your Honour.

14 COURT: It's not knowledge. It's impression.

15 A. Impression. Best available impression at the time.

16 MR PILLAI: Look at your affidavit on what you state about  
17 22 August 2007 meeting. It's at paragraph 104, page 38.

18 It starts from paragraph 102 and ends at paragraph  
19 109. You can have a look at the entire paragraphs.

20 A. To paragraph 105?

21 Q. Yes.

22 A. About the risks of selling uncovered call and  
23 counterparty risk.

24 Q. I just asked you to look at it.

25 A. Yeah.

1 17:02 Q. I'll underline that and come to it.

2 A. Okay.

3 Q. Please finish reading up to paragraph 107.

4 A. He did not need to sign the master agreement. Right.

5 Q. Mr Wan, my question is this: from paragraphs 102 to 107  
6 which deal with your 22 August 2007 meeting, you did not  
7 state here that Dr Chang told you he has 15 years'  
8 experience dealing with options in the US. Did you?

9 A. I didn't put it down.

10 Q. Thank you.

11 A. I did not put it down, okay. But there was the  
12 impression and there was the information available to me  
13 at that time.

14 Q. Could you please look back to the margin checklist, at  
15 tab 13, the next page, at 6AB 2650.

16 A. Right.

17 Q. You put there "Client's current Net Asset Value". Do  
18 you see that? Even before that, I should take it from  
19 the title:

20 "Financial Analysis.

21 We need to be sure that the Margin Trading Account  
22 opened with the Bank is economically viable."

23 This is the bank's objective; correct? You see  
24 the --

25 A. Yes, yes.

1 17:04 Q. -- the fine print. So you have here, client's current  
2 net asset value, NAV, and then you put there, NAV is  
3 close to USD 135 million. Do you see that?

4 A. Right.

5 Q. On the left-hand side, there's a note:

6 "Based on RM's best estimate on KYC."

7 Do you see that?

8 A. Mm-hmm.

9 Q. "RM's best estimate" is you; right?

10 A. Right.

11 Q. "KYC" is a short form for know-your-client?

12 A. Yes.

13 Q. We have looked at tab 10 earlier. That is a KYC  
14 document which lists Dr Chang's assets as between 20 to  
15 \$25 million. So that cannot be the KYC you're referring  
16 to; right?

17 A. Correct, as I said -- may I explain?

18 Q. No, it's okay. But you do know that there was this call  
19 made on 3 August -- we went through the call report just  
20 now -- where Dr Chang conveyed to you that he is coming  
21 into money of about \$130 million-plus --

22 A. 118 million.

23 Q. I stand corrected, \$118 million-plus. We went through  
24 that call report just now; remember?

25 A. Correct.

1 17:05 Q. Look at another KYC report that's been disclosed in  
2 these proceedings at tab 16. Please turn to the fourth  
3 page in the document, page 3533.

4 A. Yes.

5 Q. First and foremost, do you accept that this is a KYC  
6 document of the bank?

7 A. Yes.

8 Q. So you see at page 3533, I believe it's (ii), "Estimated  
9 amount of 'investible' assets, 130 to 150 million"?

10 A. Correct.

11 Q. Go back to tab 13.

12 A. Right.

13 Q. This amount, "Estimate based on KYC", would refer to the  
14 KYC which is at tab 16, the information at least.

15 Correct? Because the information here --

16 A. Okay. The situation is a little -- because when we open  
17 account, we first done is the KYC. That's the initial  
18 version. But when it -- in post --

19 Q. Sorry. When you say "Okay", are you agreeing that the  
20 information in the checklist is from the KYC that I've  
21 just showed you at tab 16?

22 A. No.

23 Q. No?

24 A. No.

25 Q. Can you please explain.



1 17:07 A. Yeah. Because this information was the latest  
2 information that I got. I did not update the KYC at  
3 that moment, but subsequently I update the KYC in  
4 about January.

5 Q. January.

6 A. I can't remember, really.

7 Q. When you say January, you're referring to January 2008?

8 A. Sorry, may not be January. I just forgot, but I --  
9 subsequently, I updated.

10 Q. Mr Wan, this call came in on 3 August 2007.

11 A. Right.

12 Q. Your account was funded in end-August 2007.

13 A. Right.

14 Q. So your bank has already received the money.

15 A. You mean \$26 million?

16 Q. \$26 million.

17 A. Yes.

18 Q. Yes. We've gone through one KYC at tab 10. There's no  
19 reference to the source of funds or the estimate of his  
20 assets. There's only one other KYC that is being  
21 disclosed in these proceedings --

22 A. Because the one that --

23 Q. Hold it, I've not finished.

24 A. Oh, sorry.

25 Q. You now say that this document was updated around -- to

1 17:08 the best of your recollection -- January 2008. So what  
2 happened between August 2007 and January 2008? Are you  
3 saying the bank did not conduct a KYC, or did not update  
4 the KYC, even though you knew --

5 A. The KYC update is usually once a year. It's annual  
6 review. So -- and also you take a look at the  
7 page 3533, that was the information on 3 July 2008.

8 Q. I'll come to the date.

9 A. So if you are referring 19 November 2007 to -- you ask  
10 me to refer to the future, I mean, that's why I would  
11 have a disagreement.

12 Q. Mr Wan, you are always answering a question which  
13 I don't ask.

14 That document, you are referring to one particular  
15 date, but you and I know that document was not entered  
16 in July 2008; in fact, if you look at page 3537, it was  
17 first inputted by your assistant on 1 February 2008;  
18 correct?

19 A. Oh, yeah, that's my -- yeah. My recollection.

20 Q. So you yourself know that this document, this  
21 information was inputted at least as early as  
22 February 2008, but I will certainly come back to it.

23 A. Yes.

24 Q. My question is very simple. This is a reputable bank.  
25 You got a call on 3 August. You were told about this

1 17:10 source of funds that's coming in.

2 A. Right --

3 Q. Hold it, I've not finished.

4 A. Sorry.

5 Q. You put up a call report, you even ticked for updating  
6 of KYC. Your August KYC doesn't have reference to the  
7 amounts coming in or this revised net asset value. You  
8 say that the KYC at tab 16 was put up much later.

9 You go back to your margin checklist at tab 13.  
10 There's a specific reference, "Based on RM's best  
11 estimate on KYC".

12 Now, please explain: which document were you  
13 referring to, if any, or what exactly was the position  
14 in relation to the KYC checks done in August 2007?

15 A. Okay. May I explain, your Honour? First of all, on the  
16 3 August, because we were working on the medallion  
17 guarantee for Dr Chang, so not until 22 August, he  
18 finally told me the amount.

19 So at 3 August, I only know the bigger amounts,  
20 about that much, but he never indicated until 22 August  
21 that he actually gave me the share certificates, and  
22 also gave me the certificates of Kai Chen. He said,  
23 "Anyway, I'm -- I went back to Hong Kong and Kai Chen  
24 just -- the building is just adjacent to the Deutsche  
25 Bank building, so please gave the documents to Kai Chen,

1 17:12 and these documents to you. I'm going to split the  
2 amount. The first amount smaller, so he said that,  
3 I hope you don't mind, I'll give you 26 million first  
4 and then the rest would go to Citibank".

5 So at the 22 August, afterward, after -- almost to  
6 September, we finally received the fund. So if you talk  
7 about the 19 November, it says what is the client's  
8 current net asset value, NAV. So if you forget about  
9 the notes, because the notes is just hint us to refer  
10 back to the KYC. If I already know he has 135 million,  
11 I can just put it, 135 million. That was the reason.

12 Q. This note is a standard note, is it?

13 A. Yes, this is a standard note.

14 Q. Okay.

15 A. To remind the RM if I -- if they don't know about the  
16 net asset value, they can always refer back to the KYC  
17 form.

18 Q. Now I understand. The next line:

19 "What Minimum amount of Collateral is the Client  
20 proposing to place with the Bank?"

21 Let me remind you, we already settled that Dr Chang  
22 did not ask for a margin trading account, so how do you  
23 get this information about the minimum amount of  
24 collateral the client is proposing to place with the  
25 bank?

1 17:13 A. Okay. This amount, he already deposited it in the bank.  
2 Whether he's going to use that as a collateral or not  
3 use that as collateral, is up to the client. If we send  
4 him the margin trading letters, that's -- if he wants to  
5 reject, he can reject that.

6 Q. The margin trading letter is sent after the bank's  
7 assessment. My point is this: here, under the  
8 "Financial Analysis" column --

9 A. Right.

10 Q. -- this is an entry that the client is supposed to  
11 propose. So we know the client did not even ask for  
12 a margin trading account, so do you accept that this  
13 amount of \$26 million USD is an input by you based on --

14 A. This amount, this amount, it's based on his account  
15 size. We just put it in there.

16 Q. Yes, I know you put it in, but it's certainly not  
17 proposed by Dr Chang. That's my point. Correct?

18 A. Correct.

19 Q. Go back on the left-hand side. You see:

20 "Is the client a discipline investor and willing to  
21 cut losses if the need arises?"

22 Do you see that?

23 A. Yes.

24 Q. Then there's a reference to:

25 "Yes, he cuts losses after 15% drop."

1 17:15 Do you see that?

2 A. Yes.

3 Q. Where did you get this input from?

4 A. That's what he told me.

5 Q. When did he tell you?

6 A. Various conversations. He said when he invested, he  
7 lost, at the time, yeah -- maybe 15 per cent, 20 per  
8 cent. This is --

9 Q. Can you give more details as to exactly when. You said  
10 15 per cent, 20 per cent. Look, is it 15 per cent or  
11 20 per cent? Let's get some clarity.

12 A. As I said --

13 Q. Can you answer the question: is it 15 per cent or 20 per  
14 cent?

15 A. I put down 15 per cent.

16 Q. Yes, but in your evidence, you just said:

17 "He said when he invested, he lost, at the time,  
18 yeah -- maybe 15 per cent, 20 per cent."

19 What is the answer?

20 A. Okay. Let me just put down, 15 per cent. May I --

21 Q. No, it's not what you put down, it's what he told you.

22 A. May I explain?

23 Q. Tell me what he told you.

24 A. The impression that I got about 15 per cent, he would  
25 cut -- that's the impression that I got.

1 17:16 Q. Now I understand it's an impression. The question is:  
2 how did you get this impression? Mind you, he did not  
3 even ask you for a margin trading facility.

4 A. Look, you don't need to necessarily have the margin  
5 trading facilities. Some people, they cannot live with  
6 the stock going down, they will set a stop-loss for  
7 themselves, they will cut loss.

8 Q. I understand that.

9 A. I think we cannot associate it with the -- not necessary  
10 margin trading --

11 Q. Fair enough.

12 A. Yeah.

13 Q. I say "margin" because this is a margin trading  
14 checklist. So the point is, you say there's an  
15 impression that was created on you.

16 A. Right.

17 Q. What's the basis of the impression?

18 A. The basis of impression, it's from different  
19 conversations.

20 Q. Okay. Can you tell me, give me some details about these  
21 conversations?

22 A. Okay. There might be a lot of different conversations.

23 Q. "There might be"? Were there or were there not  
24 conversations?

25 A. There were conversations, okay, but if you ask me

1 17:17 exactly when, how am I going to remember, because we  
2 talk to many different clients, not only one client.  
3 Today I'm not only serving Dr Chang. I have many  
4 clients. So today I talked to this person, I talked to  
5 that person, if you ask me --

6 COURT: So you put in any number if it comes to mind?

7 A. This is the number, I remember we had our  
8 conversations --

9 COURT: You just said "I can't remember because I speak to  
10 many clients".

11 A. That's when I talk --

12 COURT: I think the broadbrush of what counsel has been  
13 taking you through is really that these entries of yours  
14 are primarily the result of your conclusions and your  
15 impressions after --

16 A. Correct.

17 COURT: Right? That's all?

18 A. Correct.

19 COURT: They are not accurate.

20 A. Well, cannot be 100 per cent because --

21 COURT: No, not 100 per cent. They are not based on any  
22 tangible thing you ask the customer, you write it  
23 down --

24 A. No.

25 COURT: So you basically --



1 17:18 A. Yeah, because --

2 COURT: -- form an impression and then you fill in the forms  
3 as they require you to give information?

4 A. Correct, that's the best estimate at the time.

5 MR PILLAI: Thank you. Now look at section 4, "What we are  
6 to propose".

7 Do you see that? That's at AB 2650.

8 A. Right.

9 Q. There's a short note there. Let me read it to you.

10 "Before any proposal is made to the Client,  
11 discussions must be held with Credit and PMIS. As your  
12 guide the below questions should be answered."

13 Do you see that?

14 A. Yes.

15 Q. Mr Wan, what is PMIS?

16 A. They changed the name. It's the internal credit and --

17 Q. I think I have a definition. Just give me a second.

18 Let me just get it from my colleague.

19 Product Management and Investment Solution; would  
20 that be correct, PMIS?

21 A. Correct.

22 Q. So what does Project Management and Investment Solutions  
23 do?

24 A. This is the information that we put in, and then they  
25 will be circulated to different department.

1 17:20 Q. Yes. Before any proposal is made, there must be  
2 discussions -- I'm using the words here -- with PMIS and  
3 Credit; correct?

4 A. The reality is we fill out this, and then we'll  
5 circulate to -- it's a practice. You can -- you can say  
6 the word here and there, but --

7 Q. You're always answering a question which I never asked.

8 Let's go back to PMIS. What does PMIS do?

9 A. As I said, I'm the frontline people. These parts,  
10 I need to fill, and then we'll go to Credit. I don't  
11 work for Credit, I don't work for PMIS. So they have  
12 different functions.

13 COURT: So "discussions" doesn't mean discussions; you just  
14 send them a copy?

15 A. We send them a copy --

16 COURT: Of what?

17 A. Of this (indicating). When I fill out this, I give it  
18 to my assistants.

19 COURT: The entire form, checklist is sent to them?

20 A. Yeah, the entire form, so my assistant --

21 COURT: So the discussions in this form do not mean you have  
22 to discuss with them, it just means send them a copy?

23 A. Yes, this is as far as I understand.

24 COURT: No, no. This form is filled in by you --

25 A. Yes.

1 17:22 COURT: -- to get approval for margin --

2 A. From different people.

3 COURT: -- for derivative on Dr Chang.

4 A. Correct.

5 COURT: The form says: before you propose anything to  
6 a client, you must discuss with Credit and PMIS. So  
7 it's your evidence that on this occasion, with this  
8 client, you did not discuss with credit or PMIS.

9 A. My personally -- I personally did not.

10 COURT: You never do, and on this occasion you never did?

11 A. I know that sometimes Credit would come back and ask me  
12 questions. On this occasion, no.

13 COURT: Your understanding of "discussion" means you copy to  
14 them, if they talk to you, then you talk to them;  
15 otherwise you just proceed?

16 A. The way that I did it was I fill out everything because  
17 it goes to -- as I know, to the best of my knowledge, it  
18 goes to different departments. My assistant know  
19 exactly which department that should go to. So I fill  
20 out and I give --

21 COURT: What is meant by "discussions must be held"?

22 Why would the bank say "Before you make any  
23 proposal, go and talk to Credit and PMIS"? What's the  
24 normal reason for that?

25 A. These -- the -- these, I -- to the best of my knowledge,

1 17:23 my part is to fill --

2 COURT: Can you understand why the bank says, "Before you  
3 make a proposal to a client"? It didn't say "You may  
4 wish to talk", it said "must be held".

5 A. It's beyond my knowledge.

6 COURT: So "must" doesn't mean "must", "discussion" doesn't  
7 mean "discussion", as far as you are concerned?

8 A. This is what -- I just need to fill out this and then --  
9 yeah.

10 MR PILLAI: Can you please look at tab 19, which contains  
11 the PWM policy of your bank.

12 You may recall that you had given evidence that you  
13 are familiar with the contents of this document. Do you  
14 remember?

15 A. Yes.

16 Q. There is a reference at page 3578. Do you see  
17 a document? This is basically an appendix 3, I believe,  
18 to the policy?

19 A. Yes.

20 Q. Under what "What are we to propose?" there are three  
21 schemes that are suggested?

22 A. Yes.

23 Q. Standard fixed rate margining scheme, non-standard fixed  
24 rate fixed rate margining scheme, value at risk  
25 margining scheme. Do you see that?

1 17:25 A. Are you referring to under "What are we to propose"?

2 Q. Yes, which is the exact word-for-word header as the  
3 margin checklist that I was referring you to.

4 A. Yes.

5 Q. In fact, the next line also says -- there's a slight  
6 difference here:

7 "Before any proposal is made to the Client,  
8 discussions must held with Credit and Product" -- I  
9 believe it's "managers", but I stand corrected because  
10 the word is missing -- "As your guide the below  
11 questions should be answered."

12 There are three categories.

13 A. Right.

14 Q. Standard fixed rate margining scheme. There's an  
15 annex 2 that's referred to. Yes.

16 Then you have non-standard fixed rate margin scheme,  
17 and then finally the value at risk margining scheme.  
18 Would that help you in any way, Mr Wan, to answer the  
19 court's question on this?

20 Basically, it appears to me there is a need for  
21 discussion to know, basically, what should be the  
22 close-out ratio, what should be the safety margin --

23 A. This is, I think, more refer to the FX trading, because  
24 it has the tier 1, tier 2, tier 3.

25 Q. I see.

1 17:26 A. So it probably may not apply to the -- because if it's  
2 DSPP, there's no tier 1, tier 2, tier 3.

3 Q. That is in relation to one of the rectangles, but there  
4 is still the general rectangle, "Yes" or "No". Do you  
5 see that? So yes, in relation to tier 1, tier 2, tier  
6 3, it may be referring to annex --

7 A. Standard fixed rate margin scheme, non-standard ...  
8 rate ...

9 Q. Yes.

10 A. This, I believe before, you can set, but -- and then  
11 I think it's replaced by the Credit department, that  
12 they decided on which stock will have a different  
13 advance ratio, which products have different advance  
14 ratios, so before, maybe, we need to discuss this, but  
15 this we no longer do.

16 Q. Just on the face of it, Mr Wan --

17 A. Yes.

18 Q. -- discussion with Credit, obviously, would be focused  
19 on creditworthiness of the client. PMIS, which is  
20 Product Management and Investment Solutions, the  
21 discussion would be centred on the kind of products that  
22 the client or yourself is proposing to trade in using  
23 margin.

24 A. Yeah. I understand that. The thing is, as I said, we  
25 no longer require to do this. This is a 2006 version.

1 17:28 I joined the bank in January 2007, so this could be  
2 changed.

3 Q. You see --

4 A. Because I --

5 Q. Mr Wan, just for you to be careful, if you look at  
6 page 3559, the first page.

7 A. Page 3559.

8 Q. Yes, the first page. You have "Effective Date, 30 June  
9 2006". Do you see that?

10 A. Yeah, and the review date is --

11 Q. The next date is 30 June 2008 --

12 A. Right.

13 Q. -- so it's well within this period of time, we are  
14 talking about November 2007.

15 A. Yeah, you --

16 Q. So this is the applicable policy. Tell us, wouldn't it  
17 be natural that discussions would have been held with  
18 Credit on the issue of creditworthiness and Product  
19 Management and Investment Solutions with what kind of  
20 products you expect the client to trade in using this  
21 margin facility? That must be the kind of discussions  
22 that this policy contemplates.

23 A. No, there wasn't.

24 Q. No?

25 A. Because when we submit in --

1 17:29 Q. My question is on the policy. Whether or not there's  
2 a discussion is a separate matter, but the policy.  
3 Because you said this is your bank's policy.

4 A. I don't deny that this is the bank's policy.

5 Q. Yes, I'm just trying to understand the bank's policy of  
6 requiring discussions between Credit, yourself, and  
7 PMIS.

8 A. Then I submitted, they would discuss with me.

9 Q. Yes.

10 A. If they don't, then they don't. As I said it before.

11 Q. Let me just split the questions, Mr Wan, to be fair to  
12 you.

13 A. Okay.

14 Q. I'm not talking about the reality of what happened. I'm  
15 talking about the policy. The policy requires  
16 discussions with Credit and PMIS. Do you agree with  
17 that? The policy. The policy I referred you to at  
18 tab 19. We just went through it.

19 A. Yes.

20 Q. For Credit, obviously the focus would be on whether the  
21 bank would be exposed financially when you provide  
22 margin trading facilities. That would be the focus, to  
23 see whether it's good for the money; correct?

24 A. Yes.

25 Q. So Product Management Investment Solutions, the focus



1 17:30 would be on the kind of derivative products the clients  
2 should be recommended; correct?

3 A. You are asking me the questions, I'm not familiar with  
4 the answer.

5 Q. I see. All right. If you're not familiar, then I  
6 understand. But insofar as this specific case is  
7 concerned, you are confirming that there was no such  
8 discussion?

9 A. To the best of my recollection, I don't really remember  
10 there was a discussion.

11 Q. Look at the column says "Derivative products the client  
12 has keen interest to trade". We are back at tab 13.

13 A. Tab 13.

14 Q. Back to the margin trading checklist. Nothing is  
15 ticked; right?

16 A. Page 2651?

17 Q. Page 2650. Nothing is ticked.

18 A. It could be anything, because --

19 Q. If nothing is ticked, it could be anything?

20 A. Yeah, it could be anything.

21 Q. Is that your answer?

22 A. It's just --

23 Q. Hold on, please.

24 A. -- I did not fill in that part.

25 MR PILLAI: Sorry, your Honour, we are referring to tab 13.

1 17:32 COURT: I see it.

2 MR PILLAI: Isn't it your responsibility to tick one of the  
3 boxes or all of the boxes? How does the bank make  
4 a serious decision on margin trading when you give this  
5 document to your supervisors, and then they see  
6 "Derivative products client has keen interest to trade",  
7 nothing is ticked.

8 I'm just trying to understand the workings of the  
9 bank, Mr Wan. Please help us.

10 A. I did not put it in.

11 Q. I know you didn't put it in.

12 A. Right.

13 Q. Now the question is what do we infer from the boxes not  
14 ticked? Is it that according to you, you just  
15 suggested, if the boxes are not ticked, that means the  
16 clients are interested in any one of those products, or  
17 all? Is that what you are trying to suggest here?

18 A. No.

19 Q. That cannot be; right?

20 A. No, I did not suggest anything. It just -- it just did  
21 not tick -- it did not check in, so I just did not --

22 Q. How are you conveying, because you say there was no  
23 face-to-face discussion with Credit and PMIS. You just  
24 fill it up and you send it upwards. What is the basis  
25 upon which this proposal is being considered? That's

1 17:33 what I want to understand.

2 A. I did not check in this part, then it means --

3 Q. What does it mean?

4 A. I just did not check that. I mean, if you -- you ask  
5 me, three years ago how come I even checked this mark --

6 Q. That's not my question.

7 A. But you are referring to this is -- you're asking me  
8 why, why didn't I check this mark.

9 Q. Okay.

10 A. You asked me why.

11 Q. That was not my question. Let me go back to my  
12 question.

13 A. Again, I --

14 Q. My question is: how did the bank consider this proposal  
15 when the information on derivative products the client  
16 has keen interest to trade in is not provided? That's  
17 my question.

18 A. I don't -- I don't really remember.

19 Q. You don't know. Okay.

20 A. I don't remember, because you're asking me, three years  
21 ago, how come a small box is not checked.

22 Q. You see --

23 A. You ask me, "Give me the reason". You see how  
24 difficult -- I mean, as I said, I'm not a lawyer,  
25 I don't train that way. I am not a -- you ask me why,

1 17:35 I don't know why. Just -- I did not check that.

2 Q. I understand. Mr Wan, you were able to even tell his  
3 Honour, "On 3 August, even when I ticked the box, that's  
4 not what I wanted to convey". Do you remember the  
5 3 August call report?

6 A. Yes.

7 Q. That's why there's a basis for me to ask you, when you  
8 did not tick the box, how is the bank going to consider  
9 this proposal, even though the bank doesn't know what  
10 kind of products the client has interest in trade?

11 A. Your Honour, the questions that I answer could be this  
12 way. Maybe I just forgot to check this box, but they  
13 can always call me back, say --

14 COURT: But they didn't.

15 A. To the best of my knowledge. I -- i forgot.

16 COURT: No. You said just now, "No discussions. They  
17 didn't call me back".

18 MR PILLAI: Yes.

19 COURT: There are three other forms here. Presumably each  
20 time when the margin account facility was increased.  
21 Right?

22 A. Right.

23 COURT: The first time around you say there was nothing.  
24 The second time around, you do tick the box. The third  
25 time around you do tick the box, one month later.

1 17:36 A. Right.

2 COURT: Do you follow?

3 A. That's exactly I know what I was referring to. But  
4 here, there are boxes that --

5 COURT: But it's a very simple box. What product is the guy  
6 going to deal with? He said he called you for DSPPs,  
7 you put it in your first paragraph, DSPPs, and yet you  
8 omit. There are only four boxes to tick.

9 A. I just didn't tick that --

10 COURT: So either it doesn't matter, because you are only  
11 going to give him a \$10 million facility, given that he  
12 has \$135 million assets. Nobody cares.

13 Then when you increase it, you take the precaution  
14 of -- putting it up to 25, 35 million, then you say,  
15 "Okay, I'll tell you now what the product is". The  
16 question arises, in the other two occasions, were there  
17 discussions or did nobody come back to you?

18 Just flip the page to tab 14 and tab 15. Within one  
19 month of each, there is another form that is filled in,  
20 presumably because the line is being increased; right?

21 The same information, but this time, you do tick the  
22 box.

23 So it's not a random event.

24 A. Your Honour, I just did not tick the box.

25 MR PILLAI: Is it more likely, Mr Wan, that Dr Chang didn't

1 17:37 tell you that he had a keen interest to trade in any one  
2 of the four derivative products?

3 A. That's not true.

4 Q. That's the reason why you did not tick it?

5 A. That's not true, because you got to -- I got an order  
6 that I need to -- one of the primary job of  
7 a relationship manager is to accept a customer's direct  
8 order, if it's an unsolicited trade. It's part of my  
9 duties.

10 Q. We understand your position. Our client's instructions  
11 are, of course, different.

12 A. So it's very important that it's part of the -- my job.  
13 But if you ask me why this box did not check, I couldn't  
14 remember. But the call reports itself already said  
15 that. Because these internal documents, as I said, it's  
16 just -- I don't know how, but it's just the way.  
17 I mean, we do -- it's just like this. I show it to you.  
18 If you ask me why I didn't tick, I just --

19 Q. You were about to say something. This internal  
20 document, what does it mean?

21 A. This is just an internal document.

22 Q. What's the significance of this internal document?

23 A. This is -- okay. Of course it's significant because --  
24 okay. But if I forgot to check one box, if someone see  
25 it, okay, "How come you don't check the box, you let me

1 17:39 know what product", then they could call me back, let me  
2 know. I could just miss of this.

3 Q. Look at the fourth page. You had three signatures  
4 there: yourself on 19 November, Ms Bonita Chuang on  
5 19 November, and Mr James Chung on 20 November.

6 A. Yes.

7 Q. None of them raised to you about the incompleteness of  
8 this form, did they? Do you understand my question?

9 A. None of them raised to you about ... ? You mean the  
10 box?

11 Q. Yes.

12 A. To the best of my recollections --

13 Q. Did they ask you why the information in this checklist  
14 was different from the information in the KYC at tab 10,  
15 particularly on the experience? Did they ask you all of  
16 this? To the best of your recollection, "yes" or "no"?

17 A. Let me ask -- let me explain to you, because --

18 Q. Don't explain. Give me the answer first. To the best  
19 of your recollection, did they ask you: how come this  
20 information of experience in derivative tradings, 15  
21 years; 20 years of experience in blue chip stock, how  
22 come it's different from the KYC in August 2007, just  
23 a few months earlier? Did they ask you?

24 A. The answer is I forgot. And then let me explain.

25 Q. You forgot, meaning what? You don't recollect?

1 17:41 A. I don't recollect whether they have called me or not.

2 Q. I see.

3 A. I don't recollect. But let me explain the reason.

4 Okay. Because the KYC that was done at that particular  
5 period of time, we, like, take a picture, we took  
6 a picture at the time. So these is another new stuff,  
7 we take a picture at the time. When it's going to be  
8 revealed every year, we collect those data and move into  
9 the new KYC, update it. So I subsequently, I update  
10 those information.

11 Q. You see, Mr Wan, when you say you take pictures,  
12 presumably you are taking a picture of Dr Chang, and  
13 Dr Chang himself doesn't change. The point is  
14 this: this document says he has 15 years experience in  
15 derivatives -- I'm just taking that as an example -- and  
16 the earlier document says he has low experience in  
17 derivatives. No one from your bank picked up this.

18 A. I mean --

19 Q. "Yes" or "no"?

20 A. Today, a client could tell you, "I have \$1 million, I'm  
21 going to deposit to your bank." I write down a KYC --

22 Q. There could be a perfectly sensible explanation for  
23 this. I'm not denying that. My point is this: you deal  
24 with forms, there's no discussion. Mr Wan, because we  
25 are running out of time, I just want to come to



1 17:42 a conclusion on this.

2 My point is this: you are dealing with forms,  
3 there's no discussion, and nobody surfaced this question  
4 to you; "yes" or "no"?

5 A. I don't recall.

6 MR PILLAI: Your Honour, I wonder whether this is a good  
7 time.

8 A. Your Honour, may I just explain? A couple of minutes.  
9 Sorry. Is we could have a client saying that, "I'm  
10 going to deposit \$1 million", and we can update it in  
11 the KYC form, that he said that he has \$1 million to  
12 open an account with us, and subsequently he can come in  
13 with \$10 million, \$20 million. There are many reasons  
14 behind it, maybe he inherited asset at the time or he  
15 won a lottery -- there are many, many different reasons.

16 The KYC, we need to update it every year, so that  
17 would be the reason that, okay, the old, and then we  
18 update the new, and then there will be new and then  
19 we --

20 COURT: No. Counsel is not talking about updating, he is  
21 talking about the original entries. It's not that  
22 conditions change afterwards. Your snapshot, as you  
23 call it, looks more like a painting as opposed to  
24 a photograph.

25 A. Your Honour, when we do the assessment at the first

1 17:44 time, okay, this is the feeling I got. I don't know  
2 about the rest of the people, but this is what I did.

3 COURT: Okay.

4 A. Okay. If a client called me, he said he wants to do  
5 DSPP -- I know, okay, I have to think about different  
6 things. Has he done this before, whether he had  
7 experience, why he all of a sudden wants to do this, all  
8 take into consideration. So we ask some questions, and  
9 then we fill out the form, and then I write a call  
10 report, I report it to my supervisor.

11 That's the work that I did. So you can challenge  
12 me, you say: how come you don't this, you don't do  
13 that, you don't fill out the box, you don't have a hole,  
14 there was a hole there. But that's more than just fill  
15 out a hole.

16 I hope that will -- understood the real life  
17 situation, because we are not only dealing with one  
18 client. I can have 50 orders per day, I can have 60  
19 orders per day. I can think of, "Yeah, this client,  
20 I need to write a call report, that client I --" but  
21 somehow, when things click, I think, to be an  
22 experienced relationship manager in a field, those are  
23 the things that I -- okay, I immediately talk to my  
24 supervisor, call report, and it's a client's direct  
25 order, we ask him questions, and then this is the answer

1 17:45 that we got, this is the impression that we have, we  
2 give it to the bank, let the bank to decide. So that  
3 would be -- this part, it's just not there.

4 MR PILLAI: Your Honour, I wonder if this is an appropriate  
5 time. Grateful.

6 (5.44 pm)

7 (The hearing adjourned to Monday, 15 November 2010  
8 at 10.00 am)

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I N D E X

P A G E

MR WAN FAN TING JOHNNY (on prior .....1  
oath)  
  
Cross-examination by MR PILLAI (continued) .....1