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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

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In Re the Matter of)	
)	
TRUST A UNDER THE JAMES F. HO)	No. 17 PRO 00973
AND GRACE C. HO DECLARATION)	
OF TRUST DATED SEPTEMBER 11, 1992,)	
as amended,)	
)	
)	
PETER C. HO, TRUSTEE OF TRUST A OF)	
THE JAMES F. HO AND GRACE C. HO)	
DECLARATION OF TRUST DATED)	
SEPTEMBER 11, 1992,)	
)	
Petitioner,)	
vs.)	
)	
DEBBY CHANG and DOES 1 through 20,)	
inclusive,)	
)	
Respondents.)	
_____)	

**CERTIFIED
TRANSCRIPT**

REPORTER'S TRANSCRIPT OF PROCEEDINGS
TRIAL - DAY 1

Date: September 18, 2023
Time: 10:05 a.m.
Location: JAMS
160 West Santa Clara Street
Suite 1600
San Jose, CA 95113
Reported by: Nina Pavone
CSR No. 7802

A P P E A R A N C E S:

Private Judge:

JAMS
BY: CATHERINE GALLAGHER
160 West Santa Clara Street
Suite 1600
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The Interpreter:

Helen Hall (via Zoom)

Also present:

Kysen Kuo
Peter Ho
Erik Weiss

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P R O C E E D I N G S

THE COURT: Good morning, ladies and gentlemen. Welcome to JAMS office and welcome to the case of Ho versus Chang.

Counsel, you want to make your appearances for the record, please.

MR. BIORN: Good morning, Your Honor. Kristofer Biorn for Peter Ho, the trustee.

MR. BAER: Dave Baer appearing on behalf of respondent, Debby Chang.

MR. BIORN: And Your Honor, Mr. Ho is present as well, as well as my colleague Scott Fraser.

MR. FRASER: Good morning, Your Honor.

MR. BIORN: And my client's two sisters, Della Lau and Shan-Yuan Ho are also present.

MR. BAER: Yes. And I'm accompanied by Kysen Kuo and paralegal in our office and Debby Chang is present to be examined this morning.

THE COURT: Very good.

Madam Interpreter, could you state your first and last name and spell it?

THE INTERPRETER: Helen Hall, H-E-L-E-N, H-A-L-L.

THE COURT: Very good. I'm going to swear

1 you in. Could you raise your right hand, please.

2 HELEN HALL,

3 was first duly sworn by the Court to translate from
4 English to Mandarin and Mandarin to English.

5 THE INTERPRETER: I do.

6 THE COURT: Thank you very much. We've had
7 off-the-record discussions about how to arrange
8 things. It's my understanding, Mr. Baer, that your
9 client is going to waive her right to have
10 interpretation of the entire proceedings, but
11 definitely we will have an interpreter for her
12 testimony. I would like her to hear and understand
13 everything, but you tell me what you want to do.

14 MR. BAER: No, we're going to waive the right
15 to do that because it will slow the trial greatly and
16 it will make it much more expensive if we do that.
17 And so, you know, obviously, I can communicate with
18 my client to the extent necessary when questions come
19 up.

20 THE COURT: Very good. I believe that she
21 should have an interpreter, but if that's your
22 desire, could you voir dire your client to make sure
23 she's doing it freely and voluntarily or would you
24 like me to do it?

25 MR. BAER: I can do it.

1 THE COURT: Thank you. State your first and
2 last name, please.

3 MS. CHANG: Debby Chang.

4 VOIR DIRE EXAMINATION

5 BY MR. BAER:

6 Q. Ms. Chang, when you testify this morning,
7 you're going to have an interpreter.

8 Do you understand that?

9 A. Yes.

10 Q. But for the rest of the trial, there's not
11 going to be an interpreter?

12 MR. BIORN: You're going to have to have this
13 interpreted, so there's no claim --

14 MR. BAER: Oh, I'm sorry. I'm just not used
15 to doing this.

16 MR. BIORN: I know.

17 MR. BAER: Let's do this in Chinese.

18 BY MR. BAER:

19 Q. Do you understand this morning that you're
20 going to have an interpreter, Ms. Chang, to interpret
21 the questions you are asked and to interpret the
22 answers you are giving?

23 A. I understand.

24 Q. And during the rest of the trial, so far
25 there are two other witnesses that need an

1 interpreter to testify.

2 Do you understand that?

3 A. I understand.

4 Q. But for the rest of the trial, my
5 recommendation is that we not have an interpreter and
6 that if you need to know anything, I will explain it
7 to you.

8 Do you understand that?

9 THE INTERPRETER: The interpreter did not
10 hear the response.

11 MR. BAER: Can you turn up the mic?

12 THE INTERPRETER: Interpreter could not
13 understand her. Interpreter will ask for
14 clarification.

15 (The interpreter asked for clarification in
16 Mandarin.)

17 MR. BAER: There's feedback. Turn it off.

18 THE INTERPRETER: The witness has asked the
19 interpreter to repeat.

20 MR. BAER: Okay. So that means I need to
21 repeat, yes, or do you --

22 THE INTERPRETER: Yes, if you could repeat.
23 BY MR. BAER:

24 Q. I'm not asking you if you agree yet. I'm
25 just telling you my recommendation is that we not

1 have an interpreter for the trial except for you and
2 the other witnesses that need one.

3 Do you understand that that is my
4 recommendation?

5 So the reason I make the recommendation,
6 Ms. Chang, is that if everything is interpreted,
7 while you would be able to understand better, it's
8 going to make the trial very slow, maybe almost twice
9 as long and that would be very expensive.

10 So I don't really think that the cost makes
11 sense.

12 Do you understand my reason?

13 A. I understand.

14 Q. Okay. So do you agree to follow my
15 recommendation and only have an interpreter for the
16 witnesses like yourself who need one, but the rest of
17 the trial, we will not have an interpreter?

18 Do you agree to that?

19 THE INTERPRETER: Interpreter needs a repeat
20 from the witness.

21 (The interpreter asked for clarification in
22 Mandarin.)

23 THE WITNESS: I agree.

24 MR. BAER: Okay.

25 BY MR. BAER:

1 Q. Thank you, Ms. Chang.

2 THE COURT: Great. Mr. Biorn, is there any
3 area you would like Mr. Baer to ask about?

4 MR. BIORN: I was just thinking, David --

5 THE COURT: Hold on, she has to interpret.

6 MR. BIORN: I think we can do this as part of
7 the initial ground rules and then we can circle back
8 on her testimony if we need to have it translated, so
9 why don't we have wait for that.

10 THE COURT: Ms. Chang, how long have you been
11 in the United States?

12 MR. BAER: Wait, wait, wait for the
13 interpreter.

14 THE COURT: I just want to make sure that if
15 she's not hearing our preliminary remarks, she will
16 not be prejudiced.

17 Could you repeat that, please?

18 THE INTERPRETER: Your Honor, interpreter
19 could not understand.

20 THE COURT: Sure. I want to make sure if
21 she's not going to hear our preliminary motions and
22 operational ways we're going to operate, that she's
23 not going to be prejudiced.

24 THE INTERPRETER: She's not going to be
25 prejudiced, is that what you said?

1 THE COURT: Yes.

2 THE INTERPRETER: Interpreter will ask her to
3 repeat her response.

4 (Witness responds in Mandarin.)

5 THE INTERPRETER: Interpreter needs a repeat
6 from the witness.

7 MS. CHANG: I agreed with the judge, but my
8 attorney wanted me to try to save. So I want to know
9 if we could give it a try.

10 THE COURT: Save money, is that what she's
11 talking about?

12 MS. CHANG: Yes.

13 MR. BIORN: Your Honor, Mr. Baer can confirm
14 this that she worked in the federal government for 20
15 years supervising people and totally spoke English at
16 work.

17 MR. BAER: I think that's true. She
18 testified to that.

19 THE COURT: Oh, she testified to that?

20 MR. BIORN: She did.

21 THE COURT: Thank you. Okay.

22 THE WITNESS (In English): Can I say a little
23 thing?

24 THE COURT: Let the record reflect that the
25 witness is discussing -- asking me if she can say

1 something and it's in English.

2 So yes, you can.

3 THE WITNESS (In English): Can I speak in
4 Chinese?

5 THE COURT: Sure.

6 THE INTERPRETER: Your Honor, the interpreter
7 probably heard 60 percent of what she said.
8 Interpreter doesn't feel comfortable. Can you pull
9 the computer closer?

10 MR. BAER: She's not talking into the
11 computer. She's talking into this mic. If you can
12 speak a little louder, that would be helpful. This
13 is what -- the microphone is right here.

14 And also, Ms. Chang, can you try to not --
15 try to break up what you're saying because it's hard
16 for the interpreter if you go on for a while.

17 THE WITNESS (In English): Okay.

18 THE INTERPRETER: Interpreter will ask for
19 clarification.

20 (The interpreter asked for clarification in
21 Mandarin.)

22 THE WITNESS: I understand what Mr. Biorn
23 said about my work, but my work for eight hours, it's
24 mostly with the computer.

25 THE INTERPRETER: This is the interpreter

1 speaking. There's an echo.

2 MR. FRASER: I think it's the sounds on the
3 laptop.

4 MR. BAER: No, this is muted.

5 THE COURT: One moment, Madam Interpreter. I
6 just muted --

7 THE INTERPRETER: Now, I hear nothing. It's
8 silent.

9 MR. BIORN: You have to turn your volume off,
10 not the microphone. You have to turn the speaker
11 off.

12 At this point, we don't even need the laptop,
13 unless it helps the interpreter see her talking.

14 THE INTERPRETER: Can you say something more?

15 MR. BIORN: Testing, one, two? We don't hear
16 the feedback anymore.

17 THE INTERPRETER: All right.

18 MR. BAER: Thanks.

19 THE WITNESS: Shall I continue?

20 THE COURT: Yes, please.

21 THE INTERPRETER: Interpreter is still not
22 picking up about 25 percent of what she's saying.

23 MR. BAER: Can you speak louder?

24 THE INTERPRETER: Or pull it closer to her.

25 MR. BAER: This is the mic, right?

1 MR. BIORN: It's about 18 inches away.

2 THE WITNESS (In English): Can't we do this.

3 MR. BAER: That doesn't help. There's no mic
4 on this. That's the mic.

5 THE COURT: Okay, we can try by phone if you
6 want, if we want to do a speaker phone between the
7 two of you.

8 THE INTERPRETER: Let's try right now since
9 that was pulled closer to her, let's give it another
10 try.

11 (The interpreter asked for clarification in
12 Mandarin.)

13 THE WITNESS: Even though I worked for 20
14 years for eight hours a day with the computer, but
15 most of my work was with the computer so I have
16 limited use of the language.

17 THE COURT: Okay. But you want to give up
18 your right to an interpreter -- not right, but
19 ability to have an interpreter and it might be a
20 right, I haven't done the research, for purposes of
21 everything, but your testimony and the testimony of
22 anybody else who needs an interpreter.

23 THE WITNESS: Is this what my attorney said
24 earlier?

25 MR. BAER: Yes.

1 THE COURT: Yes.

2 THE WITNESS: Yes, we'll go ahead and do that
3 but if I encounter any problems later, can I change
4 that?

5 THE COURT: Yes.

6 MS. CHANG: Okay. Thank you.

7 THE COURT: Okay. Before we go into some
8 preliminary matters, I want to ask Ms. Chang and
9 Mr. Ho some questions.

10 Could you interpret that?

11 (Translated.)

12 MS. CHANG: Okay.

13 THE COURT: I read the opening briefs. There
14 is an issue of potential criminal activity from both
15 of you. There is an issue about criminal activity in
16 filing a federal -- well, strike that.

17 There is an issue, Ms. Chang, about criminal
18 activity in submission of loan documents that if
19 they're false, it's a violation of federal law.

20 Could you repeat that?

21 (Translated.)

22 THE COURT: Mr. Ho, there's a question --

23 MR. BIORN: She hasn't translated it, the
24 part about did she understand.

25 THE COURT: You're right. She didn't get it.

1 Do you understand that?

2 MS. CHANG: I understand.

3 THE COURT: Mr. Ho, it is alleged that you
4 arranged for a very favorable property tax
5 arrangement when you bought your property in Milpitas
6 and it is alleged that it is fraudulent because you
7 said your dad was living in the home.

8 Do you understand that?

9 MR. PETER HO: I do.

10 THE COURT: I want both of you to
11 understand -- could you translate that to her,
12 please?

13 (Translated.)

14 MS. CHANG: I understand.

15 THE COURT: Both of you have a Fifth
16 Amendment privilege not to testify under these
17 circumstances, even though it was a long time ago.

18 Do you understand that, Ms. Chang?

19 (Translated.)

20 MS. CHANG: I'm not really sure.

21 THE COURT: Mr. Ho, do you understand?

22 MR. PETER HO: I understand, Your Honor.

23 THE COURT: Could you translate that.

24 (Translated.)

25 MR. BIORN: What was her response?

1 THE INTERPRETER: Interpreter will ask her to
2 repeat.

3 (The interpreter asked for clarification in
4 Mandarin.)

5 MS. CHANG: I understand.

6 THE COURT: Okay. Do you give up your Fifth
7 Amendment right not to testify, Ms. Chang?

8 (Translated.)

9 MS. CHANG: I think I need to consult with my
10 attorney on this.

11 THE COURT: Very good. We'll give you time.
12 Mr. Ho, do you want to talk to your attorney?

13 MR. PETER HO: We've already discussed it.

14 THE COURT: Could you translate that, please.
15 (Translated.)

16 THE INTERPRETER: Interpreter did not hear
17 Mr. Ho. Can Mr. Ho repeat?

18 MR. PETER HO: Yes. My attorney and I have
19 already discussed it.

20 THE COURT: Okay. And do you want to
21 testify?

22 MR. PETER HO: Yes, Your Honor.

23 THE COURT: Okay. I'm going to give
24 Ms. Chang a chance to talk to her attorney and we'll
25 revisit this.

1 There's a couple of matters I want to clean
2 up first, though. You don't have to interpret them,
3 but I don't think you should go anywhere.

4 Okay. I received a request from Mr. Baer
5 that when a witness testifies, that witness is going
6 to be -- through Zoom, that witness is going to be by
7 themselves without assistance, unless they're asking
8 for an attorney, I presume.

9 MR. BAER: An attorney or a translator, but
10 yes, I assume that's the JAMS rule or the rules in
11 court that you can't have someone with you while
12 you're testifying.

13 MR. BIORN: I agree.

14 THE COURT: Okay. And if you could caution
15 your witnesses. So often on Zoom, somebody's walking
16 in the background. Tell them it has to be in a
17 secure location.

18 If a witness is excused after their
19 testimony, I would permit that witness to remain in
20 the courtroom. If they're not excused and are
21 subject to recall, they will not be in the courtroom.

22 So you tell me what you want to do.

23 MR. BAER: No, I agree with that, at least
24 for witness testimony, I've been setting things so
25 far because, you know, we're just talking ground

1 rules, but once there's examination, then I think
2 that's the typical rule.

3 MR. BIORN: I agree. I think that for third
4 party witnesses who are not interested parties in the
5 litigation, I agree to that.

6 MR. BAER: I don't know what you mean by
7 interested parties.

8 MR. BIORN: Anyone --

9 MR. BAER: Anyone other than the parties
10 should not be present.

11 MR. BIORN: Well, I think that if people are
12 entitled to notice of the proceedings, the hearing,
13 are entitled to be in the courtroom.

14 MR. BAER: No, I don't agree with that. I
15 don't think that people, just because they have an
16 interest in the matter -- I mean, any generation can
17 have an interest in the matter.

18 THE COURT: Great. Counsel, I'd like you to
19 address your comments to the Court and not to each
20 other.

21 MR. BAER: I'm sorry.

22 THE COURT: Here's the way it's going to go.
23 Somebody finishes testimony, I will hopefully
24 remember to ask you is this witness subject to
25 recall. That witness will not be permitted to stay

1 in the courtroom.

2 If there's an issue about the witness staying
3 in the courtroom, just let me know and we can figure
4 it out at the time, but if they're subject
5 potentially to recall, they're not staying in the
6 courtroom.

7 MR. BIORN: Why don't Mr. Baer -- yes, okay.
8 With respect to interested persons, why don't
9 Mr. Baer and I confer at the break and then we'll
10 come back.

11 If that applies both sides, I would see the
12 only party on your side being Ms. Chang; is that
13 correct?

14 MR. BAER: Well, I don't know. Interested
15 persons in the probate code can get into multiple
16 generations. It's kind of a liquid issue --

17 THE COURT: Time out. I like the idea of you
18 two speaking about it and then we can put it back on
19 the record.

20 Is Geoffrey Garcia going to testify?

21 MR. BIORN: Yes, in person with counsel, on
22 Thursday morning at 9:00 a.m.

23 MR. FRASER: If I may, too, with the Zoom
24 issue, some of these people might need some help
25 accessing things or getting it all set up. I assume

1 that that's permissible and not a big deal?

2 THE COURT: Absolutely, setup is fine.

3 Hanging with the witness and passing notes is not.

4 MR. FRASER: No, no, I understand. But also
5 setting it up, but then what happens when the witness
6 needs to look at exhibits on the screen?

7 THE COURT: We'll have to use Zoom.

8 MR. FRASER: I'm saying they might need
9 someone to help them pull it up, and then I
10 understand that the helper will leave the room after
11 that.

12 THE COURT: Okay. Well, we'll discuss that.
13 I mean, if it's a third party accountant, assistant,
14 younger person who's familiar with Zoom, that's going
15 to be fine.

16 MR. FRASER: Okay.

17 THE COURT: But if it's a relative of
18 somebody, probably not. But I'm not prejudging
19 anything in this case.

20 MR. FRASER: Understand.

21 THE COURT: You said 9:00 o'clock. We
22 usually start at 10:00.

23 MR. BIORN: Correct, that's what I meant,
24 10:00 o'clock.

25 THE COURT: Thank you. There's a disclosure

1 that was sent out by the case manager in this case,
2 Lisa Midel today. I think it's already been covered
3 on disclosures, but I'm going to put it on the
4 record.

5 I have an ongoing mediation with Mr. Baer's
6 office and it has been maybe a year or two with
7 Mr. Zabronsky. I had a mediation with Mr. Biorn
8 personally. I think that mediation ended last week
9 but, you know, mediations sometimes go on forever.
10 So I just want both sides to know that. If you have
11 any questions about that, I will be glad to answer
12 them.

13 MR. BIORN: None, Your Honor. I'm fine with
14 that.

15 MR. BAER: Same here, Your Honor. Thank you.

16 THE COURT: Okay. And you've all signed a
17 statement that I previously mediated this case and
18 you've waived having me as the individual who's going
19 to be trying the facts, but I want you to understand
20 that I do have some information about this, although,
21 quite frankly, I believe everything was covered in
22 the opening statements by counsel. They were
23 excellent and they refreshed my recollection about a
24 lot of things, but I just want everybody to
25 understand that I did two or three mediations in this

1 case and tried to settle it.

2 So are there any motions in limine that need
3 to be heard?

4 MR. BIORN: With respect to the mediations,
5 Your Honor, I'm fine with that. I think we all
6 understand your ruling will be solely based on the
7 evidence admitted at trial.

8 MR. BAER: I don't think that's exactly what
9 the waiver said, but I certainly don't revoke the
10 waiver. Whatever was in writing I continue to agree
11 to.

12 MR. BIORN: Okay.

13 THE COURT: Any motions in limine?

14 MR. BAER: None other than, you know, just
15 the general rule that witnesses need to have been
16 disclosed to be called and that exhibits need to be
17 produced to be used in the case.

18 MR. BIORN: Well, I'm not sure. Exhibits
19 need to have been produced if there was a request to
20 which they would have been responsive. Likewise,
21 witnesses would need to have been identified as long
22 as they knew them at the time of the responses and
23 they would have been responsive to the requests.

24 MR. BAER: I agree with what he just said. I
25 was giving a shorthand, but yes.

1 MR. BIORN: Okay.

2 MR. BAER: If there's no question that would
3 elicit the information, whether it be the production
4 of a document or testimonial information, then that's
5 different.

6 THE COURT: Okay. And just for my
7 information, do you know when I will receive the
8 depositions?

9 MR. BIORN: Of the experts, Your Honor?

10 THE COURT: Yes.

11 MR. BIORN: That will be after the trial.
12 Certainly, we have two experts on each side still
13 remaining to be deposed.

14 THE COURT: Oh.

15 MR. BIORN: Yes.

16 THE COURT: Who are they?

17 MR. BIORN: They are the financial experts
18 and the medical experts. The reports of each of
19 those four experts have already been produced to the
20 other side. So rather than direct examination by
21 deposition, we've had reports prepared. The
22 cross-examination by deposition will follow after the
23 trial.

24 THE COURT: Okay. It's fine.

25 MR. BAER: Yes.

1 THE COURT: And I know, Counsel, that you're
2 trying to keep costs down. If at the end of the
3 trial, after all the depositions and evidence are received,
4 if you want to do a proposed statement of decision,
5 that might speed up things as well as certainly save
6 me some time. But we can talk about that much later.
7 Doesn't have to be decided now.

8 MR. BIORN: Okay.

9 THE COURT: Anything else preliminarily?

10 MR. BAER: We have the sealed deposition
11 transcripts, if you want those. We're not up to any
12 deposition testimony, but we did bring those.

13 I think that, at least my expectation was
14 that the reports would be submitted before the trial
15 was over, but not the testimony concerning them. But
16 if Mr. Biorn's expectations are different, then we
17 can talk about them.

18 MR. BIORN: My expectations are the same as
19 yours, that the reports can be submitted. The
20 cross-examination will follow and the marking of
21 those depositions for the cross-examination and
22 rebuttal will be submitted to you after the trial,
23 yes.

24 I did have one other item and, David, maybe
25 you can think about this while you're conferring with

1 your client, but there are areas where I will be
2 reading Ms. Chang's deposition during her testimony
3 and reading from a declaration and reading from
4 interrogatory responses.

5 To the extent I'm not asking her a question
6 and I'm just reading her prior testimony into the
7 record, maybe you can consider whether translation
8 could be waived because some of the areas are quite
9 long or can be long.

10 MR. BAER: Okay. Let's -- I guess I'd kind
11 of reserve my right on that. Might depend what the
12 testimony is.

13 MR. BIORN: Fair enough.

14 MR. BAER: I'll certainly consider it.

15 THE COURT: Okay. Let's take a ten-minute
16 recess unless there's something else.

17 MR. BAER: So I hate to say this, but
18 basically I need relatively frequent breaks.

19 THE COURT: You can have them.

20 MR. BAER: I'm getting close to almost 70
21 here. So I'm sorry about that. I can make them
22 really quick when we're in the middle of things.

23 I just wondered, though, what's kind of the
24 daily schedule. Are we going to -- we can do that --

25 THE COURT: We'll start at 10:00. So much

1 depends on if we -- if the reporter needs time. I
2 want a good record. I've already instructed her if
3 you're talking over each other, that she's to
4 interrupt and if she needs a break and she indicates
5 that, we will take a break. Otherwise, we'll take
6 one break in the morning and one break in the
7 afternoon.

8 The hours will be 10:00 to 6:00. Again,
9 depending on how things go, we'll have a 45-minute to
10 an hour lunch. If you -- we can adjust that. If you
11 need more time or if you'll be available faster, but
12 I think most reporters need at least 45 minutes for
13 lunch. Lunch will be served in the cafeteria. The
14 rooms that you have will be your rooms for the length
15 of the trial and you can store anything you want in
16 those.

17 MR. BAER: Okay. Thank you, Your Honor.

18 MR. BIORN: Thank you, Your Honor.

19 THE COURT: And obviously, this is an open
20 proceeding, so Mr. Weiss is here and tomorrow JAMS'
21 neutral Barbara Spector will be here she says.

22 THE INTERPRETER: Interpreters only work
23 until 1:00 o'clock. If you need from 1:00 to 6:00,
24 do you want the interpreter to tell the agency to get
25 someone else?

1 THE COURT: That will be discussed. We're
2 off the record.

3 (Whereupon, a break was taken.)

4 THE COURT: Let's go back on the record.
5 While you were off the record, it seems you were
6 talking about a motion to exclude all witnesses; is
7 that right, Mr. Baer?

8 MR. BAER: Yes.

9 THE COURT: There is no opposition?

10 MR. BIORN: No opposition.

11 THE COURT: Very good. All witnesses are
12 excluded. Thank you very much. I'm ordering you not
13 to discuss the case with anyone else or among
14 yourselves. Obviously, the exception is you can talk
15 to the attorney about the case or attorneys.

16 Could you raise your right hand, please?

17 MR. BIORN: We never got an answer on the
18 waiver of the Fifth Amendment of self-incrimination.

19 MR. BAER: Can I voir dire or do you want to
20 do it?

21 THE COURT: You.

22 MR. BAER: Okay.

23 THE COURT: Ms. Chang, could you raise your
24 right hand, please.

25 DEBBY CHANG,

1 being first duly sworn through the interpreter, was
2 thereupon examined and testified as hereinafter set
3 forth.

4 THE COURT: Your first and last name.

5 THE WITNESS: Debby Chang.

6 THE COURT: Mr. Baer.

7 VOIR DIRE EXAMINATION

8 BY MR. BAER:

9 Q. Do you understand that you have a right under
10 United States law, specifically the Fifth Amendment,
11 not to answer questions when your answer could be
12 used against you in a criminal suit, criminal action
13 against you?

14 A. I understand.

15 Q. Do you agree to waive that right not to
16 answer questions?

17 THE INTERPRETER: Interpreter needs a repeat
18 from the witness.

19 (The interpreter asked for clarification in
20 Mandarin.)

21 THE WITNESS: I don't want to waive that
22 right.

23 MR. BAER: We'll get to it when the questions
24 come.

25 THE COURT: Well, then I anticipate a motion

1 to strike all her testimony.

2 MR. BIORN: I will.

3 MR. BAER: Okay.

4 THE COURT: If you want to talk to your --
5 sure.

6 BY MR. BAER:

7 Q. Do you understand that -- I didn't understand
8 that would be the implication myself.

9 If you do not waive --

10 MR. BIORN: David, I don't want to be part of
11 your attorney-client privilege.

12 MR. BAER: I'm trying to make a record that
13 she understands her rights if she's going to waive
14 it.

15 MR. BIORN: She said she's not going to waive
16 it I thought.

17 MR. BAER: I want to revisit the issue.

18 BY MR. BAER:

19 Q. If you do not waive your right to answer
20 questions, then you won't be allowed to testify in
21 this case. Do you understand that?

22 THE INTERPRETER: Interpreter needs a repeat
23 from the witness.

24 (The interpreter asked for clarification in
25 Mandarin.)

1 THE WITNESS: So does that mean I have to
2 waive it so I can testify?

3 BY MR. BAER:

4 Q. It does mean that, yes, to be able to
5 testify, you need to waive your right not to answer
6 questions.

7 THE INTERPRETER: The interpreter needs a
8 repeat from the witness.

9 (The interpreter asked for clarification in
10 Mandarin.)

11 THE WITNESS: I understand now. I will waive
12 that right.

13 THE COURT: Very good. Are you doing this
14 freely and voluntarily?

15 THE WITNESS: Yes.

16 THE COURT: Mr. Biorn, could you call your
17 first witness? I presume it's Ms. Chang.

18 MR. BIORN: Yes, I'd like to call Ms. Chang
19 under 66 -- I can't recall -- as an adverse witness.

20 DIRECT EXAMINATION (UNDER 776)

21 BY MR. BIORN:

22 Q. Good morning, Ms. Chang. We met this
23 morning. I'm Kris Biorn, I'm Peter Ho's attorney.

24 A. Hi.

25 Q. Ms. Chang, I'm here to examine you in the

1 trial of the matter of Peter Ho versus Debby Chang.

2 Do you understand that?

3 A. I understand.

4 Q. You were born in Taiwan?

5 A. No.

6 Q. Where were you born?

7 A. China.

8 Q. You met Mr. Ho in Taiwan when you were 22
9 years old; is that right?

10 A. Yes.

11 Q. And you moved to Taiwan -- sorry. You moved
12 from Taiwan to the United States in 1973, right?

13 A. Yes.

14 Q. So you've been here for at least about 50
15 years, right?

16 A. Yes.

17 Q. After you moved to the United States did you
18 ever see Mr. Ho prior to his wife dying?

19 A. No.

20 Q. When you moved here, you first -- as a job,
21 you first opened a restaurant; is that right?

22 A. Yes.

23 Q. Your next job was as a cashier at a fast food
24 restaurant chain, correct?

25 A. Yes.

1 Q. Around that same time you began to study what
2 I believe you call as key punch; is that right?

3 THE INTERPRETER: Can the interpreter keep it
4 as key punch? What is key punch?

5 THE WITNESS: Data entry.

6 THE INTERPRETER: Oh, data entry.

7 THE WITNESS: Yes. No, it's not that.
8 Sorry.

9 THE INTERPRETER: Interpreter is not able to
10 hear.

11 THE WITNESS: When I stopped working as a
12 cashier at the fast food place, that's when I did
13 that.

14 BY MR. BIORN:

15 Q. In the 1990s you started to work for the
16 federal government; is that right?

17 A. I had already started working there. It's
18 not that I just started working there during that
19 time.

20 Q. When did you first start working for the
21 federal government?

22 A. 1986. No, 1980.

23 Q. And the division you worked for was the Army
24 and Air Force Exchange Services; is that right?

25 A. Yes.

1 Q. And for them, you did data entry as your job,
2 correct?

3 A. Yes.

4 Q. At some point in time, you were promoted to
5 the computer room, as I recall; is that right?

6 A. Yes.

7 Q. And in that job, you began to supervise
8 people, right?

9 THE INTERPRETER: The interpreter needs a
10 repeat from the witness.

11 (The interpreter asked for clarification in
12 Mandarin.)

13 THE WITNESS: Yes.

14 BY MR. BIORN:

15 Q. You supervised at times at least ten people;
16 is that right?

17 A. Yes.

18 Q. And while you worked at the federal
19 government, you were paid a salary, right?

20 A. Yes.

21 Q. And when you received a paycheck, you
22 deposited it into your own bank account, right?

23 A. Yes.

24 Q. And you were -- during that time, you were
25 issued what is called an IRS form W-2 for your wages

1 each year, right?

2 A. I think, but I don't remember.

3 Q. And when you worked for the federal
4 government you filed tax returns every year with the
5 U.S., correct?

6 A. Yes.

7 Q. And those tax returns reflected your income
8 each year from the federal government, didn't they?

9 A. Correct.

10 Q. You retired from the federal government in
11 2001; is that right?

12 THE INTERPRETER: The interpreter needs a
13 repeat from the witness.

14 (The interpreter asked for clarification in
15 Mandarin.)

16 THE WITNESS: Yes.

17 BY MR. BIORN:

18 Q. After you retired, you never worked for a
19 salary for a company again; is that right?

20 A. I did not.

21 Q. So you no longer received regular paychecks
22 from an employer after 2001, correct?

23 A. Correct.

24 Q. And when you had filed your tax returns after
25 2001, you didn't put any income from an employer on

1 those tax returns, did you?

2 MR. BAER: Objection. Invasion, right of
3 privacy. I don't believe we produced the returns.

4 THE COURT: I see where counsel is going.
5 I'll take it subject to a motion to strike. I think
6 this is probably in connection with the application
7 for a loan.

8 MR. BIORN: Just trying to establish she
9 knows how to file a tax return, what they represent.
10 She already testified she did. In any event --
11 sorry.

12 THE COURT: Overruled.
13 You can answer that.

14 MR. BIORN: Can you read the question again?

15 THE INTERPRETER: Can the interpreter have
16 the question again?

17 (The record was read by the Reporter.)

18 THE WITNESS: I did not, correct.

19 BY MR. BIORN:

20 Q. At some point in time you also started
21 investing in real estate; is that right?

22 A. Real estate investing, can I ask the attorney
23 to repeat that?

24 Q. I'll restate the question.

25 Starting around the 1980s, you began to buy

1 residential rental properties as an investment; is
2 that right?

3 THE INTERPRETER: The interpreter needs a
4 repeat from the witness. The interpreter will ask
5 the witness to speak louder.

6 (The interpreter asked for clarification in
7 Mandarin.)

8 THE INTERPRETER: Interpreter still couldn't
9 area that witness. The interpreter will ask the
10 witness to repeat.

11 (The interpreter asked for clarification in
12 Mandarin.)

13 THE WITNESS: I did invest in real estate
14 purchasing property, but I do not recall what year it
15 was.

16 MR. BIORN: I'm going to read from the
17 witness's deposition. Your Honor, due to the
18 passage -- due to the passage of time, Mr. Baer and I
19 realized that we didn't have all of the sealed
20 certified transcripts and the changing of counsel, so
21 I'm going to provide you these three copies of Debby
22 Chang's deposition volume 1, 2 and 3. 1 and 2 has
23 the exhibits as part of the deposition. Volume 3 is
24 separate, has the exhibits as separate.

25 THE COURT: Thank you. Mr. Baer, do you have

1 any opposition to me looking -- I'll repeat for the
2 interpretation.

3 Mr. Baer, do you have any opposition with me
4 looking at these unsealed depositions?

5 MR. BAER: No, I'll stipulate with Mr. Biorn
6 if he'll accept the stipulation that either side
7 lacks a sealed deposition transcript that we may use
8 a certified transcript.

9 THE COURT: Madam interpreter.

10 (Translated.)

11 MR. BIORN: If we could go off the record for
12 a minute.

13 THE COURT: Certainly. Off the record.

14 (Whereupon, there was a discussion off the
15 record.)

16 MR. BIORN: Back on the record.

17 And I am reading from the witness's
18 deposition volume 1 page 18, line 22 through page 19
19 through 20, but not including the comments by
20 counsel.

21 BY MR. BIORN:

22 Q. "Question: The question, again, is: Did you
23 have any paid employment after you retired in 2001?

24 Witness: I didn't quite -- were you asking
25 whether I was employed by someone else?

1 Question: Yes.

2 Witness: No, a little bit, not employed,
3 right, I did. I worked at some real estate work.
4 Could I continue?"

5 Excuse me, that was the witness's response.

6 Witness continues saying "Could I make a
7 correction? The real estate work wasn't employed.
8 It was my own business. That's what I wanted to say.

9 Question: When did you have that real estate
10 business?

11 Answer: I don't remember exactly which year.
12 I started, but it was around the '80s."

13 MR. BIORN: Let me ask the court reporter:
14 Was that slow enough?

15 THE REPORTER: Yes.

16 THE INTERPRETER: Does the interpreter need
17 interpret that?

18 MR. BAER: I'll waive that.

19 MR. BIORN: Here's what I suggest, David, is
20 that you agree to waive it unless, after I read it,
21 you or your client want us to translate it.

22 Does that make sense?

23 MR. BAER: That does makes sense.

24 BY MR. BIORN:

25 Q. Okay. Continuing, Ms. Chang with a question

1 to you.

2 A. Okay.

3 Q. Do you recall the first residential -- or
4 excuse me, the first real estate investment property
5 you purchased?

6 A. Let me think.

7 THE INTERPRETER: The interpreter needs a
8 repeat from the witness.

9 (The interpreter asked for clarification in
10 Mandarin.)

11 THE WITNESS: I did make a purchase, but I'm
12 not able to remember that purchase anymore because
13 it's been a long time since and I've been having to
14 deal with this case for the last six years.

15 So I don't remember that first purchase and I
16 don't need to remember. I just have to deal with
17 this case.

18 THE WITNESS: (In English): Your Honor, can I
19 have a question, ask you, Judge?

20 THE COURT: Talk to your attorney.

21 MR. BAER: Did you understand the last
22 question?

23 THE WITNESS (In English): Yes.

24 MR. BAER: Was that your answer?

25 THE WITNESS (In English): I already

1 answered. But I said because my last night my neck
2 pain, and I get up to either Tylenol --

3 MR. BAER: Do you want to take a Tylenol?

4 THE WITNESS (In English): No, last night.
5 And I could not sleep all night until 4:00 o'clock.
6 So now I have a little bit headache.

7 MR. BAER: Are you able to follow the
8 questions? Do you understand the questions he's
9 asking?

10 THE WITNESS (In English): Yes, but it's
11 difficult. Like the year before I think I remember
12 but at this moment.

13 MR. BAER: I think that's fine, but let us
14 know if you can't concentrate, if you can't follow
15 his questions anymore because you're too tired or
16 you're in pain.

17 THE WITNESS (In English): For all the
18 details, I probably cannot recall.

19 MR. BAER: You answered the question.

20 THE WITNESS (In English): In general.

21 BY MR. BIORN:

22 Q. Ms. Chang, because I don't know how you're
23 feeling, you're going to have to let us know if
24 you're not able to understand my questions or not
25 able to provide what you consider to be a reasonable

1 response. Okay?

2 A. Sure.

3 THE INTERPRETER: The interpreter needs a
4 repeat from the witness.

5 (The interpreter asked for clarification in
6 Mandarin.)

7 THE WITNESS: Yes, I will try my best. Right
8 now, my head isn't very clear.

9 BY MR. BIORN:

10 Q. Ms. Chang, if you answer my question, I'm
11 going to assume you understood it. Does that sound
12 fair to you?

13 MR. BAER: So if you don't understand a
14 question, you need say that.

15 MR. BIORN: Wait, she had a response to my
16 question and I need it interpreted first.

17 MR. BAER: Oh, I'm sorry.

18 THE INTERPRETER: Did she make a response?

19 MR. BIORN: She did.

20 THE INTERPRETER: Interpreter will inquire if
21 she made a response.

22 (The interpreter asked for clarification in
23 Mandarin.)

24 THE WITNESS: I did respond to your question
25 earlier. I did respond what you said, but I just

1 don't remember what year I did it.

2 MR. BAER: If you please translate what I
3 said, which is if you don't understand a question,
4 you need to say that. Otherwise, everyone will
5 believe you did understand it.

6 THE WITNESS: Yes.

7 BY MR. BIORN:

8 Q. Ms. Chang, I am aware of the following
9 properties that you have owned over the years: A
10 property on McCollum Street in Los Angeles, a
11 property on Evelyn Avenue in Albany, a property on
12 Brewster in Redwood City, and a property in El
13 Cerrito.

14 Prior to those properties, how many other
15 properties did you own?

16 MR. BAER: I'm going to object as lacking
17 foundation. I think the problem is -- may I?

18 THE COURT: Sure.

19 MR. BAER: I think problem is the Brewster
20 property is in El Cerrito, not in Redwood City.

21 MR. BIORN: Okay. Let me re-ask the
22 question. My mistake.

23 BY MR. BIORN:

24 Q. Ms. Chang, I am aware of you owning the
25 following properties: On McCollum Street in Los

1 Angeles, on Evelyn Avenue in Albany, on Brewster in
2 El Cerrito and on Fulton in Redwood City.

3 Prior to owning those properties did you own
4 any other real properties?

5 A. So, I need to confirm whether you're
6 referring to investment or a home for myself to live
7 in.

8 Q. Either investment or home to live in.

9 A. I missed whether he mentioned Albany.

10 Q. I did.

11 A. Yes.

12 Q. How many other properties have you owned
13 besides those properties that I listed?

14 THE INTERPRETER: The interpreter needs a
15 repeat from the witness.

16 (The interpreter asked for clarification in
17 Mandarin.)

18 THE WITNESS: I think these are what I
19 remember.

20 BY MR. BIORN:

21 Q. Ms. Chang, you met James Ho again after his
22 wife died; is that correct?

23 A. Yes.

24 Q. How did you meet him again?

25 A. Telephone contact.

1 Q. Who called who?

2 A. He called first.

3 Q. How long after that call did you see James Ho
4 for the first time?

5 A. Second day.

6 Q. Do you recall about what year this was?

7 A. I think it was about 1995.

8 Q. Can you describe for me how your relationship
9 with James Ho evolved in, say, the first five years,
10 from 1995 to 2000?

11 A. In the beginning because I was still working
12 at that time, so we only met on weekends. Then
13 eventually, he came to my house and stayed at my
14 house.

15 THE INTERPRETER: The interpreter needs a
16 repeat from the witness.

17 (The interpreter asked for clarification in
18 Mandarin.)

19 THE WITNESS: Only on weekends, and then I
20 retire, sometimes I go over to his place.

21 THE INTERPRETER: Interpreter has to stop the
22 witness.

23 (The interpreter asked for clarification in
24 Mandarin.)

25 THE WITNESS: Yeah. I want to add after the

1 second day that we met, I made food for him. I did
2 all his food. I made it, delivered it to his work or
3 he came to my house and he brought the food home. He
4 brought enough food for five or six days and then one
5 or two days, he'd buy food. So I made all the food
6 for him.

7 THE INTERPRETER: The interpreter needs to
8 ask for clarification from the witness.

9 (The interpreter asked for clarification in
10 Mandarin.)

11 THE INTERPRETER: Interpreter needs
12 clarification.

13 (The interpreter asked for clarification in
14 Mandarin.)

15 THE WITNESS: In the beginning, I made the
16 food on Thursday night and I took it to my work on
17 Friday and because I was still working, I had to wait
18 until after I was done working and I delivered it to
19 his house. That's the correction I want to make.

20 Later on, he came over for weekends so I had
21 the food made on Saturday and he took the food home
22 with him on Sunday.

23 THE INTERPRETER: Interpreter needs
24 clarification.

25 (The interpreter asked for clarification in

1 Mandarin.)

2 THE INTERPRETER: Interpreter needs
3 clarification.

4 THE WITNESS: After the second day, I paid
5 and bought all the food for him since that day. From
6 that time period on, I purchased all the food.

7 BY MR. BIORN:

8 Q. Were you done with your answer?

9 A. Because that time period that you asked about
10 was really long, you asked how it evolved, so I have
11 to tell you a little bit at a time. If you don't
12 want me to go on, if it's too much, then I can stop.

13 Q. I want to remind the witness that the time
14 period is five years from 1995 until 2000 which is
15 before her retirement.

16 THE INTERPRETER: The interpreter needs a
17 repeat from the witness.

18 (The interpreter asked for clarification in
19 Mandarin.)

20 THE WITNESS: What you asked for was about
21 five or six years. A lot had happened. If you feel
22 I'm going into too much detail, then I don't have to
23 go into the detail.

24 MR. BIORN: Mr. Baer, I'm fine with her
25 stopping here, subject to you asking her further

1 questions obviously on your examination.

2 MR. BAER: That's fine. Just so long as it's
3 understood she would have more to say in response to
4 the question.

5 THE COURT: Do you want to interpret that,
6 the colloquy?

7 (Translated.)

8 MR. BIORN: Based on your comment, Mr. Baer,
9 let's just let her continue with the full answer.

10 MR. BAER: Okay. Keep going.

11 THE WITNESS: So what I said was about his
12 food and then we started doing short travels, so San
13 Francisco and the places nearby San Francisco.

14 THE INTERPRETER: The interpreter needs a
15 repeat from the witness.

16 (The interpreter asked for clarification in
17 Mandarin.)

18 THE WITNESS: So we started with San
19 Francisco and then we expanded it to Marin and then
20 we went to other countries.

21 THE INTERPRETER: Your Honor, interpreter is
22 really struggling hearing her.

23 THE COURT: Okay. Let's take a short break,
24 very short break.

25 THE INTERPRETER: Your Honor, she said the

1 interpreter did not do the last part correctly. I
2 just want to put that on the record so we don't
3 forget later. I don't know if it's like the tone of
4 her voice. It's really difficult to hear, maybe
5 because she speaks kind of low tone.

6 THE COURT: Okay. And I want to talk to
7 counsel. We'll talk off the record about the
8 interpretation, but you wanted to put on the record
9 that Ms. Chang said you didn't interpret something
10 correctly; is that right?

11 THE INTERPRETER: She said I didn't do the
12 last part correctly.

13 THE COURT: Okay. Fine. It's on the record.
14 (Whereupon, a break was taken.)

15 THE COURT: Ms. Chang, I remind you you're
16 under oath.

17 Feel free, Mr. Biorn.

18 MR. BIORN: We need to find out which
19 question the witness felt the interpreter
20 misinterpreted.

21 THE COURT: Okay.

22 THE INTERPRETER: The last one. I earlier
23 inquired her about three times to ask her to repeat
24 herself and -- I mean, I thought I heard her right
25 the very last time, but she said I didn't hear her

1 right. So I just want to let you know that I am
2 struggling hearing her for whatever reason.

3 BY MR. BIORN:

4 Q. Ms. Chang, are you able to further describe
5 for the court interpreter what you believe she
6 misinterpreted?

7 A. I'm not able to remember right now. It's not
8 a big deal.

9 Q. You mentioned, as part of the last answer, at
10 some point in time you began to buy and pay for all
11 of the food for Mr. Ho.

12 Did that ever change?

13 A. No. It only increased. It never decreased
14 because later on --

15 THE INTERPRETER: The interpreter needs the
16 witness to repeat.

17 (The interpreter asked for clarification in
18 Mandarin.)

19 THE WITNESS: It increased later on because I
20 went to better supermarkets. I stopped going to the
21 Chinese supermarket. I'm not saying the Chinese
22 supermarket is not good, but the supermarket I went
23 to later on were more expensive.

24 BY MR. BIORN:

25 Q. Did Mr. Ho ever reimburse you for the grocery

1 costs?

2 THE INTERPRETER: The interpreter needs a
3 repeat from the witness.

4 (The interpreter asked for clarification in
5 Mandarin.)

6 THE WITNESS: He did not pay me money and I
7 didn't want to ask him for money. I never wanted to
8 ask him for the grocery money.

9 BY MR. BIORN:

10 Q. Just so I understand your answer, that means
11 Mr. Ho did not reimburse you for groceries at any
12 time, right?

13 A. Correct.

14 Q. Mrs. Chang, Mr. Ho was diagnosed with a brain
15 tumor in 2006.

16 Do you recall that?

17 MR. BAER: Objection. Lacks foundation.

18 THE COURT: I'm going permit it. It's
19 preliminary.

20 MR. BAER: Okay.

21 THE COURT: You can answer that.

22 MR. BAER: First -- well, let me just restate
23 my objection. I know it's preliminary, but it's not
24 just a matter of timing, but the fact of the
25 diagnosis. Anyway, that's my objection.

1 MR. BIORN: I'll restate the question, Your
2 Honor.

3 THE COURT: Okay.

4 BY MR. BIORN:

5 Q. Ms. Chang, did Mr. Ho tell you in 2006 that
6 he had been diagnosed with a brain tumor?

7 A. Yes.

8 Q. And you believe that it did not affect him
9 mentally or physically until the last two years of
10 his life; is that right?

11 MR. BAER: I'm going to object to the
12 question as compound and calling for an expert
13 opinion.

14 MR. BIORN: I'm asking her belief.

15 MR. BAER: I understand. I heard what you
16 said. The judge can rule.

17 THE COURT: Overruled. I'll permit that
18 question.

19 THE INTERPRETER: Interpreter needs
20 clarification.

21 (The interpreter asked for clarification in
22 Mandarin.)

23 THE WITNESS: I'm not a doctor, so I can't
24 say for sure a hundred percent that it did not affect
25 him or a hundred percent that it did affect him, but

1 based on my experience with him, I felt that it did
2 not affect him until the last two years. That's when
3 he started getting the treatment. Prior to that, he
4 was still very smart and very capable.

5 BY MR. BIORN:

6 Q. And by the last two years, you mean 2015 to
7 2017; is that right?

8 THE INTERPRETER: The interpreter needs a
9 repeat from the witness.

10 (The interpreter asked for clarification in
11 Mandarin.)

12 THE WITNESS: You said 2015 to 2017. I would
13 say it was from 2016 when he started chemo and he
14 started to become more physically frail.

15 BY MR. BIORN:

16 Q. Ms. Chang, I read from your deposition a few
17 moments ago and I forgot to ask you: Do you remember
18 your deposition being taken in this matter?

19 A. Whether I did deposition, what is that,
20 deposition?

21 Q. Do you remember a lawyer asking you questions
22 after you had taken an oath to tell the truth in this
23 case?

24 A. I'm not able to remember clearly right now,
25 but all these are on the record, so it's best that

1 attorney go look on his medical record and it should
2 all be there.

3 Q. I'm asking you a different question this
4 time, Ms. Chang. Do you remember lawyers in this
5 case asking you questions in a conference room where
6 you gave answers and you had given an oath to tell
7 the truth?

8 A. I think so, but I am not very clear on what
9 the attorney asked me and what I said.

10 Q. Okay. But when you gave answers to questions
11 in this lawsuit, you always tried to tell the truth;
12 is that correct?

13 A. Yes.

14 MR. BIORN: Your Honor, I'd like to read from
15 the witness's deposition, page 40, line 1 through 24,
16 other than comments by counsel.

17 Let me know when you're ready, David.

18 MR. BAER: He's going to start at the top of
19 the page.

20 BY MR. BIORN:

21 Q. "Question: Ms. Chang, during your
22 relationship with James, did he have any health
23 issues?

24 Answer: You were asking for the time that we
25 were together, meaning for the 20-plus years that we

1 were together, whether he had health issues, right?

2 Question: Yes.

3 Answer: Yes.

4 Question: What were they?

5 Answer: I remember that in 2006, he had a
6 checkup and he went to the hospital and they said he
7 had a brain tumor, but it didn't affect him. He was
8 like a completely healthy person when I was with him.
9 He was not sick. The fact was he wasn't sick until
10 the last two years.

11 When you say the last two years, can you be
12 more specific?

13 Answer: 2015. 2015 to 2017."

14 Ms. Chang, in 2015, did you learn that Mr. Ho
15 was having radiation treatments?

16 MR. BIORN: Your Honor, let me withdraw the
17 question. I'll re-ask the question.

18 BY MR. BIORN:

19 Q. In 2016, did you learn that Mr. Ho was having
20 radiation treatment?

21 THE INTERPRETER: The interpreter needs a
22 repeat from the witness.

23 (The interpreter asked for clarification in
24 Mandarin.)

25 THE WITNESS: Yes, he did have radiation.

1 BY MR. BIORN:

2 Q. And in 2016, do you recall learning that he
3 also had chemotherapy?

4 A. You're asking about 2016, right?

5 Q. Correct.

6 THE INTERPRETER: Interpreter needs the
7 witness to repeat.

8 (The interpreter asked for clarification in
9 Mandarin.)

10 THE WITNESS: In 2016, I think it was near
11 Christmastime, he had chemo. I'm referring to 2016.

12 MR. BIORN: Your Honor, I'm going to read
13 from the witness's deposition.

14 THE COURT: Sure. And just so everybody
15 understands, we'll stop because the interpreter needs
16 to stop at 1:00 o'clock. That's about 20 minutes.
17 Okay? Thanks.

18 BY MR. BIORN:

19 Q. I'll read from page 41, line 10 through line
20 18.

21 "Question: And then in the last two years
22 what health issues did he have?

23 Answer: I think after he received the
24 radiation in 2015 followed by the chemo that
25 destroyed his body. Before that, at the beginning,

1 he was a very, very healthy person."

2 Ms. Chang, you only attended two doctor
3 visits with Dr. Ho in the last two years in his life;
4 is that right?

5 A. (In English): Excuse me.

6 MR. BIORN: David, there's no question
7 pending. Objection.

8 MR. BAER: You have to answer the question.

9 THE WITNESS (In English): I have the
10 question back to the 15 or '16.

11 MR. BIORN: There's no question pending, Your
12 Honor.

13 THE COURT: Sustained.

14 MR. BIORN: I'm entitled to read from the
15 witness's deposition without her jumping in and
16 trying to explain it.

17 MR. BAER: You can't comment. Later. You
18 can answer a question. And then when you're done,
19 it's his turn to ask the next question. Okay? So
20 you can clarify when I ask you questions, but you
21 can't just start talking.

22 THE WITNESS: Excuse me. I'm sorry, I wanted
23 to make a correction to the year that he said earlier
24 because it was wrong and while I was trying to make a
25 correction, he started with the next question. I'm

1 sorry about that.

2 THE COURT: Okay. Ask your next question.

3 MR. BIORN: Thank you.

4 BY MR. BIORN:

5 Q. In the last two years of Mr. Ho's life, you
6 only went to two doctor visits with him; is that
7 right?

8 MR. BAER: Argumentative.

9 THE COURT: Overruled.

10 MR. BAER: Withdrawn.

11 THE INTERPRETER: Interpreter needs
12 clarification.

13 (The interpreter asked for clarification in
14 Mandarin.)

15 THE WITNESS: I went with him twice for
16 radiation appointment. I went with him and his son.

17 BY MR. BIORN:

18 Q. And you were too busy to go to the
19 chemotherapy with him; is that right?

20 THE INTERPRETER: Interpreter needs the
21 witness to repeat.

22 (The interpreter asked for clarification in
23 Mandarin.)

24 THE WITNESS: It's not that I didn't have
25 time, but I was also very tired. I had to take care

1 of him. I bought all the food. I did all the
2 cleaning. I washed the dishes and I'm old, too. I'm
3 80 years old. So I'm very grateful to Peter who was
4 able to bring him.

5 MR. BIORN: Your Honor, I'd like to read from
6 the witness's deposition again, volume 1, page 44
7 line 8 to page 45, line 22.

8 MR. BAER: And I assume you're going to
9 exclude all comments from counsel once again.

10 MR. BIORN: Yes. Let's stipulate that that's
11 the case -- sorry, Your Honor, I feel like I'm in a
12 deposition, my apologies.

13 Is it okay to stipulate that comments from
14 counsel are excluded when reading testimony unless
15 otherwise requested?

16 MR. BAER: That's fine with me.

17 THE COURT: Yes.

18 MR. BIORN: Thank you, Your Honor.

19 BY MR. BIORN:

20 Q. "Question: Do you know the names of any of
21 James' doctors?"

22 MR. BIORN: We're not translating the reading
23 from the deposition.

24 BY MR. BIORN:

25 Q. "Question: Do you know the names of any of

1 James' doctors at any time?

2 Answer: I don't.

3 Did you ever attend any doctors' visits with
4 James?

5 Answer: I went twice to the radiation.
6 Other appointments, I didn't go with him, meaning
7 radiation. I only went twice. The others -- I'm
8 going wait until his question to answer."

9 And then she continues: "No, just radiation.
10 He got chemo and he got radiation. So for radiation,
11 I only went two times and most of them just some was
12 with him. And then I went to -- what's that -- the
13 chemo only one time, something, because I was too
14 busy.

15 Question: So correct me if I'm wrong, you
16 went to two radiation appointments, one chemo
17 appointment?

18 Answer: About that, but I did not record
19 them.

20 Question: Did you attend any other doctor
21 appointments other than radiation and chemo with
22 James at any time?

23 Answer: No."

24 And that only goes to line 15 which is what I
25 wanted to read. I misspoke. Oh, excuse me, I am.

1 "Question: Did James ever want to consult
2 with a neurologist?

3 Answer: I don't know because these affairs
4 were all taken care between him and his sons. I
5 couldn't manage that much."

6 Ms. Chang, in 2016, Mr. Ho began having
7 difficulty walking; is that right?

8 A. It's just when he was getting a treatment and
9 prior to that, I thought he was fine.

10 Q. Well, in 2016, he began needing to use a
11 walker; is that right?

12 A. Occasionally.

13 Q. And sometimes a wheelchair also; is that
14 right?

15 A. Also occasionally.

16 Q. Again, I'll read from the witness's
17 deposition page 48, lines 16 to 22.

18 "Question: Did James experience any
19 difficulty walking in 2016?

20 Answer: Yes, it was a little difficult for
21 him.

22 Question: Can you be more specific?

23 Answer: He needed to use a walker. Yes, a
24 three-prong walker. Sometimes he needed to be on the
25 wheelchair."

1 Did you become aware in the fall of 2016 that
2 Mr. Ho was diagnosed with blood cancer?

3 THE INTERPRETER: The interpreter needs a
4 repeat from the witness.

5 (The interpreter asked for clarification in
6 Mandarin.)

7 THE WITNESS: In 2016, I did not know he had
8 blood cancer.

9 BY MR. BIORN:

10 Q. Did he have chemotherapy for his blood
11 cancer?

12 A. Blood cancer was later on. In the beginning,
13 I did not know he had blood cancer.

14 Q. When you mean by later on, about what date
15 are you referring to?

16 A. Earlier I mentioned he had chemo and that was
17 in Christmas of 2016.

18 Q. And when he had chemotherapy, he became very
19 weak, didn't he?

20 A. Wanted to sleep a lot.

21 MR. BIORN: I'm sorry, did she have an
22 answer? Could you repeat the answer, Ms. Court
23 Reporter.

24 (The record was read by the Reporter.)

25 BY MR. BIORN:

1 Q. Ms. Chang, would it be fair to say that the
2 chemo made him very weak?

3 MR. BAER: Objection. Calls for an opinion.

4 THE COURT: Overruled. That's common
5 knowledge.

6 THE WITNESS: I feel that the chemo weakened
7 him, but regarding this question, you should look at
8 the record from the doctor. But I do feel chemo had
9 weakened him.

10 BY MR. BIORN:

11 Q. I'll read from the witness's deposition,
12 again, page 56, line 23 through page 56, line 17 --
13 57, line 17.

14 MR. BAER: I'm sorry, page 57 what?

15 MR. BIORN: 56, 22 to 57, 21.

16 BY MR. BIORN:

17 Q. "Question: When was he diagnosed with blood
18 cancer?

19 Answer: Interpreter needs to clarify. I
20 think it was either the fall or the end of 2016.
21 Fall, autumn, no, yeah, sorry.

22 Question: What were the symptoms that James
23 showed associated with his blood cancer?

24 There were no symptoms, yeah.

25 Question: How did the chemotherapy impact

1 James?

2 Answer: He became very weak. He was weak.

3 Question: Any other issues that you
4 witnessed other than James' weakness from the
5 chemotherapy?

6 Answer: With James he lost appetite.

7 Question: Anything else?

8 Answer: Those are the two main things."

9 Ms. Chang, Mr. Ho's chemotherapy continued
10 until he died; is that right?

11 THE INTERPRETER: The interpreter needs a
12 repeat from the witness.

13 (The interpreter asked for clarification in
14 Mandarin.)

15 THE WITNESS: No, I don't think so, but I did
16 not make a record of this, so this is based on what I
17 can remember.

18 BY MR. BIORN:

19 Q. Well, Ms. Chang, do you remember --

20 THE INTERPRETER: This is the interpreter.
21 She had more to say. Sorry.

22 MR. BIORN: Sorry.

23 THE WITNESS: I already forgot what I was
24 going to say.

25 BY MR. BIORN:

1 Q. Ms. Chang, his chemotherapy treatments
2 continued until the end of August, just a few days
3 before he died; is that right?

4 A. I don't know. I don't remember because Peter
5 actually took him away. I don't know. As I said,
6 you guys need to look at the record. Right now my
7 focus is on --

8 THE INTERPRETER: This is where the
9 interpreter had to stop her.

10 (Witness repeats answer.)

11 THE INTERPRETER: Interpreter is having
12 trouble -- interpreter just remembers now.

13 THE WITNESS: I was very sad when he became
14 ill and I became even more sad when he was taken away
15 by Peter. I'm very old and now I have this lawsuit.
16 I just hope this lawsuit will go away.

17 BY MR. BIORN:

18 Q. Ms. Chang, in 2016, you assisted Mr. Ho with
19 walking and getting dressed; is that right?

20 A. Sometimes. Not all the time.

21 Q. In 2016, you also assisted him sometimes
22 going to the bathroom; is that right?

23 A. I don't remember.

24 Q. By 2017, did you assist Mr. Ho going to the
25 bathroom sometimes?

1 A. Every time.

2 Q. In 2017, you also bathed Mr. Ho sometimes; is
3 that right?

4 A. Only one time.

5 Q. In 2017, Mr. Ho fell down twice; do you
6 recall that?

7 THE INTERPRETER: The interpreter needs a
8 repeat from the witness.

9 (The interpreter asked for clarification in
10 Mandarin.)

11 THE WITNESS: One time he did fall while he
12 was right next to me, and the other time, I don't
13 remember that well. I think it was just two times.

14 BY MR. BIORN:

15 Q. And that had not happened to him previously;
16 is that what you recall Ms. Chang?

17 MR. BAER: Objection. Vague and ambiguous.
18 Overbroad.

19 MR. BIORN: I'll restate it.

20 BY MR. BIORN:

21 Q. Ms. Chang, do you recall Mr. Ho falling prior
22 to 2017 or observing him fall prior -- okay, okay,
23 I'll re-ask it.

24 Prior to 2017, did you observe Mr. Ho falling
25 at any time?

1 MR. BAER: Same objection.

2 THE COURT: I'll permit that.

3 THE INTERPRETER: Interpreter needs that year
4 again. Was that 2017?

5 MR. BIORN: 2017.

6 THE INTERPRETER: Interpreter will repeat to
7 the witness.

8 (Translated.)

9 THE WITNESS: No.

10 MR. BIORN: Your Honor, I see you were
11 mentioning it's 1:00 o'clock.

12 THE COURT: Correct. And the interpreter
13 indicated to us that she's available only until 1:00.
14 Now is the appropriate time to take the lunch recess
15 unless there's something else that people want to put
16 on the record.

17 MR. BIORN: Not on the record, but can we
18 have a discussion off the record?

19 THE COURT: Of course.

20 (Whereupon, there was a discussion off the
21 record.)

22 (Lunch recess taken.)

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AFTERNOON SESSION:

THE COURT: Let's go back on the record.

Would you like to call another witness?

MR. BIORN: Yes, Your Honor, I'd like to call my client, Peter Ho.

THE COURT: Sir, could you raise your right hand, please.

PETER HO,
being duly sworn by the Court to tell the truth, the whole truth, and nothing but the truth, testified as follows.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. BIORN:

Q. Peter, in this trial we're going to refer to you as Peter so we don't confuse you with your father James Ho, who we are calling Mr. Ho, okay?

A. Okay.

Q. Peter, who are your parents?

A. My parents are James Ho and Grace Ho.

Q. Do you have sisters?

A. Yes, I have two.

Q. What are their names?

A. Their names are Shan-Yuan spelled S-H-A-N, hyphen, Y-U-A-N and Della spelled D-E-L-L-A.

1 Q. And what's her last name now?

2 A. Della's last name is Lau, L-A-U.

3 Q. What's your dad's education?

4 A. The last degree he received was a Ph.D.

5 Q. Where did he receive the Ph.D.?

6 A. It was -- I'm sorry, it just escapes me right
7 now.

8 Columbia Pacific University.

9 Q. Is that a physical location, a physical
10 university?

11 A. To my knowledge, no.

12 Q. To your knowledge, how would you describe
13 that university?

14 A. It was remote.

15 Q. What education did he have before that,
16 formal education?

17 A. He had a Bachelor's degree and two Master's
18 degrees.

19 Q. What were his Master's degrees in?

20 A. It was in civil engineering and mechanical
21 engineering.

22 Q. What did your dad do for work?

23 A. He was a professor.

24 Q. Of what?

25 A. Of mechanical engineering and civil

1 engineering.

2 Q. Where was he a professor?

3 A. At Cogswell College, spelled C-O-G-S-W-E-L-L.

4 Q. Where is that college?

5 A. Cogswell College was originally in San
6 Francisco and then it moved down to Cupertino and
7 then -- I believe it's right now in Sunnyvale,
8 California, all in California.

9 Q. Did your dad work at all three of those
10 locations?

11 A. Yes, he did.

12 Q. What was your mom's employment?

13 A. My mom was a registered nurse.

14 Q. Where did she work?

15 A. She worked at St. Luke's Hospital in San
16 Francisco -- sorry, in Daly City.

17 Q. Did she work in any particular department
18 there?

19 A. She was in labor and delivery.

20 Q. Did any of your sisters follow in her
21 employment footsteps?

22 A. Yes.

23 Q. Which one?

24 A. Della.

25 Q. What does Della do?

1 A. She's also a registered nurse.

2 Q. Where?

3 A. Stanford Hospital.

4 Q. What department?

5 A. In the emergency department.

6 Q. Peter, when did your mom pass away?

7 Oh, sorry. Do you want to take a break? You
8 can step out if you want.

9 (Witness stepped out of the room.)

10 (Off record discussion.)

11 THE COURT: We can go back on the record.

12 MR. BIORN: Yes. Sorry, Your Honor, I'm so
13 used to doing it.

14 BY MR. BIORN:

15 Q. Peter, when did your mom pass away?

16 A. January 11, 1995.

17 Q. What did she die from?

18 A. Stomach cancer.

19 Q. Was your dad still working at the time?

20 A. It was around that time that he retired.

21 Q. Where was your dad living at the time?

22 A. He was living at 148 CSM Drive in San Mateo,
23 our family home.

24 Q. Is CSM an abbreviation for that street?

25 A. It is an abbreviation for College of San

1 Mateo, but the official name is CSM Drive.

2 Q. Have we referred to that property in this
3 litigation as CSM?

4 A. Yes.

5 MR. BIORN: If it's okay, Mr. Baer, we'll
6 continue to refer to it that way.

7 MR. BAER: That's fine.

8 BY MR. BIORN:

9 Q. Where did you grow up, in what house?

10 A. I grew up in that house.

11 Q. Along with your sisters, they all grew up in
12 the same house?

13 A. Yes, for the most part, I should say.

14 Q. Do you recall when your dad retired?

15 A. It was in the '90s. I do not recall the
16 exact year.

17 Q. Was he still working at the same college?

18 A. Yes.

19 Q. And in the same position?

20 A. Yes.

21 Q. I'd like to move forward in time into the
22 year 2005. Did your dad ever tell you that he was
23 considering buying a real estate investment property
24 in 2005?

25 A. Yes.

1 Q. Which property was that?

2 A. I'm sorry.

3 Q. Or was that 2003?

4 A. If 2005 -- it would have been 2005 or 2006
5 would have been the McCollum property. He did tell
6 me about that.

7 Q. In 2003, did you talk to your dad about
8 purchasing an investment real estate property?

9 A. No.

10 Q. Did you ever talk to your dad about
11 purchasing an investment property in Albany?

12 A. No.

13 Q. Did your dad go to Taiwan very often?

14 A. Yes, he went every other year.

15 Q. Do you remember him going to Taiwan in 2006?

16 A. Yes.

17 Q. Did he talk to you about that trip before he
18 went?

19 A. Yes.

20 Q. What did he tell you?

21 A. He told me -- well, he was very angry at
22 something and I asked him what were you angry about
23 and he wouldn't tell me that, other than something
24 didn't feel right with his body.

25 Q. When he returned from Taiwan, did he discuss

1 that same subject with you?

2 A. Yes, he did.

3 Q. What did he say to you?

4 A. He said that he actually had a CT and MRI
5 done in Taiwan hospitals and it showed that he had a
6 large tumor in his brain.

7 Q. Did you ever prepare a medical notebook for
8 your dad?

9 A. Yes.

10 Q. When?

11 A. I prepared it that year after we went to
12 Kaiser to confirm the diagnosis from Taiwan.

13 Q. Was your dad able to confirm the diagnosis?

14 A. Yes.

15 Q. Do you still have that medical notebook?

16 A. I do.

17 Q. Did your dad make notes in the notebook?

18 A. Not that I recall.

19 Q. Let's move forward. Did your dad ever sell
20 CSM?

21 A. Yes.

22 Q. When?

23 A. January of 2014.

24 Q. Did he tell you why he was selling it?

25 A. Yes.

1 Q. What did he tell you?

2 A. He wanted to move to a one-story house
3 because he didn't want any stairs in the house and
4 wasn't very happy that the house was settling, that
5 CSM was settling.

6 Q. When you say settling, what are you referring
7 to?

8 A. We would actually measure how -- the level of
9 one side of the house versus the other. So one side
10 of the house was six inches lower than the other.

11 Q. Are you describing the foundation of the
12 house?

13 A. Foundation, yes, I am.

14 Q. Did he tell you that he was selling CSM
15 before he did so?

16 A. No.

17 Q. Where did he move after he sold CSM?

18 A. After he sold CSM, he moved to an investment
19 property that he and my mom had purchased located at
20 272 Boothbay Avenue, spelled B-O-O-T-H-B-A-Y, in
21 Foster City.

22 Q. Based on your observations, did it appear to
23 you that Debby was living at CSM prior to your dad
24 selling it?

25 A. No.

1 Q. Based on your observations, did you see any
2 evidence that Debby was living at CSM prior to him
3 selling it?

4 A. No.

5 Q. After he sold CSM, did your dad discuss his
6 real property basis in that property with you?

7 A. Yes.

8 Q. When was the first time, approximately?

9 A. It was approximately in January of 2014.

10 Q. What did he say to you?

11 A. He said -- he asked me if I was going to buy
12 another house to live in because he wanted to
13 transfer the property tax from CSM to that. He also
14 said that he asked my sisters the same question.

15 Q. Did he tell you if the sisters gave him a
16 response?

17 MR. BAER: Objection. Calls for hearsay.

18 THE COURT: Sustained.

19 MR. BIORN: I'll withdraw.

20 BY MR. BIORN:

21 Q. Did your dad tell you anything about the real
22 property tax transfer process?

23 A. He -- at the time, he did tell me the general
24 provisions of it.

25 Q. At that time, were you already aware of those

1 general provisions?

2 A. No, I was not.

3 Q. What did he tell you about them at that time?

4 A. He said that the property tax basis could be
5 transferred to a replacement property, but it had to
6 be done within two years and it could be only done
7 once in a lifetime.

8 Q. Do you have an understanding of whether
9 that -- those rules have changed at all to the
10 present?

11 MR. BAER: Objection. Calls for a legal
12 conclusion.

13 THE COURT: It appears to. What are you
14 driving at?

15 MR. BIORN: A lot of people have a lay
16 understanding of what the transfer rules are. In
17 some small ways, they've changed.

18 Anyway, I'll withdraw the question. That's
19 fine.

20 THE COURT: Thank you.

21 BY MR. BIORN:

22 Q. After he moved to Boothbay, did he
23 continue -- did he look for another house to buy?

24 A. Yes, he did.

25 Q. Did he buy one?

1 A. Yes, he did.

2 Q. Where was it?

3 A. Located at 107 Flying Cloud Isle in Foster
4 City.

5 Q. I-S-L-E?

6 A. Yes.

7 Q. Did he show you the property before he
8 purchased it?

9 A. No.

10 Q. When did you first -- how long after he
11 purchased it did you first see the property?

12 A. I believe it was just within a couple of
13 days.

14 Q. When you went to see the property the first
15 time, did your dad tell you he liked it?

16 A. No. In fact, when he brought me over for the
17 first time, he said let me show you this property,
18 but when we go over, don't say anything bad about it.

19 Q. Did he tell you why he didn't want you to say
20 anything bad about it?

21 A. He didn't. And at the time, he didn't even
22 tell me that he had purchased it.

23 Q. At any point in time, did he tell you he was
24 going to transfer his real property tax basis to the
25 Flying Cloud property?

1 A. He told me he was considering it.

2 Q. Did he say anything else to you about that?

3 A. Yes, he -- well, he told me that he couldn't
4 sleep at night because of a decision he had to make.

5 Q. Did he tell you what that decision was?

6 A. Yes.

7 Q. What was it?

8 A. He said that if he transferred the property
9 tax to Flying Cloud, that means he would have to stay
10 there for the rest of his life. But he said that he
11 actually hated it and he didn't want to do that.

12 Q. He hated what?

13 A. He hated the Flying Cloud property.

14 Q. Did he tell you why he hated it?

15 A. Yes, because it had stairs in it and the
16 backyard was falling into the lagoon.

17 Q. Those sound like similar problems with CSM.
18 Did he tell you why he bought Flying Cloud?

19 MR. BAER: Objection. Leading.

20 MR. BIORN: It's not that important.

21 THE COURT: Sustained. Rephrase.

22 MR. BIORN: I'll withdraw it.

23 BY MR. BIORN:

24 Q. So are you aware if your dad ever transferred
25 the property tax basis to Flying Cloud?

1 A. I'm aware.

2 Q. Okay. And did he?

3 A. He did not.

4 Q. Did he tell you if he had -- if that affected
5 his property taxes he had to pay each year?

6 A. Yes.

7 Q. What did he tell you?

8 A. Well, he told me that he couldn't make a
9 decision whether to transfer to it Flying Cloud or
10 not because he hated the and if he transferred it
11 over then he would have to live there for the rest of
12 his life which is what he didn't want to do.

13 However, if he didn't transfer it there, he
14 would lose out all together because there was a
15 two-year limit. So because he couldn't decide
16 between the two, he was losing sleep at night.

17 Q. Did you help him with his taxes at this point
18 in time?

19 A. Yes.

20 Q. Based upon helping him with his taxes, were
21 you aware how much extra property tax he paid per
22 year on Flying Cloud as a result of not transferring
23 his real property tax basis?

24 A. Yes. So he --

25 Q. How much was that?

1 A. It was approximately \$15,000 more that he was
2 paying per year by not transferring it to Flying
3 Cloud.

4 Q. How many years did he own Flying Cloud?

5 A. Less than two years.

6 Q. When did he sell Flying Cloud, approximately?

7 A. I believe he sold it in February of 2016.

8 Q. Where did he move next?

9 A. He moved to a penthouse on Promontory Point.

10 Q. Was that a house he purchased?

11 A. No.

12 Q. Did he rent?

13 A. Yes.

14 Q. After Flying Cloud, how often did you go
15 there in the two years?

16 A. Quite often.

17 Q. Could you quantify that at all?

18 A. Every other week.

19 Q. When you went there, did you observe any
20 evidence that Debby was living there?

21 A. There was some evidence, yes.

22 Q. And what was -- what evidence did you see?

23 A. There were two beds in her bedroom and her
24 comforter and just things that would lead me to
25 believe that she slept there occasionally.

1 Q. Which room did she sleep -- which room did it
2 look like she slept in?

3 A. It was an upstairs bedroom.

4 Q. Was it the same room your dad slept in?

5 A. No, it was not.

6 Q. After your father sold CSM, did he speak to
7 you again about his real property tax basis?

8 A. He did.

9 Q. When?

10 A. We spoke in August of 2015.

11 Q. What did he say to you?

12 A. It was actually -- well, I said something to
13 him first. I said, dad, do you remember that you
14 were asking about transferring the property tax to
15 one of us, one of the siblings, my sisters or myself?
16 He said, yes. I said, well, now a year and a half
17 later, Jeanny and I are under contract to purchase
18 the house at Galindo, would you like to transfer the
19 property tax here?

20 Q. What did he say in response?

21 A. He lit up and he said oh, that's -- yeah, he
22 had forgotten that he had offered that to us and then
23 he said yes, he was interested.

24 Q. Had your dad sold Flying Cloud at this point?

25 A. No.

1 Q. Did you and your father follow through on
2 transferring his real property tax basis to your
3 property?

4 A. Well, it was also his property.

5 Q. And when was this?

6 A. This was in September of 2015.

7 Q. And tell me what you did to transfer the --
8 your dad's -- I'm sorry, what's the address of the
9 house?

10 A. 889 Galindo Court, Milpitas.

11 Q. And the Milpitas property, what was the
12 process to transfer your dad's real property tax
13 basis to the Milpitas property?

14 A. Well, since I didn't know much about what the
15 requirements were, after dad said he was very
16 interested in doing that, we went to the county
17 recorder's office, I guess, in Redwood City and we
18 asked about what the requirements were.

19 And they gave us a huge Q and A document
20 regarding that and the requirements were that a
21 replacement property had to be purchased -- well, I
22 should say this: The original property, the person
23 who wants to transfer it, which was my dad, had to be
24 an owner of the replacement property. This had to be
25 done within two years and also the purchase price of

1 the replacement property has to be less than the
2 original property.

3 MR. BAER: I'm going to object and move to
4 strike the testimony about the requirements. It's
5 hearsay. Maybe there's a Q and A document, I don't
6 know.

7 MR. BIORN: So you're not going to ask him
8 about a transfer?

9 MR. BAER: I'm going ask him about the
10 transfer.

11 MR. BIORN: Well --

12 THE COURT: It appears to be hearsay.

13 MR. BIORN: Okay.

14 THE COURT: You asked that it be stricken,
15 right?

16 MR. BAER: Yes.

17 THE COURT: It will be stricken.

18 BY MR. BIORN:

19 Q. After reviewing the instructions, what did
20 and your father do to transfer the -- his real
21 property tax basis to your Milpitas property?

22 A. We filled out a form -- sorry, I need to back
23 up a bit. Because of the requirements that we were
24 aware of, he needed to be an owner on the Galindo
25 property. So we had an addendum signed to add him to

1 the purchase contract.

2 Q. Did he say how much of the property he would
3 purchase?

4 A. One percent.

5 Q. Back to the form, what did you do with this
6 form?

7 A. And then dad had to sign a form requesting
8 the transfer and it was submitted with proof of his
9 residence.

10 Q. Who signed the proof of residence?

11 A. It was -- the proof of residence was not
12 signed. It was proof that the County said was what
13 they required as proof.

14 MR. BAER: Objection. Hearsay. Move to
15 strike in terms of what the County said, to be
16 specific.

17 THE COURT: Yes, the County had some
18 requirements. I don't think he answered it, did he,
19 what the County wanted? But if it is, it's stricken.
20 If the County requirements -- if he testified as to
21 what the County wanted, it will be stricken, but I
22 think he just said the father signed the form
23 requesting the transfer with --

24 MR. BAER: That part was fine.

25 THE COURT: Yes.

1 MR. BIORN: That's all I want.

2 BY MR. BIORN:

3 Q. Did your dad go on title for the Milpitas
4 property?

5 A. He did.

6 Q. For how much?

7 A. One percent.

8 Q. At that time, had your dad sold Flying Cloud?

9 A. No.

10 Q. How much longer after that did your dad sell
11 Flying Cloud, if you recall?

12 A. He listed it almost immediately after that.

13 Q. So in around September 2015; is that right?

14 A. Yes.

15 Q. Do you recall how long it took to sell?

16 A. About five months.

17 Q. To your best recollection, would that be in
18 February of 2016?

19 A. Yes.

20 Q. Where did your dad move after that, after he
21 sold the Flying Cloud?

22 A. He moved to the Promontory Point penthouse
23 that he rented.

24 Q. Had he been looking for a place to buy before
25 moving to a rental unit?

1 MR. BAER: Objection. Vague and ambiguous.

2 BY MR. BIORN:

3 Q. Did your dad tell you that he had been
4 looking for a place to buy before moving to the
5 rental unit?

6 A. Yes.

7 Q. What did he say?

8 A. We all actually went to a similar unit at
9 Promontory Point that he was interested in buying.
10 This was actually before the property tax transfer
11 back in maybe January or February of 2015.

12 Q. Where was this Promontory Point property that
13 he told you he was considering purchasing?

14 A. I don't remember the unit number, but if I
15 remember correctly, there are four buildings. It was
16 in one of those four buildings.

17 Q. Did he tell you why he didn't purchase it?

18 A. Yes.

19 Q. What did he say?

20 A. Because my wife Jeanny and I told him that he
21 really should make an offer on this property and that
22 he would be able to get it.

23 He's told me that when he did it, purchase
24 the property, I asked him why and he told me that he
25 didn't even make an offer on it. I said, why didn't

1 you make an offer? He said that Debby dissuaded him
2 from it and also Mary Bee Thrasher, the real estate
3 agent told him that the \$1,000 HOA dues every month
4 was very high and the units in that area did not
5 appreciate much.

6 MR. BAER: I'm going to move to strike what
7 Mary Bee Thrasher said as hearsay.

8 MR. BIORN: No objection.

9 THE COURT: It will be stricken.

10 MR. BIORN: Now that I said no objection, it
11 does go to at least Mr. Ho's state of mind.

12 MR. BAER: I don't think it does. It goes
13 for what Mary Bee Thrasher said.

14 THE COURT: Well, and I'm not quite sure what
15 his state of mind is. He didn't buy it. He didn't
16 make an offer on it.

17 MR. BIORN: Fair enough.

18 THE COURT: And Mary Thrasher is testifying?

19 MR. BIORN: She may, yes.

20 BY MR. BIORN:

21 Q. Peter, have you ever seen the Grant Deed by
22 which your dad transferred title to CSM?

23 A. I'm not sure what you're talking about. The
24 buying deed, the selling deed?

25 Q. Excuse me, to transfer title, I meant by

1 selling --

2 A. To the --

3 Q. -- to the purchaser in 2014.

4 A. I don't think I've ever seen it.

5 MR. BIORN: Your Honor, that's about what we
6 had ready to go for today. I thought that it would
7 last a little longer than that. I underestimated
8 Debby and overestimated Peter.

9 If we could break for the day. Sorry about
10 that.

11 David, I really didn't think I had much time
12 with him, as I mentioned.

13 MR. BAER: It's okay.

14 THE COURT: Okay.

15 MR. BAER: I don't want to force you into
16 examination that you don't feel prepared for.

17 THE COURT: Sure. See you at 10:00 o'clock
18 tomorrow.

19 MR. BIORN: Yes.

20 MR. BAER: And Debby will be back. And she's
21 planning on coming at least through Thursday, and
22 that's when we have our reporters through -- or an
23 interpreter through.

24 I think in terms of the interpreter being
25 able to stay longer and Debby being able to testify

1 longer, if they're both willing, it's fine with me.
2 But, you know, I don't want to reserve her for a
3 whole afternoon when I've got to pay for all that.

4 MR. BIORN: Got it.

5 THE COURT: Do you want this on the record?

6 MR. BAER: No. No. I'm sorry, I thought we
7 were off.

8 THE COURT: We'll go off the record.

9 (Whereupon, there was a discussion off the
10 record.)

11 THE COURT: We're going to break. But can
12 you help me out?

13 When you put your dad on the deed for one
14 person, did you already purchase the property or was
15 it in escrow or where was it?

16 THE WITNESS: Yes, we had -- Jeanny and I, we
17 were under contract already, and then dad was put on
18 as an addendum, as an additional buyer.

19 THE COURT: So you had not closed?

20 THE WITNESS: We had not closed, that's
21 correct.

22 THE COURT: Okay. Thank you.

23 (Whereupon, there was a discussion off the
24 record.)
25

1 (WHEREUPON, the proceedings were adjourned at
2 2:45 p.m.)
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R E P O R T E R ' S C E R T I F I C A T E

I, NINA PAVONE, hereby certify that the foregoing proceedings were taken down in shorthand by me, a Certified Shorthand Reporter, and a disinterested person, at the time and place therein stated, and that the proceedings were thereafter reduced to typewriting under my direction and supervision;

I further certify that I am not of counsel or attorney for either/or any of the parties to the said proceedings, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

Date: June 6, 2024



NINA PAVONE,

CSR No. 7802