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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.)	
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**CERTIFIED
TRANSCRIPT**

REPORTER'S TRANSCRIPT OF PROCEEDINGS
TRIAL - DAY 3

Date: September 20, 2023
Time: 10:08 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, ESQ.
160 West Santa Clara Street
Suite 1600
San Jose, CA 95113
(408) 288-2240

For the Petitioner:

CRIST, BIORN, SHEPHERD & ROSKOPH
BY: KRISTOFER W. BIORN, ESQ.
BY: SCOTT A. FRASER, ESQ.
2479 East Bayshore Road
Suite 155
Palo Alto, CA 94303
(650) 321-5000
Kwb@cbsrlaw.com
Saf@cbsrlaw.com

For the Respondents:

HARTOG BAER ZABRONSKY &
VERRIERE APC
BY: DAVID BAER, ESQ.
4 Orinda Way
Suite 200D
Orinda, CA 94563
(925) 253-1717
dbaer@hbzvlaw.com

The Interpreter:

Bonny Llyn

Also present:

Peter Ho
Kysen Kuo
Erik Weiss
Debby Chang
(via Zoom p.m. session)

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P R O C E E D I N G S

THE COURT: Good morning.

THE INTERPRETER: Good morning.

THE COURT: I'm going to swear in the
interpreter. Could you raise your right hand,
Ms. Llyn.

BONNY LLYN,
was first duly sworn by the Court to translate from
English to Mandarin and Mandarin to English.

THE COURT: Could you state your first and
last name?

THE INTERPRETER: Yes. Bonny Llyn,
B-O-N-N-Y, L-L-Y-N, court certified in the Mandarin
language, with a badge number of 301440.

THE COURT: Very good. And do you do
simultaneous interpretation?

THE INTERPRETER: I do. I was academically
trained.

THE COURT: Good. I don't know if that's
going to interfere, but you've done this a lot in
court, I take it, the simultaneous. Okay. We'll try
it and as far as the question goes, if you have a
problem with the answer, just let me know.

THE INTERPRETER: Okay.

1 THE COURT: And this has gone on for a while,
2 so we know that you might have to break it up into --
3 if the answer gets too long.

4 THE INTERPRETER: Yes.

5 THE COURT: Ms. Chang, I remind you you're
6 still under oath.

7 DIRECT EXAMINATION (UNDER 776) RESUMED
8 BY MR. BIORN:

9 Q. Ms. Chang, I'd like you to turn to
10 Exhibit 146, that's in binder 2.

11 A. (Witness complies.)

12 Q. Ms. Chang, again, we have in front of you the
13 Sterling Bank loan application for the purchase of
14 Redwood City that we discussed yesterday.

15 Do you see that?

16 A. Yes.

17 Q. If you will turn to page 4, do you see about
18 a third of the way down that the Roman numeral IX,
19 says IX, and then says "Acknowledgement and
20 agreement"?

21 THE INTERPRETER: Judge, Ms. Chang doesn't
22 think simultaneous works for her because she's
23 hearing two voices.

24 THE COURT: Okay. Very good. We'll do it
25 one after another.

1 MR. BIORN: So you want me to say that again,
2 Madam Translator? I will.

3 BY MR. BIORN:

4 Q. Do you see about a third of the way down on
5 the fourth page here where it's got the Roman numeral
6 IX, IX, and it also says "Acknowledgement and
7 agreement" in all caps, do you see that?

8 A. I see it for the first time.

9 Q. Did you read this when you were signing the
10 loan application?

11 A. I signed for it, but I didn't read it.

12 Q. It's -- the text is a bit small, but let me
13 read it to you. And I'll pause at some point so you
14 can catch up, Madam Translator.

15 "Each of the undersigned specifically
16 represents to lender and lender's actual or potential
17 agents, brokers, processors, attorneys, insurers
18 and/or successors and assigns and agrees and
19 acknowledges that: 1, the information provided in
20 this application is true and correct as of the date
21 set forth opposite my signature."

22 THE COURT: Mr. Biorn, would you -- I'm
23 trying to figure out how to speed this up.

24 MR. BIORN: I'm not going to read the entire
25 paragraph, Your Honor.

1 THE COURT: Thank you.

2 MR. BIORN: I'm just reading down to the
3 second point. I'm only reading this first point.

4 THE COURT: Okay.

5 MR. BIORN: Okay.

6 BY MR. BIORN:

7 Q. "And that any intentional or negligent
8 misrepresentation of this information contained in
9 this application may result in civil liability,
10 including monetary damages to any person who may
11 suffer any loss due to reliance upon any
12 misrepresentation that I have made on this
13 application, and/or criminal penalties, including but
14 not limited to fine or imprisonment, or both, under
15 the provisions of Title 16, United States Code
16 Section 1001."

17 THE COURT: Can I correct you? I think it's
18 Title 18.

19 MR. BIORN: Yes, Title 18. Your copy is
20 better than mine.

21 BY MR. BIORN:

22 Q. Ms. Chang, did you see an acknowledgement and
23 agreement similar to this on any of your other loan
24 applications?

25 A. No, but when I was signing this, all I was

1 thinking was James, someone who was ill was alone in
2 the car.

3 And the other thing was before I sat down,
4 they already told me your loan was approved. I
5 thought it was funny, if the loan was approved, why
6 did you need me here? And my agreement wasn't with
7 you, or my appointment wasn't with you. I wish I was
8 prepared to read the content here.

9 So I'm going to repeat myself. First of all,
10 before I sat down, they told me my loan was approved.
11 I thought to myself the signing was just a formality.

12 MR. BIORN: Your Honor, this entire answer is
13 nonresponsive. I asked her if she saw these other
14 provisions in these other loan applications.

15 THE COURT: Sustained.

16 MR. BIORN: Okay. Move to strike. Move to
17 strike her answer.

18 THE COURT: I'm trying to think.

19 MR. BAER: Well, she started answering the
20 question no, I believe.

21 MR. BIORN: So anything after no.

22 THE COURT: Okay. Stricken after no.

23 BY MR. BIORN:

24 Q. Ms. Chang, did you believe that pre-approval
25 of your loan for Fulton meant that you could lie on

1 your loan application?

2 A. No.

3 Q. Ms. Chang, when we were -- left off
4 yesterday, we were talking about the company
5 Evergreen Life that is listed in this loan
6 application as your employer.

7 Do you recall us talking about that
8 yesterday?

9 A. Yes.

10 Q. Did you ask the owner of Evergreen to sign
11 any documents in connection with your loan
12 application?

13 A. I wasn't the person who passed down the
14 document or documents to the owner. I don't know who
15 gave the documents to the owner of Evergreen Life and
16 I don't know what they signed. I told the person you
17 asked for the documents to be signed, so it was out
18 of my hand.

19 Can I make a correction?

20 Q. Yes.

21 A. What I meant was I didn't know. It had to be
22 Garcia who gave the person the information in the
23 documents because he was the person -- because Garcia
24 was the person that required the documents.

25 Q. Ms. Chang, as you recall, on your loan

1 application, it says you had been working five years
2 at Evergreen. Did you tell the owner of Evergreen
3 that she needed to let the bank know you were working
4 there for five years?

5 A. I don't remember, but if I did, it was also
6 under Garcia's instruction and Garcia had said that's
7 what I had to tell the owner.

8 Q. Ms. Chang, if you turn to page 2 of
9 Exhibit 146, your loan application, it shows your
10 base employment income as \$18,500.

11 Do you see that?

12 A. Yes.

13 Q. Did you tell the owner of Evergreen how much
14 she needed to advise the bank that you made working
15 there?

16 A. No.

17 Q. Ms. Chang, who is Anna Tsai?

18 A. She was an old friend for many years.

19 Q. Is she also the owner of Evergreen Life
20 Company?

21 A. I later recalled her company was called
22 Evergreen, but I didn't used to know the name of the
23 company.

24 Q. So did you recall that she was the owner of
25 Evergreen after this lawsuit started?

1 A. I found out later. I don't remember exactly
2 when.

3 Q. Was it after this loan application was
4 completed?

5 A. I don't remember.

6 Q. Did you tell Anna Tsai what start date you
7 wanted her to advise the bank that you started
8 working at Evergreen?

9 A. I don't think I did, but I'm not sure if I
10 did. If I told her something, it would have been
11 because Garcia asked me to. I was very surprised. I
12 thought I told Garcia everything, including the fact
13 that my income was from the rent and I wasn't
14 working.

15 MR. BIORN: Your Honor, just -- this might be
16 helpful. I did think the court interpreter hold up
17 her hand as if Ms. Chang had been going on too long.

18 I know yesterday we told the court
19 interpreter that was okay to do if she needed
20 Ms. Chang to stop while she was working on her
21 interpretation.

22 Would that be okay again?

23 THE COURT: Yes. You can explain that to the
24 interpreter, not about holding up the hand. But
25 that's fine.

1 MR. BIORN: Thank you.

2 BY MR. BIORN:

3 Q. Ms. Chang, can you turn to Exhibit 80. It's
4 in binder 1. In the lower left-hand corner, it says
5 "Please print or type name," and it says S-H-I-O-W,
6 dash, Y-U-H and the last name Tsai, T-S-A-I.

7 Do you see that?

8 A. I'm still looking for it.

9 Q. Bottom left.

10 A. I see it.

11 Q. Is that the same person as Anna Tsai?

12 Let me ask a better question. Is that Anna
13 Tsai's full real name?

14 A. I knew that her first name is Anna and her
15 last name is Tsai, so I always just called her Anna.
16 I didn't know about her middle name Shioh or
17 anything.

18 Q. Ms. Ho, did Anna Tsai call you about this
19 document, page -- Exhibit 80?

20 A. No, she told me that she received a form from
21 someone to have her sign.

22 Q. Okay. And did she, at any point in time, ask
23 you what to say for her start date on that form?

24 A. I don't think she did, but I'm not sure. If
25 you had asked me the same question back then, I can

1 tell you. I could have told you, but you're asking
2 me today. I don't remember. It's been too long
3 since the lawsuit started.

4 Q. Ms. Chang, did Ms. Tsai ask you what to
5 indicate in this form, Exhibit 80, for your salary at
6 Evergreen?

7 A. No.

8 Q. Okay. All right. If we can turn to
9 Exhibit 81. This is the translation of a voicemail
10 that is in Mandarin from Anna Tsai to Debby Chang.

11 A. Hold off. Could I add something?

12 Q. No, there's no question pending.

13 Ms. Chang, can I -- can you look at
14 Exhibit 81?

15 MR. BAER: This is a translation of a
16 voicemail that you left for Anna Tsai. There's the
17 audio file.

18 MR. BIORN: David, I can play the voicemail
19 in Mandarin.

20 MR. BAER: I don't see the point.

21 MR. BIORN: That's fine.

22 THE COURT: I agree.

23 MR. BIORN: Okay. Well, just for the
24 witness's assistance.

25 THE WITNESS: Excuse me, before I see the

1 document and before I hear the voicemail, I couldn't
2 read it just yet because of my eyesight. Could I say
3 something?

4 BY MR. BIORN:

5 Q. No, there's no question pending.

6 So Ms. Chang, in this voicemail --

7 MR. BAER: Wait a second. Are you able to
8 read this?

9 THE WITNESS: Yes.

10 MR. BAER: Okay.

11 BY MR. BIORN:

12 Q. Let me know when you're done reading this
13 transcription of the voicemail. And the interpreter
14 can interpreter it for you.

15 A. I feel breathless. Can you read it for me?

16 MR. BIORN: I'll just ask the interpreter to
17 read it to her in Mandarin.

18 MR. BAER: No objection. It's short.

19 THE COURT: Yes, no problem.

20 (The interpreter read the document to the
21 witness.)

22 BY MR. BIORN:

23 Q. Ms. Chang, does this voicemail refresh your
24 recollection that Anna Tsai asked you what start date
25 that you wanted her to indicate on the request for

1 verification of employment?

2 A. This is not helpful for my recollection.

3 Q. Ms. Chang, does this voicemail, transcription
4 of this voicemail refresh your recollection that Anna
5 Tsai asked you how much you wanted her to indicate
6 that you made at Evergreen Life on the request for
7 verification of employment?

8 A. I still don't remember.

9 MR. BIORN: Your Honor, I'll move Exhibits 80
10 and 81 into evidence.

11 MR. BAER: I have no objection.

12 THE COURT: Received.

13 MR. BAER: Thanks.

14 (Whereupon, Exhibit 80 was admitted into
15 evidence.)

16 (Whereupon, Exhibit 81 was admitted into
17 evidence.)

18 BY MR. BIORN:

19 Q. I'd like the read from the witness's
20 responses to petitioner and trustee Peter Ho's set of
21 request for admissions, first set of request for
22 admissions. It's Exhibit 157.

23 MR. BAER: It's an exhibit?

24 MR. BIORN: It's a new exhibit. This is
25 Exhibit 157. This is for the witness. There you go.

1 MR. BAER: Thank you.

2 MR. BIORN: Let me write Exhibit 157 on that.
3 David, I had sent you an e-mail suggesting that we
4 not copy the entire discovery responses if it was
5 more than ten pages. So I did not do that. I only
6 copied the starting page and the objections and then
7 the signature pages, as well as the pages that
8 reference a request for -- the response that I wanted
9 to read.

10 MR. BAER: I don't have any problem with
11 that. No objection.

12 MR. BIORN: Thank you.

13 THE COURT: Help me out. It's also Exhibit 2
14 to Ms. Chang's volume 1.

15 MR. BIORN: It may be.

16 THE COURT: But this looks legible.

17 MR. BAER: He's just reducing the weight of
18 the evidence.

19 MR. BIORN: I think the weight of the
20 evidence is just fine.

21 (Whereupon, Exhibit 157 was marked for
22 identification.)

23 BY MR. BIORN:

24 Q. I'd like to read your response to request for
25 admission number 64. The request is "Admit that in

1 February 2017, you knew that James F. Ho was weak and
2 fatigued."

3 A. What was the time again?

4 Q. There's no question. I'm just reading it.
5 And then your response is "Responding party admits
6 this assertion."

7 Now, Ms. Ho [sic], in February 2017, that's
8 when Mr. Ho obtained the \$1.1 million cashier's check
9 to transfer money to you; is that right?

10 A. Yes.

11 Q. And that check -- those proceeds were for the
12 purchase of the Redwood City property; is that right?

13 A. Yes.

14 Q. And you were going to use those monies for
15 the down payment to buy that property, right?

16 A. Yeah, part of it, yes, for down payment.

17 Q. How much of it?

18 A. 1.1 million.

19 Q. And you drove Mr. Ho to the bank to obtain
20 that check, correct?

21 A. Yes.

22 Q. And he went in the bank alone and you stayed
23 in the car; is that right?

24 A. Yes. I brought him all the way to the
25 entrance.

1 Q. If you'd turn to Exhibit 78 in volume 1 of
2 the exhibits --

3 MR. BAER: Sorry, what number?

4 MR. BIORN: 78.

5 BY MR. BIORN:

6 Q. Do you see this document, Ms. Chang?

7 A. Yes.

8 Q. This is a receipt for the cashier's check
9 that Mr. Ho obtained to transfer the funds to you,
10 right?

11 A. Yes.

12 Q. Do you see the Chinese characters at the top
13 of the document towards the left of where it says
14 cashier's check?

15 A. Yes.

16 Q. Did you write those Chinese characters?

17 A. Yes.

18 Q. What does it say?

19 A. A receipt for the money for a loan from
20 Mr. Ho.

21 Q. Sorry, can you repeat that?

22 A. A receipt.

23 Q. Received?

24 A. A receipt.

25 Q. Receipt?

1 A. Receipt for the money as a loan from Mr. Ho.

2 Q. And down in the bottom right-hand corner, you

3 see the additional Chinese characters?

4 A. Yes.

5 Q. Did you write those?

6 A. Yes.

7 Q. What does it say?

8 THE INTERPRETER: Interpreter needs to

9 clarify with the witness on the text.

10 (The interpreter asked for clarification in

11 Mandarin.)

12 THE WITNESS: This receipt is for the deposit

13 into Sterling Bank, in parentheses, already given to

14 Ho. My correction is -- what I meant was this was a

15 receipt record that I gave to Ho.

16 BY MR. BIORN:

17 Q. Ms. Chang, numerous times, at least today,

18 maybe in prior days of your testimony, you said

19 things like receipt record that you gave to Ho. When

20 you say "Ho," are you referring to Mr. Chang -- I'm

21 sorry, Mr. Ho?

22 A. Yes.

23 Q. Ms. Ho [sic], it's your testimony that both

24 you and Mr. Ho signed a gift letter with the bank

25 stating that that \$1.1 million check, plus the

1 \$67,050 for the initial deposit, were both a gift
2 from Mr. Ho to you; is that right?

3 MR. BAER: Objection. Compound.

4 MR. BIORN: Okay. I'll rephrase.

5 BY MR. BIORN:

6 Q. It's your testimony in this case that both
7 you and Mr. Ho signed a gift letter that the
8 \$1.1 million was a gift to you, right?

9 A. Say the one word again. From where?

10 MR. BIORN: Can you read the question back?

11 (The record was read by the Reporter.)

12 THE WITNESS: I have a vague memory of that,
13 but I think so.

14 BY MR. BIORN:

15 Q. Ms. Chang, you're familiar with Mr. Ho's
16 signature, aren't you?

17 A. Yes. However, the signature could look
18 different tomorrow.

19 Q. Let's have us turn to Exhibit 79. Ms. Chang,
20 this is a gift letter that I was just referring to.

21 Do you see it?

22 A. Yes.

23 Q. Do you see in the bottom left-hand portion
24 there, do you see your signature?

25 A. Yes.

1 Q. Ms. Chang, when you signed this document, you
2 knew that it indicated that James was gifting you
3 \$1,100,000, plus \$67,050?

4 A. I think so. And I now also remember the day
5 that we signed this one, we were in a rush to sign a
6 lot of documents.

7 Q. Where were you when you and James signed this
8 gift letter?

9 A. We were both home.

10 Q. And at that point, your home was on
11 Promontory Point in Foster City?

12 A. I think so.

13 Q. And the date indicated next to your signature
14 and the signature that says James F. Ho, that date of
15 March 9, 2017, is that the day that you and Mr. Ho
16 signed this gift letter?

17 A. This is my signature. But today I can't
18 remember whether I signed it on that date. Like I
19 said, we signed a lot of documents that day.

20 Q. Ms. Chang, the signature that's above donor's
21 signature, do you see that, where it seems to be --
22 says James Z. Ho or James F. Ho.

23 Do you see that?

24 A. Yes.

25 Q. You're familiar with Mr. Ho's signature.

1 Would it surprise you if an expert has testified that
2 is not James Ho's signature?

3 MR. BAER: Objection. Irrelevant, her
4 personal reaction to what an expert says.

5 THE COURT: Sustained.

6 MR. BIORN: She testified that she was with
7 Mr. Ho when he signed it, so I guess her answer ought
8 to be yes, she's not -- yes, she would be surprised.

9 MR. BAER: It's certainly arguable.

10 THE COURT: The relevance of whether or not
11 she's surprised or not, I mean, you've got an expert.

12 MR. BIORN: Okay.

13 THE COURT: Just for my curiosity, is the
14 expert going to testify about each line here --

15 MR. BIORN: No.

16 THE COURT: -- on Exhibit 79? Okay. Fair
17 enough.

18 MR. BIORN: The expert is going to testify
19 about the signatures. I believe that everyone's
20 agreed that Mr. Garcia filled out this form with the
21 hand printing.

22 MR. BAER: Yes, I'll just say my expert will
23 testify about each line on the document.

24 THE COURT: Okay.

25 BY MR. BIORN:

1 Q. Ms. Chang, you mentioned that on this day,
2 you were in a rush and you and Mr. Ho had to sign a
3 lot of documents. Were those other documents also
4 related to your loan with Sterling Bank?

5 A. I don't remember.

6 Q. Well, did Mr. Ho have to sign those -- a lot
7 of documents that day also?

8 A. Not as many as mine. I don't know. I don't
9 remember. I felt very impatient that day. I was
10 complaining about there were too many documents and I
11 was very busy.

12 Q. Ms. Chang, as you sit here now, can you
13 recall any other reason, other than the loan, that
14 you would be signing a bunch of documents on March
15 9th, 2017?

16 MR. BAER: Objection. Lacks foundation.

17 I'll withdraw the objection.

18 THE WITNESS: I really don't remember. I
19 remember being very impatient because there was a lot
20 of documents. I felt I signed a lot of documents at
21 a bank already and how come there were still so many
22 documents to sign. I felt busy and I had to sign a
23 lot, just like Garcia did, but I didn't ask questions
24 because I believed them, they were helping us.

25 BY MR. BIORN:

1 Q. Ms. Chang, Mr. Ho was not a borrower on the
2 loan. Do you have any idea why he would have to sign
3 any loan documents?

4 A. I just know we did what they asked us to do
5 and this was their job. I focused on my job and they
6 were doing their job.

7 Q. Ms. Chang, can you turn to Exhibit 147 in
8 binder 2?

9 MR. BAER: Can you remind me, what was the
10 exhibit number for these --

11 MR. BIORN: The gift letter?

12 MR. BAER: No, the RFAs.

13 MR. BIORN: 157.

14 MR. BAER: Okay. Sorry. Now, you want which
15 one?

16 MR. BIORN: 147.

17 MR. BAER: Okay.

18 BY MR. BIORN:

19 Q. Sorry. Do you have Exhibit 147 in front of
20 you? Do you see that document, Ms. Chang?

21 A. I don't know whether this is 147.

22 Q. 147. Ms. Chang, this is a document that says
23 PRDF addendum number 2 and down below in the added
24 text is James F. Ho to be removed from purchase
25 contract.

1 Do you see that? Do you see that where it
2 says "James F. Ho to be removed from purchase
3 contract"?

4 A. Yes.

5 Q. Is that your signature on the bottom left,
6 second line from the bottom?

7 A. Yes.

8 Q. Is that Mr. Ho's signature?

9 A. It looks like his.

10 Q. And the date is March 6, 2017, right?

11 A. Yes.

12 Q. Do you have any reason to believe you didn't
13 sign it on that date?

14 A. I didn't pay attention then. I was just
15 signing.

16 Q. So Ms. Chang, this addendum removing Mr. Ho
17 as a purchaser on the contract is signed on March 6,
18 2017, which is three days before the dates on the
19 gift letter of March 9, 2017.

20 My question again is: Why would Mr. Ho be
21 signing any other documents for the purchase of
22 Redwood City on March 9, 2017 if he was already
23 removed from the contract to purchase the property?

24 MR. BAER: Asked and answered.
25 Argumentative.

1 MR. BIORN: It's a different question.

2 THE COURT: Overruled.

3 THE WITNESS: It wasn't my responsibility to
4 pay attention to the date. It was their job. I
5 believed that I wasn't looking at a date. I believed
6 that he also wasn't looking at a date because the
7 main point of signing the document was not the date.
8 Whether it was a few days before or after, something,
9 for example, after or before Garcia removed his name
10 on the form, it wasn't what I paid attention to.

11 BY MR. BIORN:

12 Q. Ms. Chang, yesterday you told us a couple
13 times that when you were filling out your loan
14 application you told Mr. Garcia that your income was
15 around \$10,000 a month.

16 Do you remember that?

17 A. Yes, 10,000 or a little over, and that was
18 the amount of my monthly income.

19 Q. And at that time, in February 2017, you had a
20 mortgage that you had to pay on a monthly basis for
21 the Los Angeles property on McCollum Street, right?

22 A. Yes.

23 Q. And at the same time, you also had a mortgage
24 on your Brewster property in El Cerrito that you also
25 had to make monthly mortgage payments on; is that

1 right?

2 A. Yes.

3 Q. And your loan payments for the Redwood City
4 property that you were buying were going to be \$9,000
5 a month; is that right?

6 A. Yes, but that hadn't happened yet.

7 Q. But once you bought the property, your
8 mortgage payments on Redwood City were about \$9,000 a
9 month, right?

10 A. Close to.

11 Q. Ms. Chang, you were making \$10,000 a month.
12 Your mortgage on Redwood City was going to be \$9,000
13 a month. You also had a mortgage on the McCollum
14 property, and you also had a mortgage on the Brewster
15 property. How were you going to make your monthly
16 payments on the Redwood City loan?

17 A. Okay. That's a good question. My Brewster
18 property I was renting out the upstairs for \$3,500
19 and the downstairs for almost \$3,000. By then, I was
20 living with Mr. Ho mostly.

21 After my remodelling work and build-out at my
22 L.A. home, my income was close to 8,000 or \$9,000 a
23 month.

24 With my Redwood City house, Brewster, L.A.,
25 with the Redwood City house, my plan was the first

1 amount wasn't due until March. Mr. Ho gave me the
2 down payment. I had extra income and money from the
3 others. That's enough. Go ahead.

4 In addition, I had the Social Security
5 income. I had my retirement money. So I knew that I
6 was able to afford them. And I thought to myself if
7 there was going to be any issue, well, I enjoyed
8 thinking about solutions. I enjoyed the
9 accomplishment -- sense of accomplishment from
10 running a business. I knew that I would always come
11 up with a solution if somehow my income wasn't going
12 to be enough.

13 Q. Ms. Chang, it's true that after James died,
14 your daughter Rita had to loan you money so you could
15 make the \$9,000 a month payment in Redwood City; is
16 that right?

17 A. That's not the case. Rita loaned me money
18 only when I was temporarily short. She loaned me
19 money mainly because the lawsuit started.

20 MR. BIORN: Your Honor, it's 11:15. Is now a
21 good time for a break?

22 THE COURT: Sure. Great. We'll take a
23 break.

24 (Whereupon, a break was taken.)

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

1 Ms. Chang, I'll remind you you're still under oath.

2 THE WITNESS: Okay.

3 BY MR. BIORN:

4 Q. Ms. Chang, before we broke, we were talking
5 about how you were going to pay the \$9,000 a month
6 mortgage for Redwood City.

7 MR. BAER: Objection. Lacks foundation.
8 Exhibit 146 doesn't show a \$9,000 mortgage.

9 MR. BIORN: I asked her what it was and she
10 told us 9,000.

11 MR. BAER: Well, it's not what it was. Let
12 me just say the exhibit doesn't show that. If you
13 want to go with that as the basis, fine.

14 MR. BIORN: Her deposition, she testified
15 9,000.

16 MR. BAER: Fine.

17 MR. BIORN: Let's go off the record for a
18 minute.

19 THE COURT: Sure. We can go off the record.

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

22 BY MR. BIORN:

23 Q. So we just had a discussion off the record
24 and it sounds like your payment of -- monthly payment
25 to the bank of what I said was close to 9,000, I

1 think what you testified to, was actually closer to
2 8,700 and that included your mortgage, your real
3 property taxes and your insurance.

4 Does that sound accurate to you?

5 A. Yes. However the reason I said \$9,000 amount
6 was because that was my expenses. There were a lot
7 of repairs, like the fountain was broken, a screen
8 window needed to be repaired and trimming the grass.

9 Q. So you listed for us your sources of income
10 on how you were going to pay all your expenses and
11 you listed \$3,500 a month for renting the upstairs at
12 El Cerrito, \$3,000 a month for renting the downstairs
13 at El Cerrito, you thought you'd get about \$8,000 a
14 month in Los Angeles, and you had around \$2,000 a
15 month in Social Security and pension, as I recall; is
16 that right?

17 A. Yes.

18 Q. All right. So that adds up to \$16,500 a
19 month in gross income and from that you had to pay
20 your taxes, the mortgage on Los Angeles, the mortgage
21 in El Cerrito, the mortgage and real property taxes
22 and insurance in Redwood City which we know is \$8,700
23 a month and your other living expenses.

24 Again, I ask you: How possibly were you
25 going to afford to make the monthly payments on

1 Redwood City?

2 MR. BAER: I'm going to object. It's
3 argumentative and it's been asked and answered.

4 THE COURT: I'm going to -- overruled.

5 THE WITNESS: Do I need to answer?

6 BY MR. BIORN:

7 Q. Yes.

8 A. Okay. Even though I didn't take details,
9 bookkeeping notes on my expenses, but I had savings
10 in my account or accounts. I could afford those
11 expenses. I have always been very cautious and
12 frugal with my money. I had minimum expenses and
13 that includes meal expenses with Mr. Ho as well.

14 Q. Now, I think I heard you testify earlier this
15 morning that Mr. Ho gave you the money for the first
16 month's mortgage payment.

17 A. This morning?

18 MR. BAER: I think that lacks foundation. I
19 don't remember that. The record will say what it
20 says.

21 MR. BIORN: That's fine.

22 MR. BAER: Just ask again if you want.

23 MR. BIORN: That's all right.

24 Let's move to Exhibit 83, big binder.

25 MR. BAER: 83.

1 BY MR. BIORN:

2 Q. Exhibit 83 is the final buyer settlement
3 statement when you purchased the Redwood City
4 property.

5 Do you see that?

6 A. Yes.

7 Q. And if you look on the third line down you
8 see deposit by Debby Chang and James F. Ho, 67,050.
9 That was the initial deposit check that James gave to
10 the title company, right?

11 A. Yes.

12 Q. And do you see right below that, deposit by
13 Debby Chang \$1,053,862.62?

14 Do you see that?

15 A. Yes.

16 Q. And you obtained that money by way of the
17 \$1.1 million cashier's check from Mr. Ho, correct?

18 A. Yes.

19 Q. So you had -- doing some rough math, you had
20 between 46,000 and \$47,000 left over on the
21 \$1.1 million deposit that stayed in your bank
22 account, right?

23 A. I think so. I didn't do the math.

24 Q. Ms. Chang, in buying the Redwood City
25 property and getting the \$1.1 million from James and

1 holding back around \$46,000, was your plan to use
2 that \$46,000 to pay the mortgage until James died?

3 A. I didn't have any plans, so to speak. James
4 gave me the money. I accepted. The bank said a
5 certain amount of money was what they required from
6 me. James gave me a certain amount of money.

7 Q. Okay. When you were purchasing the Redwood
8 City property, did you think James would die soon?

9 A. That wasn't my thought. I felt that he was
10 going to get better. That was also my hope. I had
11 no experiences with this kind of circumstances. I
12 saw him undergoing the chemo and taking his medicine.
13 I always thought he would get better.

14 Q. Ms. Chang, Tammy Yu is your CPA, right?

15 A. Only for a very short period of time.

16 Q. Hasn't Tammy Yu been preparing your tax
17 returns since at least 2009?

18 A. I don't remember for which years, but one or
19 two years, not a long time. Actually, not one or two
20 years, but I don't know for how long. She was my
21 accountant, but she was not a CPA.

22 THE COURT: Could you do me a favor and get
23 the spelling of the name?

24 MR. BIORN: Yu, Y-U.

25 THE COURT: Thank you.

1 BY MR. BIORN:

2 Q. Ms. Chang, in August of 2017, did you ask
3 Tammy Yu to prepare an estate tax return, what's
4 called a form 706?

5 A. Did he say fault or false? Can he repeat the
6 question?

7 MR. BIORN: Can you read the question back,
8 please?

9 (The record was read by the Reporter.)

10 THE WITNESS: An estate tax? I'm not
11 familiar with estate tax or 706.

12 BY MR. BIORN:

13 Q. Now, Ms. Chang, as I understand it, in this
14 litigation, it's your position that the \$1.1 million
15 was never a loan, it was always a gift, right?

16 A. I did not ever have a discussion about this
17 money with Mr. Ho. I also did not ask him for a
18 loan. We went to see the house together and we took
19 the next step and the next step.

20 Q. All right.

21 MR. BIORN: I'd like to read from the
22 witness's deposition, volume 1, page 77, lines 10
23 through page 78, line 5.

24 MR. BAER: I'm sorry, the lines?

25 MR. BIORN: 77/10, 78/5.

1 MR. BAER: Okay.

2 BY MR. BIORN:

3 Q. "Question: Ms. Chang, we haven't talked a
4 lot about the Fulton Street purchase and I realize
5 we're getting closer to the end of things. Let me
6 just ask you a few questions. The money that James
7 provided, the \$1.1 million and then the down payment
8 check, do you have those two things in mind?

9 Answer: Do I know about these two?

10 Question: Yes. Do you have those in mind?
11 I'm going to go ask you just a couple questions, but
12 I want to make sure you have those two items in mind.

13 Answer: Yes, I remember them.

14 Question: With respect to those funds, did
15 James ever tell you they were a loan?

16 Answer: Never, no one said that.

17 Question: Your position in this case is that
18 those funds, and I'm referring to the \$1.1 million
19 and the cashier's -- I'm sorry, and the down payment
20 money were a gift from James. That's your position,
21 correct?

22 Answer: Yes."

23 So Ms. Chang, turn to Exhibit 78 in the
24 binder. This is the cashier's check. We've already
25 seen on this cashier's check you wrote on there that

1 it was for the money loaned to you from Mr. Ho; isn't
2 that right?

3 MR. BAER: Objection. Asked and answered.

4 THE COURT: Sustained. You can go to your
5 next question.

6 BY MR. BIORN:

7 Q. Exhibit 82, do you recognize the handwriting
8 there?

9 A. Yeah.

10 Q. Is it James' -- is it Mr. Ho's handwriting?

11 A. I'm not sure.

12 Q. Did Mr. Ho ever talk to you about a note
13 where he said that you borrowed \$1 million from
14 Mr. Ho without interest and you will return it at the
15 appropriate time?

16 A. He never told me this. At some point, Peter
17 came and asked me for the interest in the amount of
18 \$3,500 a month. I was surprised. I went to ask
19 James. I told him Peter was asking me for the
20 interest. He said forget about him, ask him to get
21 out.

22 MR. BAER: Madam Reporter, can you please
23 read for me the first sentence of that answer? I
24 didn't get that.

25 (The record was read by the Reporter.)

1 THE WITNESS: Can I add more?

2 BY MR. BIORN:

3 Q. No, there's no question pending.

4 MR. BAER: Well, if she has more response to
5 the last question --

6 BY MR. BIORN:

7 Q. Yes, if you have more to respond to the last
8 question.

9 MR. BAER: So why don't you read it for her
10 so we can make sure it will be responsive.

11 (The record was read by the Reporter.)

12 THE WITNESS: I know that I said in the past
13 this note was from James, but I'm thinking more
14 clearly today. I am not taking the old medication
15 that I was on today. I don't think he wrote this,
16 but I'm not sure.

17 BY MR. BIORN:

18 Q. Let me --

19 THE COURT: She's pointing to Exhibit 82.

20 MR. BIORN: Okay. Let me read from the
21 witness's declaration, new exhibit, 162.

22 THE COURT: Thank you.

23 MR. BIORN: I'm sorry, 161. I took it out of
24 turn. But anyway, 162. I'd like to read paragraph
25 24.

1 MR. BAER: Here, I'll find it.

2 BY MR. BIORN:

3 Q. At the end of paragraph 24 -- excuse me, this
4 is the declaration of Debby Chang and reply to Peter
5 Ho's opposition of the motion to expunge. It was
6 filed on January 7, 2020.

7 Ms. Chang, do you see your signature on page
8 7?

9 A. I haven't finished reading 24.

10 Q. My question is -- the only question pending
11 is" do you recognize your signature on page 7?

12 A. This is my signature.

13 Q. And before you signed it, did you see the
14 text right above where it says "I declare under
15 penalty of perjury under the laws of the State of
16 California that the foregoing is true and correct"?
17 Did you see that?

18 A. I can tell you now that I apologize.

19 MR. BIORN: Your Honor, I have feeling this
20 is going to be a motion to strike. It's a yes-or-no
21 answer.

22 MR. BAER: Well, let's let her answer.

23 THE WITNESS: All the documents we have been
24 discussing including the loan documents, I can tell
25 you the truth. Before -- after the lawsuit was

1 filed, I really wasn't able to read any of the
2 documents, one, because of my eyesight, two because
3 of my English, three, because I became very bothered
4 by the whole situation.

5 Those documents that I put my name down, I
6 didn't read them, but I am now learning that I always
7 have to read the document before I sign it.

8 BY MR. BIORN:

9 Q. Ms. Chang, your response or your paragraph
10 24, you declare as follows in this declaration -- I'm
11 going to read the first sentence and the last
12 sentence, "After I purchased the Redwood City
13 property, I told James that I was going to treat his
14 down payment as a loan."

15 Last two -- last two sentences, "James
16 provided rent for one month in July 2017. After
17 James made it clear that the down payment on the
18 Redwood City was going to be a gift, I did not ask
19 him for another rent payment."

20 Ms. Chang, yesterday we looked at Exhibit 94.
21 Ms. Chang, yesterday we looked at Exhibit 94. If
22 you'll look at that exhibit. It's right next to you.
23 There's no question about the paragraph. I'm just
24 reading it into the record.

25 My question for you, Ms. Chang, is: On

1 Exhibit 94, it's a July 10, 2017 check from James to
2 you for \$3,500, and it says in the lower left-hand
3 corner "Rental 229 Fulton," is that the rental check
4 that you were referring to in the declaration at
5 paragraph 24?

6 A. I don't know. I don't remember.

7 Q. Now, I'm sorry to take these out of order,
8 but here's Exhibit 161. Exhibit 161 is the
9 declaration of Debby Chang in opposition to Peter
10 Ho's motion for order granting leave to report lis
11 pendens. It was filed in the action on August 28,
12 2020.

13 And Ms. Chang, if you will please turn to --

14 THE COURT: Can you help me out? Sorry.

15 MR. BIORN: Yes.

16 THE COURT: Just for purposes of the record,
17 the exhibit you read, the expungement notice exhibit,
18 what number is that?

19 MR. BIORN: That was 162.

20 THE COURT: Okay. Thank you.

21 MR. BIORN: The reason I kept them in that
22 order --

23 THE COURT: You can do it any way you want.

24 MR. BIORN: -- is because the exhibit list
25 that I provided you had them in that order already.

1 MR. BAER: So which declaration is 162?

2 MR. BIORN: 162 is the declaration filed
3 January 7, 2020.

4 MR. BAER: That's her moving declaration on
5 the motion to expunge?

6 MR. BIORN: Yes.

7 MR. BAER: Okay.

8 MR. BIORN: And 161 is her declaration filed
9 on August 28, 2020.

10 BY MR. BIORN:

11 Q. So Ms. Chang, with regards to Exhibit 161,
12 will you please turn to page 14? Is that your
13 signature on that page?

14 A. Yes.

15 Q. And as with 162, did you just sign this
16 document without reading what was in it?

17 A. I don't remember who handed me this document
18 to sign. I also didn't read it.

19 Q. Ms. Chang, is every piece of evidence that is
20 against you somebody else's fault?

21 MR. BAER: I'm going to object as
22 argumentative.

23 THE COURT: Sustained.

24 THE WITNESS: I didn't say that. I already
25 told you --

1 MR. BAER: No.

2 MR. BIORN: I'll withdraw it.

3 BY MR. BIORN:

4 Q. Let's move to paragraph 42, I'd like to
5 read -- it says paragraph 42, Ms. Chang declares "The
6 Redwood City property escrow closed on March 28,
7 2017. After I purchased the property, I told James
8 that I was going to treat his down payment as a loan.
9 James agreed. But later he decided instead to make
10 it a gift -- to instead make it a gift. I did not
11 pressure James to make this decision."

12 So again, you've referred to the \$1.1 million
13 being a loan in this paragraph in your declaration;
14 is that right?

15 MR. BAER: The document speaks for itself.

16 MR. BIORN: Okay. I'll withdraw the
17 question.

18 BY MR. BIORN:

19 Q. Paragraph 38 I'll read next. "James made the
20 down payment on the Redwood City property. First, he
21 gave a check for \$67,500 to Ms. Thrasher to deposit
22 into escrow. In addition, he obtained a cashier's
23 check for \$1.1 million dated February 22, 2017
24 payable to me, which I deposited into the escrow. I
25 did not, quote, unquote, convince or pressure James

1 to pay the down payment. James made that decision on
2 his own. At first, we considered the \$1.1 million
3 check to be a loan, but James later decided that he
4 wanted to make it a gift to me. James made that
5 decision on his own, too."

6 Ms. Chang, if you'll turn to Exhibit 63.
7 There was one check I forgot to ask you about
8 yesterday. This is a check payable from Mr. Ho to
9 you for \$5,000, dated July 17, 2016.

10 Do you recall receiving this check from
11 Mr. Ho?

12 A. Do I need to answer?

13 MR. BAER: Yes.

14 BY MR. BIORN:

15 Q. Do you recall receiving this check from
16 Mr. Ho?

17 A. I don't remember, but I know that he gave me
18 this number of money. I don't remember whether this
19 was the one.

20 MR. BIORN: Your Honor, I'd like to move into
21 evidence some of the documents we've been discussing,
22 or all of documents we've been discussing today.

23 THE COURT: And what was that exhibit number?

24 MR. BIORN: That was --

25 MR. FRASER: 63.

1 THE COURT: That's what I thought.

2 MR. BIORN: I'll go backwards. I'd like to
3 move 63 into evidence.

4 MR. BAER: No objection.

5 THE COURT: Received.

6 (Whereupon, Exhibit 63 was admitted into
7 evidence.)

8 MR. BIORN: I'd like to move 161 into
9 evidence.

10 MR. BAER: No objection.

11 THE COURT: Received.

12 (Whereupon, Exhibit 161 was admitted into
13 evidence.)

14 MR. BIORN: I'd like to move 162 into
15 evidence.

16 MR. BAER: No objection.

17 THE COURT: Received.

18 (Whereupon, Exhibit 162 was admitted into
19 evidence.)

20 MR. BIORN: I'd like to move 82 into evidence
21 if it hasn't already been.

22 THE COURT: It has been.

23 MR. BIORN: I'd like to move 78 into
24 evidence.

25 MR. BAER: No objection.

1 MR. BIORN: It's the \$1.1 million cashier's
2 check.

3 MR. BAER: No objection.

4 (Whereupon, Exhibit 78 was admitted into
5 evidence.)

6 MR. BIORN: I'd like to move 147 into
7 evidence.

8 MR. BAER: Which one is that?

9 MR. BIORN: It was the addendum.

10 MR. BAER: No objection.

11 THE COURT: Received.

12 (Whereupon, Exhibit 147 was admitted into
13 evidence.)

14 MR. BIORN: I'd like to move 157 into
15 evidence, which is request for admissions number one.

16 MR. BAER: No objection as to the -- as to
17 what portion he read.

18 MR. BIORN: Yes.

19 THE COURT: Received.

20 (Whereupon, Exhibit 157 was admitted into
21 evidence.)

22 MR. BIORN: With --

23 THE COURT: Partial.

24 MR. BIORN: Yes, partial, and that would be
25 with the other written discovery responses as well.

1 Is that okay, David?

2 MR. BAER: Yes.

3 MR. BIORN: And then I'd like to move 79 into
4 evidence, which is a gift letter. And 83.

5 THE COURT: Hold on. Any objection to 79?

6 MR. BAER: No.

7 THE COURT: Thanks.

8 (Whereupon, Exhibit 79 was admitted into
9 evidence.)

10 MR. BIORN: Then 83, which is a closing
11 statement for the purchase of Redwood City.

12 MR. BAER: No objection on that one. Did you
13 include in this the other handwritten note?

14 MR. BIORN: Which one was that?

15 THE COURT: Unsigned.

16 MR. BAER: Yes, the one that's unsigned.
17 It's dated, I think, March 20, 2017. Maybe it came
18 in yesterday, actually. I think it came in
19 yesterday.

20 THE COURT: It's 82?

21 MR. BAER: Yes, that would have come in
22 yesterday.

23 MR. FRASER: That came in yesterday.

24 MR. BIORN: It did?

25 MR. FRASER: Yes.

1 MR. BIORN: Yes.

2 THE COURT: I'm terribly sorry, but could you
3 tell me which discovery response is just partial?

4 MR. BIORN: Yes, all of them and I'll tell
5 you which ones.

6 So on 161, paragraph 42 and paragraph 38. On
7 162 it was paragraph 24, the first sentence and the
8 last two sentences.

9 And then on --

10 MR. BAER: Just for clarification, those are
11 declarations, I believe?

12 MR. BIORN: Yes. And then on the request for
13 admissions, it was 64 and that was Exhibit 157.

14 THE COURT: Okay. Great.

15 MR. BIORN: One moment for some housekeeping,
16 Your Honor, make sure I have it all.

17 Okay.

18 BY MR. BIORN:

19 Q. Ms. Chang, who is John Martin?

20 A. Your attorney who supposedly would write the
21 statement about the \$1.1 million check.

22 Q. Did you know who he was -- excuse me.

23 At some point in time Mr. Ho met with him; is
24 that right?

25 A. He did, after the last appointment.

1 Q. Mr. Ho only met with him -- strike that.

2 Before Mr. Ho spoke with John Martin, did you
3 know who Mr. Martin was?

4 MR. BAER: Objection. Vague and ambiguous.

5 THE COURT: Before? Before Mr. Ho talked to
6 Martin, did she know who Mr. Martin was?

7 MR. BIORN: Yes.

8 THE COURT: I'm going to permit that, unless
9 there's something I'm missing. Okay. Mr. Baer is
10 shaking his head.

11 MR. BAER: I don't think you're missing
12 anything. You just ruled against me.

13 THE COURT: Could you answer that, please?

14 THE WITNESS: What's the question again?

15 MR. BIORN: Can you read it back?

16 (The record was read by the Reporter.)

17 THE WITNESS: Yes, because the person who
18 helped me contact him received my communication to
19 have this person come to see Mr. Ho, this person
20 being the person who wrote the statement.

21 MR. BIORN: I'd like to read from the
22 witness's deposition volume 1, page 21, lines 20 to
23 23.

24 BY MR. BIORN:

25 Q. "Question: You spoke to attorney John Martin

1 several times, correct?

2 Answer: Before he came and talked to James,
3 I did not speak to him ever, nor did I know who he
4 was."

5 But as you just testified today, you knew who
6 was setting up the meeting with Mr. Martin so that he
7 could meet with Mr. Ho, right?

8 A. Okay. So let's get the chronological time
9 right. Before that day, I didn't know who he was,
10 but that day, I knew that he was coming to meet
11 Mr. Ho and I found out his name was Martin.

12 Q. Well, it was you who set up the meeting
13 between Mr. Martin and Mr. Ho; isn't that right?

14 A. This is a little complicated. With Mr. Ho
15 undergoing chemo, I didn't know what days he would
16 feel better to let Mr. Martin come here. So I told
17 our contact person, let's wait until Mr. Ho had a
18 better schedule, when he felt better. So I wasn't
19 the person that reached out to him. I didn't make
20 the appointment myself. It's simple. I didn't make
21 the appointment myself.

22 Q. Well, in fact, the people who arranged for
23 the appointment were your daughter Rita and her
24 boyfriend Reinhard Oesterle, R-E-I-N-H-A-R-D, last
25 name O-S-T-E-R-L-E [sic]?

1 MR. BAER: I believe it's O-E.

2 MR. BIORN: Thank you.

3 (Reporter clarification.)

4 THE WITNESS: Can I say something?

5 BY MR. BIORN:

6 Q. No. No question pending.

7 MR. BAER: Well, there is one. She needs to
8 read it, right?

9 MR. BIORN: Well, no, she was going to read
10 it back.

11 THE COURT: The contact person was your
12 daughter Rita and Reinhard Oesterle; is that correct?

13 THE WITNESS: Correct.

14 THE COURT: Okay.

15 BY MR. BIORN:

16 Q. And you had to make sure that the appointment
17 was set for a day that you felt James was okay enough
18 to meet with the attorney; is that right?

19 A. Yes, but -- go ahead. Yes, but -- yes, I am
20 not a doctor. I wasn't a doctor, but I knew, based
21 on his chemo history, the last day of the session or
22 series, he always felt better.

23 Q. On the day of the meeting, Peter came over
24 and cancelled the meeting between John Martin and
25 Mr. Ho; is that right?

1 A. Yes.

2 Q. And at some point in time, did Peter leave
3 after cancelling the meeting?

4 A. No.

5 MR. BAER: Objection. Lacks foundation.

6 THE COURT: Establish a foundation.

7 MR. BAER: At least my -- well, okay.

8 THE COURT: Do you want to take five minutes
9 or something?

10 MR. BIORN: No, I'm good now. Yes, I found
11 it.

12 THE COURT: Okay.

13 MR. BIORN: Was there an answer?

14 THE REPORTER: Yes. The answer was no.

15 THE COURT: You're asking it be stricken.
16 You need to establish a foundation.

17 BY MR. BIORN:

18 Q. Were you at the house when Peter came over
19 and cancelled the appointment with Mr. Martin?

20 MR. BAER: Objection. It's compound.

21 THE COURT: I'm going to permit it.

22 THE WITNESS: I don't think this was a proper
23 question. Peter cancelled the meeting after he left
24 and he was outside of the house.

25 BY MR. BIORN:

1 Q. Ms. Chang, after Peter left, did you have a
2 conversation with Mr. Ho about the meeting with
3 Mr. Martin?

4 A. Yes.

5 Q. And during that conversation, did you insist
6 that Mr. Ho go to a meeting with Mr. Martin that day?

7 A. Yes.

8 Q. During that conversation with Mr. Ho, did you
9 threaten to leave him if he didn't reinstate the
10 appointment?

11 A. The word threat was an exaggeration. I
12 wanted the meeting to happen because I needed them to
13 clarify exactly whether the 1.1 million was a gift or
14 a loan. I felt exhausted. Peter would come to our
15 house and ask the same question every week. That's
16 what I had to say.

17 Q. Mrs. Chang, before the day in which this
18 conversation happened, did Mr. Ho tell you that he
19 wanted to meet with an attorney about the gift or
20 loan?

21 A. He didn't. He actually didn't want to.

22 Q. So let me take out the word "threaten."
23 During this conversation, did you tell Mr. Ho that
24 you would leave him if he didn't reinstate the
25 appointment with John Martin?

1 A. I may have said that, but I didn't think, nor
2 did I believe that Mr. Ho would believe that I was
3 really going to leave him.

4 THE COURT: Just a minute. Could you mark
5 this? There's something I missed a couple questions
6 ago.

7 (Whereupon, there was a discussion off the
8 record.)

9 THE COURT: Okay. I'm sorry, I just asked
10 the reporter something.

11 BY MR. BIORN:

12 Q. During that conversation, did you tell Mr. Ho
13 that his son Peter was a liar?

14 A. I don't remember using that word.

15 Q. Did you say anything similar to Mr. Ho,
16 similar to -- let me strike that.

17 During that conversation, did you say
18 anything to Mr. Ho that was similar to a comment that
19 Peter was a liar?

20 MR. BAER: Objection. Vague and ambiguous.

21 THE COURT: Sustained.

22 BY MR. BIORN:

23 Q. During this conversation, did you tell Mr. Ho
24 that Peter was being untruthful?

25 A. I didn't say anything about Peter. I just

1 wanted to recover -- reinstate the meeting. Excuse
2 me. Go ahead.

3 Q. During this conversation, did you tell Mr. Ho
4 that Peter wanted to brainwash him or words to that
5 effect?

6 A. I think I said that. I was very upset that
7 day because it took a lot of effort to make the
8 appointment. It was quite an effort to wait for
9 James to feel better. I really needed a resolution.

10 At first, Peter said it was a gift. Then he
11 said, it's a loan. I just really needed to know. I
12 didn't mean to -- I didn't mean to distract anyone.

13 Q. Ms. Chang, my question is a little bit
14 different.

15 MR. BIORN: Well, I'm sorry. What was the
16 first word in that answer?

17 (The record was read by the Reporter.)

18 MR. BIORN: I asked did she tell Mr. Ho that
19 Peter wanted to brainwash him and I heard the first
20 word in the answer was yes.

21 MR. BAER: That's not correct. Would you
22 please read the first sentence?

23 (The record was read by the Reporter.)

24 MR. BIORN: Got it. Thank you.

25 BY MR. BIORN:

1 Q. So we're still talking about this
2 conversation with Mr. Ho on the day he eventually met
3 with Mr. Martin.

4 During that conversation, did you speak
5 negatively to Mr. Ho about his children?

6 A. That same day or during the time I was with
7 him?

8 Q. Say that again.

9 A. That day or during the time I was with him?

10 Q. During that conversation that we've been
11 talking about.

12 A. Oh.

13 Q. The same conversation.

14 A. No, there was no time to go there.

15 Q. During that same conversation, did you tell
16 Mr. Ho that you would leave and take the \$1.1 million
17 with you?

18 A. I was very upset, so I said that. But let me
19 repeat, I knew that he wouldn't believe me. I would
20 never -- I knew that he would never believe me. I
21 would never leave him. I knew that he knew that. So
22 it was just lip service. I wouldn't leave him. He
23 knew that I wouldn't leave him.

24 Q. During that same conversation, did you tell
25 Mr. Ho that if he doesn't meet with Mr. Martin, that

1 you would leave and not help him anymore?

2 A. I said that, but just like -- I already said
3 the same thing. I knew that he wouldn't believe me.
4 He wouldn't believe what I said. I was very upset at
5 that moment when I said that. He was sick. It
6 wasn't the time to leave him at all. I never
7 considered that, but I was extremely upset.

8 Q. Ms. Chang, after this conversation, after
9 this day when this conversation occurred, did you
10 ever tell Mr. Ho that you couldn't take care of him
11 anymore?

12 A. That wasn't ever a thought that crossed my
13 mind. He was so tortured by his illness, I cried
14 inside every day. There was no way I said that kind
15 of thing to him.

16 Q. After this day that he met with Mr. Martin,
17 did you say to Mr. Ho, don't live with me, or words
18 to that effect?

19 A. No.

20 Q. After this day that Mr. Martin met with
21 Mr. Ho, did you say to Mr. Ho, your brain is so
22 confused or words to that effect?

23 A. I don't remember.

24 Q. And did you ever say to Mr. Ho, you are so
25 ill that you are confused and you can't understand

1 anything?

2 A. No.

3 Q. During this conversation, was the discussion
4 between Mr. Ho and you, was it heated?

5 MR. BAER: So vague and ambiguous as to what
6 conversation.

7 MR. BIORN: Okay.

8 BY MR. BIORN:

9 Q. I'm back to the conversation you were having
10 with Mr. Ho just before he met with Mr. Martin and
11 the one we've been talking about this afternoon.
12 Okay? Do you have that in mind?

13 A. It wasn't a heated conversation. I just
14 really wanted him to meet Martin.

15 Q. Did either of you raise your voices during
16 the conversation?

17 A. That's possible.

18 Q. And during this conversation, did Mr. Ho say
19 to you to -- tell you to give the money back to him?

20 A. The topic of money didn't come up.

21 Q. Well, during this conversation, did you tell
22 Mr. Ho that he needed to tell Mr. Martin that the
23 \$1.1 million was a gift?

24 A. I may have. I remember he asked me what he
25 should say to Martin. I said just the same thing

1 that you had been telling Peter, that this is a gift.

2 Q. So your prior answer said the topic of money
3 didn't come up, but you just told us you talked to
4 Mr. Ho about the \$1.1 million.

5 So did the topic of money actually come up
6 during that conversation?

7 A. During the actual conversation, we did not
8 talk about that, but at the end, he asked me this one
9 last thing, and I told him what I said.

10 Q. Okay. What you just told us?

11 A. Before the end of the conversation, we didn't
12 talk about that, but he asked me that question at the
13 end and that's what I said.

14 Q. Okay. I don't think I got a direct answer to
15 my prior question.

16 At any time prior to this -- I'm sorry.

17 So we're talking about the conversation prior
18 to the meeting with Mr. Martin. So at any time prior
19 to that meeting, did Mr. Ho tell you to give the
20 \$1.1 million back?

21 A. No.

22 Q. The meeting with Mr. Martin and Mr. Ho, it
23 did happen later that same day; is that right?

24 A. Yes, we rescheduled it.

25 Q. And that day was August 21st, 2017; is that

1 right?

2 A. That same day. We first cancelled it and
3 then we rescheduled the appointment.

4 Q. When you rescheduled the appointment, did you
5 call Mr. Martin to re-set up the appointment?

6 A. I asked for the phone number, and then I
7 asked him, do you want me to call him? He said yes.
8 So I dialed the number for him.

9 Q. And did you talk to Mr. Martin at that time?

10 A. At the end, only to confirm the time he would
11 be here.

12 Q. Okay. And back to my question, the day this
13 happened, was it August 21st, 2017?

14 A. I'm not going to tell you which date -- what
15 date, but it was the same day that Peter cancelled
16 and then we rescheduled it.

17 MR. BIORN: For the judge's assistance, can
18 we stipulate it was August 21st?

19 MR. BAER: Yes, we can.

20 MR. BIORN: Thank you.

21 BY MR. BIORN:

22 Q. Did Mr. Martin come to your house, yours and
23 James' house, to meet with James?

24 A. Yes, in Redwood City.

25 Q. What time was that meeting?

1 A. The rescheduled meeting was at 4:30.

2 Q. Did you speak with Mr. Martin when he
3 arrived?

4 A. He didn't want to talk to me.

5 Q. Did you have any conversation with Mr. Martin
6 before he met with Mr. Ho alone?

7 A. Like I said, he didn't want to talk to me. I
8 didn't have the opportunity to talk to him.

9 Q. Where did Mr. Ho and Mr. Martin meet?

10 A. In our formal dining room.

11 Q. Can you describe that room for me? Can you
12 close off the entire room with doors?

13 THE INTERPRETER: Before the interpreter
14 renders this answer, just for the record, in Mandarin
15 there's no distinction between plural and singular
16 unless you add a counting unit, and so I will say
17 door/doors.

18 THE WITNESS: Yes, this is the room where you
19 could close the door/doors and you wouldn't be able
20 to hear the conversation inside. He also asked me to
21 go upstairs.

22 BY MR. BIORN:

23 Q. Where were you while Mr. Martin and Mr. Ho
24 met?

25 A. I went upstairs.

1 Q. Did you leave the house at all?

2 A. No.

3 Q. After the meeting, did you speak with
4 Mr. Martin -- excuse me, let me restate that.

5 After Mr. Martin and Mr. Ho met, did you
6 speak with Mr. Martin?

7 A. He asked me to go there. He said James
8 looked tired, but James was right next to him.

9 Q. Did you ask Mr. Martin any questions after
10 the meeting?

11 A. I didn't ask him any questions because he
12 wouldn't talk to me. He did say this was the form,
13 but I didn't ask him any question.

14 THE COURT: I just want to check. It's
15 getting close to 1:00 o'clock. Are we going to 1:30
16 today?

17 MR. BIORN: I think I'm getting close to a
18 good spot to stop.

19 THE COURT: Whatever you want to do.

20 MR. BIORN: Let's just finish with this
21 Mr. Martin.

22 MR. BAER: Okay.

23 THE WITNESS: He told me here's the form for
24 James to -- I'll re-render.

25 He told me here's a form. When James wakes

1 up, ask him if he wants to continue the meeting. If
2 he does, please either mail me a check or hand me the
3 check tomorrow morning.

4 BY MR. BIORN:

5 Q. Did you read the document that Mr. Martin
6 gave to you?

7 A. It had nothing to do with me, so I didn't.

8 Q. Did you ever speak with Mr. Martin again?

9 A. No. I brought the form to him. His
10 secretary was the person that received it.

11 THE INTERPRETER: The interpreter wishes to
12 re-render the previous interpretation.

13 Previously the interpretation was "I had
14 nothing to do with that." I think the more accurate
15 interpretation should be "it wasn't for me."

16 BY MR. BIORN:

17 Q. I didn't understand, Ms. Chang, when you said
18 that somebody handed a phone to Mr. Martin. My
19 question was --

20 MR. BAER: I think her term was "form," but
21 you can read that.

22 MR. BIORN: Okay. I'm fine.

23 Just a couple more questions and we can wrap
24 this up for today.

25 What exhibit is that letter? David, do you

1 have it marked?

2 MR. BAER: I don't know. I have to see what
3 exhibit it is.

4 Do you know what he's talking about?

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

6 (Whereupon, there was a discussion off the
7 record.)

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

9 MR. BIORN: So now is a good time to break
10 for lunch.

11 THE COURT: Sure. Very good.

12 MR. FRASER: I did find it.

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

15 MR. BIORN: Let's go back on the record, Your
16 Honor.

17 THE COURT: Yes.

18 BY MR. BIORN:

19 Q. Ms. Chang, let me show you what's been marked
20 as Exhibit -- what is Exhibit 532. It's a two-page
21 document.

22 My first question is: Have you seen that
23 document before?

24 A. This seems to be my own handwriting, but I
25 don't remember.

1 Q. Do you remember sending this letter to
2 Mr. Martin with a copy of his certificate of
3 independent review or with the original of his
4 certificate of independent review?

5 MR. BAER: Hold on just a second.

6 THE WITNESS: I can't deny the handwriting
7 being mine.

8 BY MR. BIORN:

9 Q. Okay.

10 A. But I don't remember it.

11 MR. BAER: Okay.

12 MR. BIORN: Thank you. No further questions
13 today.

14 MR. BAER: Can we talk scheduling because
15 we've got issues with other people, too, besides
16 ourselves?

17 THE COURT: Great. Five minutes and then
18 we'll come back here and talk scheduling, is that
19 what you want to do?

20 MR. BIORN: Sounds good.

21 (Lunch recess taken.)

22

23

24

25

1 AFTERNOON SESSION:

2 (The record was read by the Reporter.)

3 THE COURT: I am at the end of the table that
4 you see and I'm Judge Gallagher. Present are a court
5 reporter and some attorneys.

6 You're going to be asked some questions by
7 two of the attorneys, I believe. The other attorneys
8 will not be asking questions.

9 I'd like to swear you in. If you'd raise
10 your right hand.

11 TAMMY YU,
12 being duly sworn by the Court to tell the truth, the
13 whole truth, and nothing but the truth, testified as
14 follows.

15 THE COURT: Thank you. Could you start by
16 stating your first and last name, please?

17 THE WITNESS: My full name is Sufen Yu. My
18 middle name is Tammy.

19 DIRECT EXAMINATION

20 BY MR. FRASER:

21 Q. Good morning, Ms. Yu. My name is Scott
22 Fraser. I'm on the Zoom so that you can see my face,
23 I don't know if that helps at all and so --

24 A. I can see your face.

25 Q. And I can share my screen if necessary.

1 So do you go by Tammy Yu ordinarily?

2 A. Usually people call me Tammy.

3 Q. And I'll try to call you Ms. Yu today, but if
4 I call you Tammy, please forgive me.

5 What is your occupation, Ms. Yu?

6 A. I'm an enrolled agent.

7 Q. And as an enrolled agent, you mean an
8 enrolled agent with the IRS; is that correct?

9 A. You're silent.

10 Q. You're saying you're an enrolled agent with
11 the IRS?

12 A. Yeah. I'm an enrolled agent.

13 Q. Who is your employer?

14 A. I am self-employed.

15 Q. What is the name of your business?

16 A. Exact Financial and Management Services,
17 E-X-A-C-T.

18 Q. And do you also do business under the name
19 Exact Tax Service?

20 A. Yeah. That's just an abbreviation because my
21 name is -- the business name is too long.

22 Q. And as part of your occupation you prepare
23 income tax returns; is that correct?

24 A. Yes.

25 Q. Do you know Debby Chang?

1 A. I did her tax return probably for a few
2 years, yes, I did.

3 Q. Do you recall what years you prepared her tax
4 returns?

5 A. Actually, I don't recall when did I start,
6 but I tried to dig my records. I printed out records
7 all the way to 2015. But I couldn't dig up -- I mean
8 I have 2009, 2010, 2011, 2012, 2013, 2014, 2015. I
9 don't know, did I do 2016 because my computer somehow
10 had a glitch or something. I couldn't log in.

11 And I cannot dig anything further because --
12 I probably did prepare her tax return before 2008,
13 but I don't keep my records for so long.

14 Q. Okay. And to recap, it sounds like you have
15 in front of you today the returns for 2009 through
16 2015 that you prepared for Ms. Chang; is that
17 correct?

18 A. Yes, I have -- I printed out the documents.

19 Q. Okay.

20 A. Actually, according to what I remember, this
21 case started like six or seven years ago and the
22 other attorney, whatever I was deal with, I provided
23 all the tax returns, the copies they required.

24 So I don't know, are you the same attorney
25 teams? If you are not, I don't know. Did they pass

1 on those documentations I provided back in, I don't
2 know, 2016 or 2017? I don't remember. It's quite a
3 long time.

4 Q. And Ms. Yu, I will represent to you that we
5 have the tax returns that you produced and the tax
6 returns that we have are from 2009 to 2017.

7 A. So you have 2016, 2017, okay. I wasn't able
8 to log in to 2016 and 2017. Probably my computer has
9 some kind of glitch.

10 THE COURT: Ms. Yu, this is, again, Judge
11 Gallagher. I want you to know that Mr. Peter Ho has
12 joined us. He's physically in the room, too.

13 THE WITNESS: Peter Ho, okay. Is that the
14 one with the yellow shirt and the kind of like --
15 okay, all right. The one raised his hand. Okay.
16 Never met him in person.

17 THE COURT: Okay. Well you're not today
18 either. You'll meet him over Zoom, not in person.

19 THE WITNESS: I never met him in person.

20 THE COURT: Okay. Very good. Thank you.

21 I'm sorry, you can proceed, Mr. Fraser.

22 BY MR. FRASER:

23 Q. Ms. Chang, does our discussion earlier about
24 which tax returns you previously produced, does that
25 refresh your recollection as to whether or not you

1 also prepared tax returns for Debby Chang in 2016 and
2 2017?

3 A. If you have the documents, I believe I did.
4 I just -- I just couldn't log into my old computer.
5 If you had copies, then I did.

6 Q. Do you know who --

7 A. I don't know -- can you look at the first
8 page -- no, no, second page of 1040, can you look at
9 the second page of 1040? Look at the bottom and see
10 who signed at the bottom.

11 Q. Yes.

12 A. Was that me or was that another accounting
13 service? Because I think the whole thing happened
14 somewhere within those two years. She went with --
15 she left. She went with another accounting service,
16 so I'm not sure.

17 Q. Ms. Yu, I'm just going to briefly show you --

18 A. So can you verify tax return 2016 and 2017?

19 Q. We're both going to do it together in just a
20 moment.

21 A. Okay. I don't have that.

22 Q. Please turn to Exhibit 38 and I'm going to
23 share Exhibit 38 with you on my screen right now.

24 A. Okay. Can you look -- so that's my phone
25 number and then the second page at the bottom, that's

1 me, okay. 2016. And then 2017, please.

2 Q. Yes, hold on one second. Just for the
3 record, I showed you Exhibit 138 which is a tax
4 return from 2016.

5 A. Right.

6 Q. For Debby Chang.

7 A. Right.

8 Q. And you confirmed that you prepared that
9 return?

10 A. Yes.

11 Q. And then I'm going to share on the screen
12 with you and ask that Exhibit 139 --

13 A. It's also '17.

14 Q. Correct.

15 A. I can see that. That's me. That's my office
16 address, 6328. So that was the last time I prepared
17 tax return for her. Okay. Yes.

18 Q. And once again, for the record, Ms. Chang
19 [sic], I just showed you Exhibit 139 which is a tax
20 return form 1040 for the year 2017 for Debby Chang
21 and you confirmed that you prepared that return,
22 correct?

23 A. Yes, I did those two. Those are my office
24 address and my phone number and my name.

25 Q. Thank you. And so to recap, you're in

1 possession of the returns that you prepared for
2 Ms. Chang from 2009 to 2015, and I just showed you
3 the returns for 2016 and 2017?

4 A. Yes.

5 Q. So does that refresh your recollection as to
6 whether or not you prepared tax returns for Ms. Chang
7 from at least --

8 A. Yes.

9 Q. -- 2009 to 2017?

10 A. Yes, yes.

11 Q. Okay. And Ms. Yu, you're thinking very
12 quickly. Please try to let me finish asking my
13 question before you respond to make the court
14 reporter's life easier for all of us.

15 Do you know who James Ho was?

16 A. Yes. He -- in the beginning -- in the first
17 few years, I thought that he was just Debby's friend.
18 I really thought they were just friends, until
19 probably towards the end -- I will say like 2017,
20 when this kind of dispute happened. Then I heard it
21 from Anna Tsai, another witness. Then I knew they
22 were couples.

23 Q. Okay. And how did you -- how did you know
24 James Ho? Was that because -- through Debby Chang?

25 A. Yes. Through Debby Chang's introducing --

1 introduction and James Ho asked me to prepare his
2 returns for a few years.

3 Q. Do you recall what years those were?

4 A. Oh, my God, no. I cannot recall. That was
5 too long ago. Could be the same years, for the first
6 few years, but he only used me for few years and then
7 he said -- he told me his son could prepare his
8 return. So he stopped using my service, but I really
9 don't remember when.

10 Q. And so I believe you said earlier that you
11 don't have any tax returns from before 2009 in your
12 computer; is that correct?

13 A. Yeah, because my computer -- now is 2023. So
14 according to IRS regulation, I only need to keep
15 three years of my clients' records. I kept all the
16 way to, what, how many years? 11? Wow. I kept it
17 for 14 years.

18 Q. Yes. And so would it be fair to say then
19 that if you only had records going back to 2009, that
20 the tax returns that you would have prepared for
21 Mr. Ho would have been before that?

22 A. It should be the same. I really don't
23 recall. I can go back and dig.

24 Q. That's okay.

25 A. But I can tell you I -- my computer only keep

1 records from 2009 on, you know.

2 Q. Okay.

3 A. Until 2022.

4 Q. And you don't have any tax returns for James
5 Ho from 2009 forward, correct?

6 A. I don't know. I have to dig if you want.

7 Q. Okay. I'm going to show you Exhibit 131, the
8 tax return of Debby Chang from 2009.

9 A. Okay. I have it here, too. Okay.

10 Q. Do you want me to pull it up on the screen
11 or --

12 A. I have it printed out. I printed out 1040
13 page 1, page 2. I especially printed out Schedule E.

14 Q. Okay. Thank you.

15 MR. BIORN: David, are you okay with her just
16 looking at her copy?

17 MR. BAER: Yes, as long as there's something
18 in the record to say what it is.

19 MR. BIORN: Thank you.

20 BY MR. FRASER:

21 Q. And so you are looking at in front of you the
22 form 1040 for Debby Chang and James C. Chang, no
23 relation to James Ho, for the year 2009 in front of
24 you right now?

25 A. Yeah, this James Chang was Debby's late

1 husband. Yeah, it's quite a coincidence, her late
2 husband also named James.

3 Q. And so when you have discussed James Ho with
4 Debby, did you ever refer to him by a different name
5 to avoid any confusion?

6 A. I did. I find out it was kind of a
7 coincidence. I said this James Chang, is that the
8 James that came in with you? She said no. She said
9 this James Chang, back then, he didn't die yet. She
10 told me this James Chang was her husband.

11 Q. Okay. Do you remember --

12 A. And I said -- I did ask her. I did ask her.
13 I said, where is your husband? She said he was in
14 Taiwan. I vaguely remember because you are asking me
15 now. It's 2023. We're looking at 2009.

16 Q. I understand. And did -- because they had
17 the same first name, did Debby refer to James Ho by
18 another name?

19 A. Fred.

20 Q. Fred is what she referred to him as?

21 A. She always said Fred.

22 Q. Turning back to the 2009 return, just to
23 confirm, you prepared this return, correct?

24 A. Correct.

25 Q. Please direct your attention to the eighth

1 page of the return which is Schedule E.

2 MR. BAER: Which year are we on?

3 MR. FRASER: 2009.

4 BY MR. FRASER:

5 Q. Let me know when you have it in front of you.

6 A. (Indicating).

7 Q. And on Schedule E, part I, line 1A, do you
8 see the real property listed on that line?

9 A. Yes. It's in L.A.

10 Q. And that's 1627 McCollum Street in L.A.,
11 correct?

12 A. Correct.

13 Q. Okay. And what is the reported ownership
14 interest in the McCollum --

15 A. Fifty percent. Fifty percent, right here.

16 Q. Please let me finish. I understand.

17 A. Okay.

18 Q. But please let me finish.

19 And so what information were you given
20 concerning the ownership interest of Debby in the
21 McCollum Street property?

22 A. She would prepare a draft, okay, she
23 handwrote it and then she will give me the 1040A
24 mortgage statement and she will tell me how much was
25 the gross rental income and how much was all

1 expenses, and then she told me it was 50/50. And I
2 vaguely remember, because I don't keep clients'
3 documents after three years. This is a computer
4 printout. I don't have the original document
5 anymore. I vaguely remember on 1098, there were --
6 James' name was on that 1098.

7 Q. And when you say "James," you're referring to
8 James Ho, correct?

9 A. James Ho. I vaguely remember. Okay? I
10 could be wrong.

11 Q. And you said that Debby would provide you
12 with a draft of this information?

13 A. A draft, a piece of paper.

14 Q. And would this be a printout or would it be
15 handwritten?

16 A. Handwritten.

17 Q. Did Debby provide you with any backup
18 documentation regarding the income and expenses?

19 A. Just mortgage interest and property tax.

20 Q. But as far as the income and expenses, she --
21 all that she gave you was these handwritten notes; is
22 that correct?

23 A. She only wrote it on a piece of paper and she
24 gave me numbers.

25 Q. And that's what you relied on to prepare the

1 returns, correct?

2 A. Correct.

3 Q. Okay. I would next ask you to look at
4 Exhibit -- for our purposes, what is Exhibit 132,
5 which is the tax return for the year 2010.

6 A. Okay.

7 Q. Please look at the return. Please look at
8 page 2.

9 A. 1040, page 2?

10 Q. Yes, for the year 2010.

11 A. Okay.

12 Q. Did you prepare this return?

13 A. Of course.

14 Q. And this is the return for Debby Chang and
15 James Chang for the year -- for the year 2010,
16 correct?

17 A. Correct.

18 Q. Please direct your attention to Schedule E on
19 the eighth page of the return.

20 A. (Witness complies.)

21 Q. On part 1, line 1A, do you see that the
22 McCollum Street property is reported there?

23 A. Um-hmm, yes.

24 Q. What percentage -- what ownership interest is
25 reported on that line?

1 A. Fifty percent.

2 Q. And who provided you with the information to
3 report fifty percent of the income and expenses for
4 the McCollum Street property on Schedule E?

5 A. Debby Chang.

6 Q. And how did she provide you with that
7 information?

8 A. The same -- same way.

9 Q. And when you say "the same way," you mean
10 that she provided you with a handwritten document
11 that listed out all the expenses?

12 A. Yes, she -- well -- yeah, she must be in her
13 seventies, so I wouldn't expect more than
14 handwritten, but she just got a piece of notepad and
15 she would use pencil and, you know, handwrote
16 everything down.

17 Q. And those handwritten notes that Debby
18 provided you, that's what you relied on to prepare
19 this Schedule E for the year 2010, correct?

20 A. Yes, the customer's handwritten document,
21 they are responsible for the data they provided and
22 then she provided me the 1098 for the mortgage
23 interest and the property tax they prepared. And
24 usually, I would look at the numbers and see if they
25 are reasonable.

1 Q. When you say "the numbers," you mean the
2 income and expenses that are reported --

3 A. Correct, income and expenses, are they
4 reasonable. And mortgage interest is the largest
5 expense and taxes is the second. And these two items
6 always have, you know, formal documents to support.

7 The rest, for some advertising, \$50, cleaning
8 and -- 675, I would look at the reasonableness of the
9 expense.

10 Q. And for this year 2010, is it your
11 recollection that the form 1098 mortgage interest had
12 James Ho on the form?

13 A. I don't remember. You know, it's so long. I
14 do remember vaguely, I saw a 1098 form. I don't know
15 which year.

16 I do remember I saw a 1098 form with Debby's
17 name and James Ho's name on it. Okay? Again, it's
18 too long. I cannot remember what year. I'm not 100
19 percent sure.

20 I believe you can get the document.

21 Q. Next, I'm going to ask you to look at
22 Exhibit 133 for us which is the 2011 income tax
23 return. Let me know when you have it in front of
24 you.

25 A. (Witness complies.)

1 Q. Please go to page 2. It's actually the third
2 page, but page 2 of the form.

3 A. (Witness complies.)

4 Q. Did you prepare this return?

5 A. Yes, I prepared this return.

6 Q. And Ms. Yu, I am going to be repeating some
7 of my questions, so just be patient with me, please.

8 And so what you have in front of you is the
9 2011 form 1040 income tax return for Debby Chang and
10 James C. Chang, correct?

11 A. Yes.

12 Q. Please go to Schedule E, which is on page 8
13 of the return.

14 A. Schedule E.

15 Q. Yes. For part 1, line 1A, do you see the
16 1627 McCollum Street property reported on the return?

17 A. Yes.

18 Q. And what percentage of the income and
19 expenses are reported on this Schedule E?

20 A. Fifty percent.

21 Q. And who provided you with the information
22 related to fifty percent of the income and expenses
23 that was reported on this Schedule E?

24 A. Debby Chang.

25 Q. And how did Debby Chang provide you with that

1 information?

2 A. Handwritten draft, as she always did.

3 Q. And that handwritten notes, that is what you
4 relied upon -- excuse me.

5 The handwritten notes from Debby Chang, that
6 is what you relied upon to report the income and
7 expenses on this Schedule E, correct?

8 A. Yes. As I said, for item 12, mortgage
9 interest and item 16, property taxes, she had to
10 provide me documents, a bank statement and the...

11 Q. So next, we're going to go to the 2012
12 return, which is Exhibit 134. Please go to the
13 second page of the return.

14 Did you prepare this return?

15 A. Yes.

16 Q. And so you prepared what you have in front of
17 you is the form 1040 for the year 2012 for Debby
18 Chang and James C. Chang, correct?

19 A. Correct.

20 Q. Please go to page 10 of the return, which is
21 Schedule E.

22 A. (Witness complies.)

23 Q. For part 1, line 1A, do you see the property
24 1627 McCollum Street?

25 A. Yes.

1 Q. What percentage of the income and expenses is
2 reported on this Schedule E for the year 2012?

3 A. Fifty percent.

4 Q. And who provided you with the information
5 that reported fifty percent of the income and
6 expenses on this Schedule E?

7 A. Debby Chang.

8 Q. And how did she provide you with that
9 information?

10 A. Handwritten piece of paper, like I said
11 before.

12 Q. And that is what you relied upon, the
13 handwritten piece of paper from Debby Chang, to
14 prepare this Schedule E, except for line 16 for taxes
15 and line 12 for mortgage interest?

16 A. Yes, mortgage interest and property tax, I
17 always go by the bank's issued 1098.

18 For mortgage interest, I have to see 1098
19 which is issued by bank.

20 Q. But all of the other income and expenses were
21 given to you by Debby Chang on a handwritten piece of
22 paper?

23 A. Yes.

24 Q. I'm going to ask you to go next to what is
25 for us Exhibit 135, the income tax return for the

1 year 2013.

2 THE COURT: Mr. Fraser, could you just hold
3 on a second? David Baer is in the waiting room.

4 MR. BAER: It's okay. That's because if I
5 have questions, I need to get in.

6 THE COURT: Okay, sure.

7 MR. FRASER: So you only need to get in if
8 you want to show something other than the tax
9 returns.

10 MR. BAER: Okay. You don't include James'
11 tax returns in your exhibits, right?

12 MR. FRASER: I don't believe so.

13 MR. BAER: Okay. So I may need to do that.

14 MR. FRASER: Okay.

15 THE COURT: Okay, I'm sorry. We're at
16 Exhibit 135.

17 MR. FRASER: Thank you.

18 BY MR. FRASER:

19 Q. For the year 2013 can you please look at the
20 second page?

21 A. Yes.

22 Q. Did you prepare this tax return?

23 A. Yes.

24 Q. And so this is the form 1040 for the year
25 2013 for Debby Chang and James C. Chang, correct?

1 A. Um-hmm, yes.

2 Q. Please direct your attention to Schedule E,
3 which is on page 9. Looking at part 1, line 1A, do
4 you see the real property 1627 McCollum Street there?

5 A. Yes.

6 Q. What percentage of the income and expenses
7 for the McCollum Street property are reported on this
8 Schedule E?

9 A. Fifty percent.

10 Q. And who provided you with that information?

11 A. Debby Chang.

12 Q. And how did she provide you with that
13 information?

14 A. Handwritten draft with a piece of paper.

15 Q. And so you relied upon Debby Chang's
16 handwritten notes in order to report fifty percent of
17 the income and expenses on this Schedule E for the
18 year 2013, correct?

19 A. Yes.

20 Q. And --

21 A. Except item 12 and item 16.

22 Q. Correct. Please go to Exhibit 136, which is
23 the tax return for the year 2014. Please go to the
24 second page.

25 THE COURT: Excuse me, could we go off the

1 record?

2 (Whereupon, there was a discussion off the
3 record.)

4 THE COURT: Back on the record. We just had
5 a Zoom issue while we were off the record.

6 And I'm sorry, Mr. Fraser, could you
7 continue?

8 THE WITNESS: I'm sorry, I couldn't hear what
9 she was saying.

10 THE COURT: I'm sorry, we had a Zoom issue.

11 THE WITNESS: Yeah, okay.

12 THE COURT: We're fine, though.

13 THE WITNESS: Okay.

14 BY MR. FRASER:

15 Q. So the page 2 of the 2014 return, did you
16 prepare this return?

17 A. Okay.

18 Q. Did you prepare this return?

19 A. Oh, yeah I did, I did.

20 Q. Okay. So you're looking at the form 1040 for
21 the year 2014 for Debby Chang and James Chang,
22 correct? Is that correct?

23 A. Yes, I did.

24 Q. Thank you. Please go to Schedule E on page
25 8.

1 A. (Witness complies.)

2 Q. Part 1, line 1A, do you see the real property
3 1627 McCollum Street in Los Angeles?

4 A. Yes, I'm --

5 THE COURT: I'm sorry, another Zoom issue.
6 Sophie Chang Saeed. Do we want to admit her?

7 MR. BAER: Yes. So Debby is at Sophie's
8 house and probably on her computer.

9 THE COURT: S-A-E-E-D.

10 Ms. Chang, are you there?

11 MR. BAER: I don't know that she's going to
12 turn on a camera.

13 THE COURT: I just need her to say yes and
14 I'd like her to say no one else is with her. But,
15 David, if you want to ask the questions.

16 MR. BAER: Ms. Chang, can you hear me? Can
17 you hear me?

18 THE WITNESS: Are you talking about me? I'm
19 Ms. Yu.

20 MR. BAER: I understand. I'm not talking to
21 you.

22 Are you on, Ms. Chang? I think I see you on
23 the camera.

24 MS. CHANG: Yes.

25 MR. BAER: Is anyone else with you?

1 MS. CHANG: No.

2 MR. BAER: Okay. You understand that as long
3 as you're listening in, no one else can be with you
4 that would be a witness in this case?

5 MS. CHANG: Okay.

6 MR. BAER: So in other words, if Sophie is
7 there, she could not be on. If Rita is there, she
8 could not be on.

9 MS. CHANG: No. Right, they are not.

10 THE COURT: She can turn off her camera if
11 she wants.

12 MR. BAER: Okay. If you want, you can turn
13 off your camera. It's up to you.

14 THE COURT: Okay. I'm sorry, Mr. Fraser,
15 could you continue?

16 MR. FRASER: Yes.

17 BY MR. FRASER:

18 Q. I believe I asked you to look at Schedule E
19 on the form 1040 for the year 2014 that's on page 8
20 and do you see on part 1, line 1A, the real property
21 1627 McCollum Street is reported?

22 A. Yes. Are you asking me?

23 Q. Yes.

24 A. Okay.

25 Q. And so what percentage of the income and

1 expenses for the McCollum Street property are
2 reported on this Schedule E for the year 2014?

3 A. Fifty percent.

4 Q. And who provided you with the information
5 that was reported on this Schedule E?

6 A. Debby Chang.

7 Q. And how did she provide that information to
8 you?

9 A. With her handwritten note.

10 Q. And so the handwritten note that Debby Chang
11 provided you with is what you relied upon to prepare
12 this Schedule E for the year 2014, correct?

13 A. Correct.

14 Q. Except for line 12, mortgage interest and
15 line 16, property taxes?

16 A. Correct.

17 Q. Next, I'll ask you to look at what for us is
18 Exhibit 137, the tax return for the year 2015.

19 A. (Witness complies.)

20 Q. Please go to the second page.

21 A. (Witness complies.)

22 Q. Did you prepare this return?

23 A. Yes.

24 Q. And from review of that second page, when
25 does it look like this return was filed?

1 A. This return is odd because it's a hundred
2 percent, but the description says fifty percent
3 because this is a separate item. You know, I kind of
4 hand type in there.

5 So at the end, changed the prescription --
6 not prescription -- description. I changed the
7 description on line 8.

8 Q. Thank you, Ms. Yu. I do want to ask you
9 about that. But first, I want to ask you: When did
10 you prepare and file this form 1040 for the year
11 2015?

12 A. It's page 2, you can tell. Page 2 at bottom,
13 you can see the date.

14 Q. So this return would have been filed on or
15 around June --

16 A. No, no, no. Look at the page 2, 1040 at the
17 bottom. Do you see that?

18 Q. Yes. That's where I'm looking, date
19 06-26-2018.

20 A. 06-26. No, no, no. 2015, when this was
21 filed, it was filed on April 4th, 2016. I think you
22 are looking at the very next one because when --
23 every time I pulled it out, it would give the date of
24 the day I pull. But you look at sign here, you do
25 you see that sign here?

1 Q. I see what you're saying. So you're saying
2 that the date that I'm referencing 06-26-2018, that
3 was the date that you pulled it off of your system?

4 A. Yeah, yeah.

5 Q. Okay. But you're saying above that, where it
6 says for the tax preparer, the tax --

7 A. It says sign here, yeah, for tax preparer and
8 that's the date.

9 Q. Okay. And so this return, from your review
10 of the return, you would assume that it was prepared
11 and signed on or around April 4, 2016; is that
12 correct?

13 A. Yeah, 2016, yeah, because that was right
14 before the deadline.

15 MR. BAER: You were on Exhibit 137 there?

16 MR. FRASER: Correct, 2015.

17 MR. BAER: Thanks.

18 BY MR. FRASER:

19 Q. So Ms. Yu, could you now go to Schedule E and
20 it's actually page 6 of this return.

21 A. (Witness complies.)

22 Are you waiting for me?

23 Q. No. A minute ago, I believe you said that
24 100 percent of the income and expenses of the
25 McCollum Street property are reported on Schedule E

1 for the year 2015?

2 A. That's correct. I mean it's easy to -- easy
3 to distinguish fifty percent from 100 percent because
4 before was always like that's -- let's look at prior
5 here. Prior to fifty percent is 36,120. And then
6 2015 it's 72,240. So this is 100 percent.

7 Q. And who provided you with the information
8 that you used to report 100 percent of the income and
9 expenses for the McCollum Street property on Schedule
10 E?

11 A. Debby Chang.

12 Q. And how did she provide you with that
13 information?

14 A. With handwritten draft.

15 Q. And so you relied upon her handwritten draft
16 in preparing this Schedule E for the year 2015?

17 A. Right, yes.

18 Q. Did Debby tell you why she instructed you to
19 report 100 percent of the income and expenses for the
20 McCollum Street property in 2015?

21 MR. BAER: Objection. Lacks foundation.

22 THE WITNESS: It's quite a long time. I
23 really don't remember. I did -- I did feel -- felt
24 strange, why she will claim 100 percent, but it -- it
25 had always been her coming to my office, so she said

1 this was 100 percent gross income. I really don't
2 remember what was the reason.

3 THE COURT: That's fine. That's what she was
4 asked. Do you care if that answer remains?

5 MR. BAER: I'll move --

6 THE WITNESS: 2015?

7 THE COURT: Hold on. There's been an
8 objection.

9 MR. BAER: I'll move to strike everything
10 other than the last sentence.

11 THE COURT: What are you driving at? Debby
12 reported, you want?

13 MR. FRASER: Yes.

14 THE COURT: And you want she doesn't remember
15 why it was a 100 percent?

16 MR. BAER: Yes. That was the question, why,
17 did she say why.

18 THE COURT: Okay. You can follow up on that
19 if you want, Mr. Fraser.

20 BY MR. FRASER:

21 Q. Did Debby ever say to you that James was
22 making a gift of one half of the ownership
23 interest --

24 (Reporter clarification.)

25 BY MR. FRASER:

1 Q. The question was: Did Debby ever say to you
2 that James Ho was making a gift of one half of the
3 ownership interest in the McCollum Street property to
4 her?

5 Go ahead and answer.

6 A. Over the year -- I cannot think about what
7 time, but I got impression he co-signed the loan with
8 her and that I knew.

9 And then the details, for example, how much
10 she spent on repair or how much she did spent on
11 insurance, that I don't know who pays what. That, I
12 don't know.

13 Q. Okay. Ms. Yu, I want you to try to listen to
14 my question.

15 A. Okay.

16 Q. Did Debby ever say to you that James was
17 making a gift to her of one half of the ownership
18 interest in the McCollum Street property?

19 A. I don't remember. She probably did, she
20 probably did not. I don't remember. You know, it
21 has been a long time.

22 Q. Did Debby ever tell you that James was --
23 James Ho was only on title to the McCollum Street
24 property for convenience purposes?

25 A. I don't remember. I only remember she said

1 he co-signed.

2 Q. Did Debby ever tell you that James Ho was on
3 title to the McCollum Street property to help her
4 acquire financing?

5 A. I think so.

6 Q. Do you recall what else she said?

7 A. In terms of the ownership of the property?

8 Q. Yes.

9 A. Oh, boy. It's a long time. I barely
10 remember just, you know, she -- you know, he
11 co-signed for her because she -- I think she couldn't
12 get a loan without him. I don't know -- I don't know
13 what the big deal was. So I look at the documents
14 and I did the documents. But in terms of in --
15 whatever behind it, I have no idea.

16 MR. BAER: Okay. I'm going to move to strike
17 as nonresponsive. She's talking about what she's
18 thinking, not what was said.

19 MR. FRASER: No objection.

20 THE COURT: It will be stricken.

21 MR. FRASER: Your Honor, I would like to read
22 from her deposition. You have it in front of you.
23 It's starting on page 51, line 11.

24 THE COURT: Oh, no. I have Debby Chang.

25 MR. FRASER: 51, line 11.

1 BY MR. FRASER:

2 Q. Ms. Yu, I'm going to read from your prior
3 deposition.

4 "Did anybody ever say to you that James was
5 making a gift of an ownership interest in 2005 of the
6 McCollum property to Debby?

7 No.

8 Did anybody ever say anything to you that
9 words to the effect that James was only on title to
10 McCollum for convenience purposes?

11 No.

12 Did anybody ever say anything to you words to
13 the effect that James was on title to the McCollum
14 property to help out Debby's credit?

15 No. Whatever the purchasing part is their
16 business. It has nothing to do with me. All I'm
17 focused on was whose Social Security number is -- was
18 on the 1098 because I have to use the Social Security
19 number to, you know, put it on."

20 Does that refresh your recollection as to
21 whether or not Debby ever told you that James was
22 making a gift of one half of the ownership interest
23 in the McCollum Street property to her?

24 A. I never heard that James was giving her fifty
25 percent as a gift.

1 Q. And does that refresh your recollection as to
2 whether Debby ever told you that James was only on
3 title to McCollum for convenience purposes?

4 A. For what purpose?

5 Q. For convenience purposes.

6 A. I don't recall.

7 Q. Does that refresh your recollection as to
8 whether Debby ever told you that James was on title
9 to McCollum to help her acquire financing?

10 A. I don't remember.

11 Q. Next, I'm going to ask you to look at what
12 for us is Exhibit 138, the tax return for the year
13 2016.

14 A. I don't have it. You have to look at it.

15 Q. Okay. I'll pull it up right now.

16 A. Okay.

17 Q. Can you see it in front of you?

18 A. Yes, yes.

19 Q. This is form 1040, income tax return for the
20 year 2016 for Debby Chang.

21 A. She changed to single, yes.

22 Q. Do you recall why she changed to single, a
23 single file?

24 A. Her late husband passed away. Right?

25 Q. I'm asking you whether or not you recall why.

1 A. I don't really remember that clearly. That
2 was like seven years ago. But she did change from
3 married filing jointly to single. Now, I'm looking
4 at this thing, she changed.

5 But you asked me do I recall what was the
6 reason? I don't recall what was the reason. But I
7 assume her late -- her husband passed away. That
8 probably was the reason.

9 Q. And you do you mean that simply because they
10 went from filing married for her -- to her filing
11 single; is that correct?

12 A. I assume because, according to what she told
13 me, they had separated for more than like 20, 30
14 years.

15 Q. I'm going to go down to the second page. Can
16 you see that?

17 A. Yes.

18 Q. And so did you prepare this income tax
19 return?

20 A. Of course.

21 Q. I'm going to go to Schedule E, which is on
22 page 4 of this return, part 1, line 1A.

23 Do you see the --

24 A. Yeah, that fifty percent was -- that was just
25 like I didn't delete it. You know, it was a

1 separate -- it's a description. I had to hand type
2 it in. I didn't delete that fifty percent.

3 According to the gross income, it's 100 percent.

4 Q. Okay. And if I understand you correctly,
5 you're saying that the fifty percent reported on
6 Schedule E, part 1 line 1A for 2015 and 2016, that
7 was a carryover of the description for the prior
8 years?

9 A. Yeah. My computer, you know, this computer,
10 it automatic carryover from prior years and prior
11 years.

12 Q. Like an auto fill?

13 A. Automatically, yeah.

14 Q. Okay. And what percentage of the income and
15 expenses for the McCollum Street property are
16 reported on Schedule E for the year 2016?

17 A. That must be 100 percent.

18 Q. And who provided you with that information?

19 A. Debby Chang.

20 Q. And how did she provide you with that
21 information?

22 A. With a handwritten note.

23 Q. And so you relied upon her handwritten notes
24 for preparing the Schedule E for the year 2016; is
25 that correct?

1 A. Yes.

2 Q. Except for line 12, mortgage interest and
3 line 16, taxes?

4 A. Yes.

5 Q. In 2016, did Debby tell you why she reported
6 to you 100 percent of the income and expenses for the
7 year 2016?

8 A. I don't recall. I really don't recall. When
9 was the file dated?

10 Q. Give me one second and I'll show you.

11 A. Okay. April 4. See, she always came in
12 late, so, you know, I -- you know, I had -- every tax
13 season, I had to see like two, 300 people. I really
14 cannot, especially back six years ago, I couldn't
15 tell the -- I couldn't tell what -- any
16 conversations.

17 Q. It's your understanding from looking at this
18 return on page 2 that it would have been filed on or
19 around April 4, 2017; is that correct?

20 A. Yeah.

21 Q. Next, I'm going to go to the 2017 income tax
22 return which is our Exhibit 139. And I will share
23 this with you so that you can see it.

24 You don't have it, correct?

25 A. Yeah, I --

1 MR. BAER: Which year is this one?

2 MR. FRASER: 2017.

3 BY MR. FRASER:

4 Q. I'm going to scroll down to page 2.

5 A. Yeah.

6 Q. Did you prepare this return?

7 A. Yes.

8 Q. And so this is the form 1040 for the year
9 2017 for Debby Chang?

10 A. Right.

11 Q. And you prepared this return?

12 A. Yes, I did.

13 Q. I'm going to go down to Schedule E, part 1,
14 line 1A, you see the McCollum Street property, 1627
15 McCollum Street, Los Angeles. What percentage of the
16 income and expenses are reported on this Schedule E
17 for the year 2017?

18 A. 100 percent.

19 Q. And who provided you with the information to
20 report that?

21 A. Debby Chang.

22 Q. And how did she provide you with that
23 information?

24 A. She gave me a piece of paper, handwrote the
25 numbers.

1 Q. And you relied upon those handwritten names
2 from Debby Chang?

3 A. Yes.

4 Q. To prepare the Schedule E for the year 2017,
5 correct?

6 A. Yes, yes.

7 Q. Except for line 12, mortgage interest and
8 line 16, taxes?

9 A. Correct.

10 Q. Do you recall receiving a form 1098 for the
11 year 2017?

12 A. I'm sorry, what did you say?

13 Q. Do you recall receiving a form 1098 mortgage
14 interest for the year --

15 A. No, I don't remember. I must have because I
16 always requested client to provide 1098 and property
17 tax. It is routine.

18 Q. Approximately what percent of your practice
19 is devoted to preparing federal estate tax returns
20 form 706?

21 A. 100 percent.

22 Q. I want to --

23 A. You can say -- I did some accounting, but
24 during tax season, I devoted all my time during tax
25 season preparing individual and business tax returns.

1 Q. Okay. So individual tax returns are form
2 1040, correct?

3 A. Yes.

4 Q. And business tax returns are -- partnership
5 return is form 1060. I can't remember what the
6 corporate tax return number is. But what I'm asking
7 you about is form 706, an estate tax return.

8 A. Corporation return is 1120. S Corporation is
9 1120S. And then partnership is -- let's see.
10 Partnership, all of a sudden, I cannot remember.

11 Q. Ms. Yu, it's okay.

12 A. Right.

13 Q. What I'm asking you is: Have you ever
14 prepared a form 706, estate tax return?

15 A. I prepared one like I think a few years ago
16 to another client, a Mexican client.

17 Q. And is that the only form 706 that you --

18 A. Yes.

19 Q. Did Debby ever ask you to prepare a form 706
20 estate tax return for James Ho?

21 A. Yes, she did call me. On the phone, she did
22 ask me to prepare 706 for James.

23 Q. Do you recall approximately when she called
24 you to make this request?

25 A. No. James never called me.

1 Q. Do you recall when Debby called you to
2 request that you prepare the form 706?

3 A. Say that again.

4 Q. Do you recall when Debby called you to ask
5 you to prepare the form 706 for James Ho?

6 A. Yes, she did call me.

7 Q. When did she call you?

8 A. You have the recording. You should know.
9 Because Peter actually had the recording. I think
10 around 2016, 2017.

11 Q. What did Debby say to you when she asked you
12 to prepare an estate tax return for James Ho?

13 A. I really don't remember. I think somewhere
14 around 2016 or 2017 when the whole thing -- when they
15 were doing -- actually, I didn't know what was going
16 on. All right? I really didn't know. I only met
17 her like once a year.

18 During a span of ten years, I probably had
19 dinner or meals with her like three, four times.
20 What was going on, no idea.

21 I know Peter has a recording, so I really --
22 I think you should look it up on the recording. I do
23 remember she did call me and you have the recording.
24 I don't remember what time or what date exactly, I
25 don't.

1 Q. Do you remember what Debby said to you when
2 she called you about the form 706?

3 A. What's the difference between this question
4 and previous question?

5 Q. So previously, I asked you when she called
6 you.

7 A. Okay.

8 Q. Just now I asked you what did she say to you
9 when she called you?

10 A. She just asked me can I prepare 706 for
11 James.

12 Q. And what did you say to her?

13 A. I say sure, if you want to come in, I'll file
14 it for you. She's a client. I have no idea.

15 Q. And did you ask her to provide you any kind
16 of information to prepare the form 706 for James Ho?

17 A. I need James' Social Security number, I need
18 his name, I need his date of birth, address.

19 Q. Did Debby provide you with any of that
20 information?

21 A. No. She just kind of disappeared.

22 Q. Did you ever start to prepare a form 706 for
23 James Ho?

24 A. No. She never -- no, because she -- she
25 asked but she never follow. So, you know, I was

1 busy. I wouldn't do anything. And don't forget,
2 they have -- they didn't pay me. And if they don't
3 sign, I wouldn't send anything out.

4 Q. Do you recall leaving a voicemail for Debby
5 related to the form 706 for James Ho?

6 A. Voicemail?

7 Q. Did you leave Debby a voicemail regarding the
8 form 706 for James Ho?

9 A. I don't remember voicemail.

10 Q. Okay.

11 A. I really don't remember. I only remember she
12 asked me, but I cannot remember did I talk to her on
13 the phone, you know, or did I hear her voicemail? I
14 really don't remember.

15 Q. I want to play a recording for you in a
16 moment, Ms. Yu.

17 THE COURT: Counsel, will you stipulate that
18 this recording need not be reported?

19 MR. BAER: Yes.

20 MR. BIORN: Yes. Thank you.

21 (A recording was played.)

22 MR. BIORN: Let me try that again. We'll
23 start again.

24 (A recording was played.)

25 BY MR. FRASER:

1 Q. Ms. Yu, do you recognize that voice?

2 A. Yes.

3 Q. Is that you?

4 A. That was me.

5 Q. And was that a voicemail that you left for
6 Debby Chang?

7 A. Yes.

8 Q. And what was the substance of that voicemail?

9 A. I was following up with her to say if she
10 wanted me to file 706, she had to provide me James'
11 information. I told her I hadn't had -- hadn't
12 prepared James' tax return for a long time. All his
13 information was erased from my computer, my records.
14 So if she wanted to continue this 706 filing, she had
15 to provide me James' information.

16 Q. And in the recording, I believe I could hear
17 you say the English word "Fred."

18 A. Fred.

19 Q. So were you referring to James Ho?

20 A. Yeah. Yes.

21 MR. FRASER: My computer just froze. Can we
22 go off the record for one second?

23 THE COURT: Absolutely. We're going off the
24 record. We have more technical problems with the
25 Zoom link.

1 (Whereupon, a break was taken.)

2 THE COURT: You can proceed.

3 BY MR. FRASER:

4 Q. Ms. Yu, thank you for your patience with the
5 technical difficulty.

6 I want to share with you for what us is
7 Exhibit 98. This is a transcription of a voicemail.
8 I'm going to go to page 2. If you could review.

9 A. Yeah, okay.

10 Q. And so this -- you provided us a summary of
11 this voicemail earlier today, correct?

12 A. I think Peter Ho provided you guys.

13 Q. What you're looking at right now is a
14 transcription, but we played for you an audio
15 recording that you summarized for us earlier today,
16 correct?

17 A. Right.

18 MR. BAER: I'm going to object under 452.
19 Why do we need to go over this in written form after
20 we went over it in oral form with questions?

21 MR. FRASER: That's fine.

22 MR. BIORN: That's fine.

23 MR. BAER: Seems cumulative to me.

24 MR. FRASER: I don't have any questions for
25 you, Ms. Yu, but Mr. Baer may have some.

1 MR. BAER: I guess I need to be let in.

2 THE WITNESS: She just disappeared. She
3 never did follow through the whole thing.

4 THE COURT: Okay. Another attorney is going
5 to ask you questions. And just make sure you can
6 hear him.

7 Mr. Baer, feel free. Are you close to the
8 mic?

9 MR. BAER: Yes, it's in my computer. Oh, is
10 it here?

11 MR. FRASER: You'll be fine.

12 MR. BAER: Can you hear me okay?

13 THE WITNESS: Yes, I can hear you.

14 CROSS-EXAMINATION

15 BY MR. BAER:

16 Q. Good afternoon, Ms. Yu. My name is David
17 Baer and I represent Debby Chang in this case. I
18 have a few questions for you as well, not as many as
19 before.

20 So okay. So you mentioned each year you got
21 the 1098 forms; is that correct?

22 A. If I remember right, I should have.

23 Q. Okay. And you saw that both James Ho's name
24 and Debby Chang's name were on the 1098 forms?

25 A. I vaguely remember. I cannot a hundred

1 percent sure.

2 Q. Okay. You don't remember any change in the
3 1098 forms?

4 A. Any change of the 1098 form?

5 Q. Yes, change in who the borrowers were listed
6 as.

7 A. I don't remember. I don't recall.

8 Q. Okay. And you don't regard a 1098 form as
9 evidence of title, do you, evidence of ownership?
10 Let me withdraw the question.

11 Doesn't a 1098 form show who the borrowers
12 are?

13 A. Yes, it shows the borrowers are.

14 Q. And you understand that it's possible that
15 essentially a borrower can convey his or her interest
16 or its interest to somebody else and not report that
17 to the lender?

18 A. I don't know that.

19 Q. Okay. So you've never had any client who
20 essentially has given you a 1098 and they're still
21 listed as a borrower, but they no longer have an
22 interest in the property?

23 A. I don't remember if I have ever handle this
24 kind of case.

25 Q. Okay. So the 1098 form, essentially,

1 that's -- that depends on what information the lender
2 has received from the borrowers, correct?

3 A. Correct.

4 Q. Okay. So if there's been a change in the
5 borrowers, unless the lender is told, it's not going
6 to be reported on the 1098, correct?

7 A. If they did so. I don't know.

8 Q. So what I was saying -- let me see if I can
9 make the question a little more clear. Okay.

10 So if a borrower transfers his or her
11 interest and does not report it to the lender, the
12 1098 form is going to say -- it's going to stay the
13 same, correct, going to show the same borrowers?

14 A. Okay. I -- you are trying to say if one
15 borrower transfer his interest to another borrower
16 and the 1098 is going to show it, is that what you're
17 trying to say?

18 Q. Yes, unless the lender is told of the
19 transfer, then the 1098 form is going to show the
20 same borrowers?

21 A. You know, I am not a mortgage company. I
22 look at documents and I am just a tax preparer. I
23 don't know what happened behind it. And also it's a
24 piece of paper that is within a pile of pieces of
25 papers. I look at it, you know, it's one line.

1 Q. Am I correct that you never asked James Ho do
2 you own a fifty percent interest in the McCollum
3 property or anything to that effect?

4 A. I never contacted James Ho because he didn't
5 use my -- he hadn't use my service for a long, long,
6 long time.

7 Q. Am I correct that you prepared his state and
8 federal income tax returns for 2005 and 2006?

9 A. If you have the documents, then yes. But he
10 only used me -- my service for these two years. Then
11 he said his son would take care of it.

12 Q. Okay.

13 A. So he never came to me, yeah.

14 MR. BAER: Screen share Exhibit 4.

15 BY MR. BAER:

16 Q. Okay.

17 THE COURT: Thank you. What number exhibit
18 is this?

19 MR. BAER: This will be Exhibit 640. You
20 took the words out of my mouth.

21 THE COURT: Thank you.

22 MR. BAER: 640.

23 BY MR. BAER:

24 Q. Okay. So I'm showing you 640. I'll scroll
25 down further. But do you recognize this as an

1 individual income tax return for 2005 for James Ho?

2 A. Yeah, that's James.

3 Q. Okay. Let me scroll down a little further
4 now.

5 A. Yeah, that's me. That's my office, yeah.

6 Q. So wait for me to ask a question, please.

7 But you did correctly anticipate my question.

8 So you prepared this form for James Ho,
9 correct?

10 A. Yes.

11 Q. Okay. So let me turn your attention now to
12 page -- to Schedule E in this form. Okay.

13 So do you see Schedule E now?

14 A. Yeah.

15 Q. And this is Schedule E for James Ho's 2005
16 income tax return?

17 A. Um-hmm.

18 Q. And you see he's reporting ownership interest
19 in two different properties; one in Albany and one in
20 Los Angeles?

21 A. Yes.

22 Q. And the one for Los Angeles, that is property
23 B, correct?

24 A. Correct.

25 Q. Okay. And so am I also correct that Mr. Ho,

1 he claimed on this Schedule E half of the income and
2 the expenses for the McCollum property?

3 A. Yes, he claimed fifty percent.

4 Q. Okay. And he also claimed depreciation,
5 correct, on line 20?

6 A. Yes. Let me see here. Line -- can you
7 scroll down to depreciation?

8 Q. Sure. Line 20, do you see it?

9 A. Line 23, yes.

10 Q. Okay. So he reported depreciation. Do you
11 remember that that was a hundred percent of the
12 property's depreciation, not fifty percent?

13 A. I don't recall. I have -- I don't even think
14 I keep that software at all. That was -- IRS only
15 regulate us as to keep three years records. I cannot
16 tell from this form. I don't have anything before
17 2009.

18 Q. That's okay. We can compare it to Debby's if
19 we need to. Okay.

20 And so after the income less the expenses and
21 depreciation, that was a negative number, correct?

22 A. Yes.

23 Q. So would it be correct to also say that by
24 claiming half of the income and expenses for the
25 McCollum property and the depreciation, whatever

1 percentage that was, essentially that reduced James
2 Ho's income tax?

3 A. Yes that, would.

4 Q. So by reporting half the income and expenses
5 that essentially saved him money, right?

6 A. Yes.

7 MR. BAER: I'd like to move, before I forget,
8 640 into evidence.

9 THE COURT: Opposition to 640 being received
10 in evidence?

11 MR. BIORN: No.

12 THE COURT: Received.

13 (Whereupon, Exhibit 640 was admitted into
14 evidence.)

15 MR. BAER: Okay.

16 BY MR. BAER:

17 Q. So now I'm screen sharing what will be here
18 Exhibit 641.

19 Do you see this?

20 A. Yeah.

21 Q. And you recognize this? You can tell from
22 looking at this first page that this is James Ho's
23 federal income tax return for 2006, right?

24 A. Right.

25 Q. So now, I'm calling your attention to the

1 second page of the exhibit, page 2 of the 1040 form.

2 Does that refresh your -- do you see that?

3 A. Which line?

4 Q. The paid preparer's use only line.

5 A. Yes, it was me. It was my business.

6 Q. Okay. So does this refresh your recollection
7 that you prepared James Ho's federal income tax
8 return for 2006?

9 A. Yes.

10 Q. And you didn't ask James Ho any questions
11 about this return, did you?

12 A. I mean, I usually would ask routine
13 questions.

14 Q. Do you remember doing that?

15 A. It was -- I don't remember. It was 16 years
16 ago.

17 Q. You don't remember asking him anything about
18 how title to the McCollum property in Los Angeles was
19 held, do you?

20 A. No, I don't -- I don't -- I don't remember
21 anything. I don't remember asking him about it.

22 Q. Did you ever do that --

23 A. Title.

24 Q. Sorry.

25 A. Yeah, I don't remember. It's too long, and

1 it's very trivial. I wouldn't question this kind of
2 thing.

3 You know, if client says they own the tax --
4 they own the property, they owe the tax, property,
5 it's not me to verify if they owe the tax.

6 Q. So am I correct, then, that you assumed from
7 the fact that James Ho signed this return, that he
8 owned half of -- he had a fifty percent interest in
9 the McCollum property during 2006?

10 A. Yeah.

11 Q. And you would have assumed that for the
12 entire year of 2006, correct?

13 A. I assumed that was for -- yeah, entire 2006.
14 But you have to know when you say entire -- some
15 people will purchase the property the middle of the
16 year, so -- you know. But in this case, it's not
17 because, obviously, they started in 2005.

18 Q. Okay. So you didn't get any information for
19 2006, any kind of proration information about the
20 income and expenses for this property, correct?

21 A. Proration?

22 Q. Yes, prorating the expenses during the year.

23 A. No.

24 Q. Okay.

25 A. I really don't remember. This is very old.

1 I only keep three years documents and these are -- I
2 was able to pull out computer records since 2009. I
3 cannot even pull out anything before that.

4 Q. Okay.

5 A. This document obvious was provided in 2017,
6 2018.

7 Q. By provided, then, you mean produced in the
8 litigation? You don't mean it was prepared by you
9 then, do you?

10 A. What do you mean?

11 Q. I guess my question to you is: What do you
12 mean by "provided"? It was provided in --

13 A. It was requested by Peter Ho's attorney back
14 in probably 2017. I think it was that time. I don't
15 remember exact. Someone sent me an e-mail, asked me
16 to provide all the tax returns that I prepared for
17 Debby Chang, but that was six or seven years ago.
18 Okay? You understand?

19 Q. Yes, I do.

20 A. Yeah, nobody asked me to provide Fred --
21 James Ho's, documents. Okay?

22 Q. Yes.

23 A. Okay.

24 Q. So going down Schedule E a little further, do
25 you see that he's reported half of the income and

1 half of the expenses, correct?

2 A. Correct.

3 Q. Okay. And then he's also reported
4 depreciation, correct?

5 A. Yes.

6 Q. And you don't know whether that's a hundred
7 percent of the depreciation or fifty percent, do you?

8 A. I don't recall. I have to look up my -- I
9 won't have it. I destroyed any -- I destroyed
10 everything before 2009.

11 Q. Okay. And we could tell that by comparing
12 this return to Debby Chang's return for the year,
13 correct?

14 A. Yes, we can.

15 Q. Okay. And then line 22, that shows that the
16 income minus the expenses and depreciation reported
17 on this form for the McCollum property was a negative
18 number on line 22?

19 A. Right.

20 Q. Okay. And so --

21 A. Yeah.

22 Q. 22 and line 23.

23 A. Okay.

24 Q. Essentially that was a deductible rental real
25 estate loss, correct?

1 A. Right.

2 Q. And so James Ho could use that to reduce his
3 taxable income, correct?

4 A. Correct.

5 Q. So essentially by reporting half of the
6 income and expenses and depreciation, Mr. Ho saved
7 money by reducing his income taxes, right?

8 A. Correct.

9 Q. Okay.

10 MR. BAER: I'd like to move 641 into evidence
11 as well.

12 MR. FRASER: No objection.

13 THE COURT: Received.

14 (Whereupon, Exhibit 641 was admitted into
15 evidence.)

16 THE COURT: Before we go forward, Counsel,
17 can you tell me, so we don't have to call this
18 witness back, looking at form 4562, would that
19 include all of the depreciation or just part of it?
20 It's two pages past where you discussed.

21 MR. BAER: Let me screen share it for her
22 again because she doesn't have it.

23 THE COURT: I don't know. So I'm asking you
24 gentlemen if you want to ask her before we're
25 finished with her.

1 MR. BAER: Okay. I'll do that.

2 So I'm trying to show it.

3 THE COURT: Fair enough. Let me just ask a
4 question and feel free to follow up.

5 There's a schedule 4262 [sic] depreciation
6 and amortization. If there was a sharing of
7 depreciation between two owners, would that be shown
8 on this form?

9 THE WITNESS: Can you show me?

10 THE COURT: Not at the moment.

11 MR. BAER: Can we go off the record for a
12 sec?

13 THE COURT: Can you bring it up on 130?

14 MR. BAER: It looks like it's here now.

15 THE WITNESS: Just scroll down.

16 MR. BAER: Yes, I will.

17 THE WITNESS: Scroll down. No, scroll down.

18 MR. BAER: I will. Thanks.

19 THE WITNESS: Here we go. Scroll down.
20 Further.

21 THE COURT: Have you seen enough or do you
22 just want to see the bottom of page 1?

23 THE WITNESS: I'm trying to look at the --

24 MR. BAER: Here we go.

25 THE WITNESS: I'm trying to see the numbers

1 and the percentage. Here it says it was purchased
2 September 2nd, 2005, 398,000, depreciated over 27.5
3 years. Didn't say percentage.

4 You have to keep scrolling down. Straight
5 line. Keep scrolling down. Keep scrolling down.
6 Keep on scrolling down. If this is the end --

7 THE COURT: This is charitable contributions
8 you're looking at?

9 THE WITNESS: Usually there should be a
10 federal depreciation schedule.

11 MR. BAER: So --

12 THE WITNESS: This one doesn't show.

13 BY MR. BAER:

14 Q. So form 4562 for the McCollum property, that
15 lists the depreciation and amortization of the
16 property, that's the name of the form, right?

17 A. Right.

18 Q. And this one is for the McCollum property,
19 correct?

20 A. Right. This is -- yeah, you can see the
21 address, the business address there.

22 Q. Okay. So are you able to tell from line 3
23 reporting the threshold cost of section 179, property
24 before reduction and limitation, whether this reports
25 a hundred percent or fifty percent of the

1 depreciation?

2 A. This one is -- this amount is set up by IRS.
3 It has nothing to do with anything.

4 Q. Okay.

5 THE COURT: Okay. Thank you very much.

6 Mr. Baer, feel free to ask whatever questions
7 you want of this witness.

8 MR. BAER: Okay. I will. I'll just take a
9 look for a second.

10 BY MR. BAER:

11 Q. Okay. Can you take a look at Exhibit 137.
12 That's Debby's -- Debby Chang's 2015 income tax
13 return.

14 And I believe you testified to this, but am I
15 correct that this is the first year when Debby
16 reported a hundred percent of the income and expenses
17 for the McCollum property? Do you understand I'm
18 asking you about the 2015 return?

19 A. Are you talking to me?

20 Q. Yes, I am. So I'm trying to call your
21 attention to Ms. Chang's 2015 income tax return.

22 A. Right.

23 Q. This was the first year, at least when you
24 were preparing tax returns for her, that she claimed
25 100 percent of the income and expenses for the

1 McCollum property, correct?

2 A. Yes.

3 Q. Okay. And for that year, the income less the
4 expenses and the depreciation that she claimed, that
5 was a positive number, correct?

6 A. Yes, that was a positive number.

7 Q. Okay.

8 A. The net income.

9 Q. The net income was \$27,084, right?

10 A. Right.

11 Q. Okay. And so by reporting that net income,
12 basically it cost Ms. Chang because that increased
13 her taxable income, right?

14 A. Right.

15 Q. And by the same token, had Mr. Ho reported
16 half of that taxable income, \$13,542, if my math is
17 correct --

18 A. I don't have Mr. Ho's 2015 tax return.

19 Q. Okay.

20 A. I did not prepare it.

21 Q. I'm talking about Debby Chang's. I'm sorry.

22 A. Okay.

23 Q. I know you don't have his return.

24 MR. BIORN: You just asked about his return.

25 THE WITNESS: I didn't prepare it either.

1 MR. BAER: I understand that.

2 MR. BIORN: Okay.

3 THE WITNESS: Okay.

4 MR. BAER: Okay.

5 BY MR. BAER:

6 Q. Okay. If Mr. Ho had claimed half of the net
7 income of the McCollum property shown on Schedule E
8 of Ms. Chang's income tax return, that would have
9 increased his income, correct?

10 A. Correct. Theoretically, yes.

11 Q. It would have increased it by roughly
12 \$13,500, right?

13 A. Yes.

14 Q. Okay.

15 A. Theoretically, yes.

16 Q. So had he reported half of the net income on
17 his income tax return for 2015, that would have cost
18 him and it would have -- by increasing his income tax
19 returns, right?

20 A. Yes, theoretically. I didn't see his return.

21 Q. As long as he had essentially positive income
22 in that year, it -- before you add in any net income
23 for McCollum, then he was going to wind up having to
24 pay for taxes if he reported half of the net income
25 of McCollum in 2015, right?

1 A. Right.

2 Q. So -- okay. So let me ask you a question
3 about 706 or estate tax return. And I believe your
4 testimony was that Debby asked you to provide -- or
5 to prepare a 706 for James; is that correct?

6 A. That's correct.

7 Q. And am I also correct that she did not say
8 prepare a 706 for Fred?

9 A. Well, it was 706 for Fred.

10 Q. Okay.

11 A. She wanted me to prepare 706 for Fred.

12 Q. Okay. Do you recall her specifically saying
13 that the 706 would be for Fred? Do you remember
14 that?

15 A. I don't remember. It's too long ago, but --
16 I don't recall. But she did ask me to prepare 706.
17 She asked me. This is the way she asked me, I think,
18 she says Tammy, are you able to file 706.

19 Q. Thank you.

20 MR. BAER: No further questions.

21 THE WITNESS: Yeah. But I am not --

22 MR. BAER: Okay. You've answered. Thank
23 you.

24 THE COURT: Redirect.

25 REDIRECT EXAMINATION

1 BY MR. FRASER:

2 Q. Ms. Ho [sic], I'm going to ask you again,
3 it's Schedule E on the 1040 for the year 2015.
4 Please look at line 18, the depreciation expense.

5 Do you see that, 262?

6 A. Are you talking to me?

7 Q. Yes.

8 A. Okay.

9 Q. Do you see line 18?

10 A. I cannot. You have to scroll down.

11 Q. No, for 2015, Schedule E.

12 A. 2015.

13 MR. PETER HO: I think Mr. Baer is sharing
14 his screen.

15 BY MR. FRASER:

16 Q. So I'm asking you about the form 1040 for the
17 year 2015, and I believe you have that in front of
18 you.

19 MR. BAER: And this is 137, right?

20 THE WITNESS: I have it, but I only print out
21 form E. Let me see here. Form E.

22 THE COURT: Mr. Fraser, were you talking
23 about form E?

24 MR. FRASER: Schedule E.

25 THE COURT: Schedule E. I think that's what

1 she was referring to.

2 MR. FRASER: Yes.

3 BY MR. FRASER:

4 Q. So Schedule E on Form 1040 for 2015.

5 A. Yes.

6 Q. Please look at line 18.

7 A. Yes.

8 Q. How much depreciation is claimed for column A
9 for the McCollum Street property?

10 A. 362.

11 Q. Is that the full amount of depreciation that
12 could be claimed for this property?

13 MR. BAER: Objection. Calls for speculation.

14 THE WITNESS: That's -- that was the form on
15 Debby's claim.

16 BY MR. FRASER:

17 Q. Okay. Do you have form 4562 for 2015?

18 A. I should have, but I didn't pull it out.

19 Q. Okay. I will share my screen with you. Hold
20 on. Can you see?

21 A. Yeah.

22 Q. So this is form 4562 for the year 2015.

23 A. Right.

24 Q. And so the value you reported for the
25 property, is that \$2 million?

1 A. No, no, no.

2 Q. Okay.

3 A. The number on line 1 and line 3, these
4 numbers are set by IRS.

5 Q. Okay.

6 A. These are thresholds.

7 Q. Okay. I'm asking you to look --

8 A. Line H.

9 Q. Okay.

10 A. Okay. That, 7,531 total, you divide it by
11 27 -- 27.5 years, each year is 262.

12 Q. So the basis for depreciation was \$7,531?

13 A. Yes. Yeah. You can use a calculator and get
14 it.

15 Q. I'm going stop to sharing my screen. Now,
16 Mr. Baer asked you earlier about the form 706, and
17 you'll recall that I played that voicemail for you
18 that you left with Debby.

19 Do you recall that?

20 A. Yes.

21 Q. From that voicemail, do you recall whether
22 Debby asked you to prepare the form 706 for James
23 Chang or for James Ho, AKA Fred?

24 A. Um-hmm, yes.

25 Q. Which one -- from that voicemail, who did you

1 understand Debby to be asking you to prepare the form
2 706 for?

3 MR. BAER: Objection. Leading.

4 THE WITNESS: From --

5 THE COURT: Overruled. It's preliminary.
6 I'm going to let it go. Her understanding.

7 MR. FRASER: Yes.

8 THE REPORTER: I didn't hear the answer.

9 THE COURT: That means you can answer the
10 question. Yes, you can answer the question.

11 THE WITNESS: Yes, from that -- from that
12 message I left her, yes, my understanding was for
13 Fred.

14 BY MR. FRASER:

15 Q. Your understanding was that Debby was asking
16 you to prepare the form 706 for Fred?

17 A. Yes.

18 MR. FRASER: No further questions.

19 MR. BAER: Couple of questions.

20 RECROSS-EXAMINATION

21 BY MR. BAER:

22 Q. So in answering the last question, you
23 testified to your understanding based on what the
24 voicemail says as opposed to your own recollection,
25 correct?

1 A. Yes.

2 Q. Okay.

3 MR. BAER: So I don't know if you can do this
4 or not, but the form 4562 for depreciation and
5 amortization, that shows on line 19H that the
6 residential rental property was placed in service on
7 January of 2015. Can we get a stipulation to that?

8 MR. BIORN: Which return?

9 MR. BAER: So we're looking at Exhibit 137,
10 the form 4562. She doesn't have it, so it's a little
11 difficult, but we can try to screen share it if you
12 want. You might be able to do that easier than me.

13 MR. BIORN: Which exhibit number?

14 MR. BAER: 137.

15 THE WITNESS: This \$7,531?

16 BY MR. BAER:

17 Q. Yes. So I'm trying to call your attention to
18 the number to the left of that, which is January
19 2015.

20 Do you see that?

21 A. Right.

22 Q. Okay. That indicates that the first time
23 Ms. Chang claimed any depreciation on this property
24 was in 2015, right?

25 MR. FRASER: Objection. The document speaks

1 for itself.

2 THE WITNESS: Right.

3 THE COURT: It needs interpretation, at least
4 to me. So the answer will remain.

5 MR. BAER: Right. Okay.

6 BY MR. BAER:

7 Q. And does -- strike that.

8 I'll ask this: Does the length of time, the
9 recovery period for which the depreciation was
10 calculated, does that also indicate that before --
11 strike that -- that essentially, prior to 2015,
12 Ms. Chang was not claiming any depreciation on her
13 returns?

14 A. No, she didn't claiming the building
15 depreciation. This amount could be remodelling,
16 repairs or any big items for purchasing, you know,
17 laundry, washing machine and dryer, that sort of
18 thing. But I believe this could be a repair,
19 remodelling --

20 (Reporter clarification.)

21 THE WITNESS: She didn't.

22 MR. BIORN: The second time sounded like did.

23 MR. PETER HO: Did not.

24 MR. BIORN: Okay.

25 THE COURT: Counsel, the Exhibit 98 is the

1 voicemail. I'm under the impression that Peter Ho
2 might have done this transcript, but I don't know if
3 that's right, and there's a date and time on it.

4 If you need any questions or if it's going to
5 be received in evidence, you need to find something
6 out from this witness, I'd like to do it now before
7 she's excused as a witness.

8 THE WITNESS: You know what, I'm going to go
9 to get iPhone because I cannot hear you clearly.
10 Hold on.

11 THE COURT: Fair enough. Let's go off the
12 record.

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

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

16 THE WITNESS: Are you on a break?

17 THE COURT: No, we're not.

18 THE WITNESS: Let me plug in.

19 THE COURT: It's not necessary. There's no
20 further questions.

21 THE WITNESS: Oh, no further questions?

22 THE COURT: No.

23 THE WITNESS: Okay.

24 THE COURT: Ms. Yu, you're excused as a
25 witness. Any problems, Counsel?

1 MR. BAER: None.

2 MR. FRASER: None.

3 THE COURT: Great. Thank you. Thank you for
4 your testimony.

5 THE WITNESS: Okay. So it's done?

6 MR. FRASER: Yes, you're done.

7 THE WITNESS: All right. Bye-bye.

8 MR. BAER: Can we take a break?

9 MR. FRASER: Move to admit Exhibit 131, tax
10 return for the year 2009.

11 THE COURT: Any opposition?

12 MR. BAER: No.

13 THE COURT: Received.

14 (Whereupon, Exhibit 131 was admitted into
15 evidence.)

16 MR. FRASER: Move to admit all the rest of
17 them, 132 through 139 tax returns for the years 2010
18 through 2017.

19 MR. BAER: No objection.

20 THE COURT: Great. Thank you.

21 We'll go off the record.

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

24 (Whereupon, Exhibits 132 through 139 were
25 admitted into evidence.)

1 (Whereupon, a break was taken.)

2 THE COURT: Back on the record.

3 I remind you, Mr. Ho, you're still under
4 oath.

5 THE WITNESS: Thank you, Your Honor.

6 CROSS-EXAMINATION (RESUMED)

7 BY MR. BAER:

8 Q. Okay. So I want to call your attention to
9 Exhibit 499.

10 MR. KUO: This is volume 3. I'll get it. I
11 think this is it.

12 THE COURT: Yes.

13 MR. KUO: Is this yours?

14 THE COURT: It is mine. Is it in here?

15 MR. KUO: Yes.

16 THE COURT: Okay. Thanks.

17 BY MR. BAER:

18 Q. So 499, this is a Grant Deed and this is the
19 deed by which you acquired a one percent interest in
20 your father's CSM property, correct?

21 A. It's a one percent that I had received and I
22 believe this is returning it to him.

23 Q. This is returning it to him? Oh, I see, this
24 is the one returning it to him. I'm sorry, I have
25 the wrong exhibit.

1 Okay, so 497. My bad. Okay. So do you
2 recognize this Exhibit 497 to be the Grant Deed by
3 which you obtained a one percent interest in your
4 father's property, your father's CSM property?

5 A. Yes.

6 Q. Okay. And this shows that no transfer tax
7 was paid on this transfer, correct?

8 A. That's correct.

9 Q. Okay. You didn't have to pay your father
10 anything for this one percent interest, correct?

11 A. Correct.

12 MR. BIORN: Asked and answered.

13 BY MR. BAER:

14 Q. And you -- when your dad was -- you
15 understood that your dad was going to sign this or
16 sign a Grant Deed conveying a one percent interest in
17 the CSM property to you, correct?

18 A. Yes.

19 Q. And you didn't say to your father don't sign,
20 you don't understand what you're doing or anything to
21 that effect, did you?

22 A. No.

23 MR. BAER: I'd like to move 497 into
24 evidence.

25 MR. BIORN: No objection.

1 THE COURT: Okay.

2 MR. BAER: We have -- this is the notebook.
3 Sorry.

4 THE COURT: I have to get the one with the
5 cheat sheet in it.

6 MR. BAER: The cheat sheet?

7 THE COURT: Yes. It's over here. Very good,
8 admitted.

9 (Whereupon, Exhibit 497 was admitted into
10 evidence.)

11 MR. BAER: Okay.

12 BY MR. BAER:

13 Q. So 498, this is the deed of trust that you
14 and your father signed in connection with the loan
15 that he took out against the CSM property on August
16 20, 2013, correct?

17 A. That's correct.

18 Q. Okay. And you -- were you there when your
19 dad signed?

20 A. To my recollection, yes.

21 Q. Okay. And when you were there, before he
22 signed, you didn't say anything to him to the effect
23 you shouldn't understand because you don't
24 understand -- you shouldn't sign because you don't
25 understand this deed of trust?

1 A. I didn't say anything like that.

2 Q. You assumed that he did understand the deed
3 of trust, correct?

4 A. That's correct.

5 Q. And you assume he did understand the deed of
6 a one percent interest to you, correct?

7 A. Correct.

8 MR. BAER: I'd like to move 498 into
9 evidence.

10 MR. BIORN: No objection.

11 THE COURT: Received.

12 (Whereupon, Exhibit 498 was admitted into
13 evidence.)

14 BY MR. BAER:

15 Q. Exhibit 499, that's the one you corrected me
16 on. This is the Grant Deed from you back -- back to
17 your father of the one percent interest, correct?

18 A. Correct.

19 Q. And the word "gift" is written on this,
20 correct?

21 A. I see it, yes.

22 Q. Is that your writing?

23 A. No.

24 Q. Is that your father's writing?

25 A. No.

1 Q. There was no transfer tax paid in connection
2 with this transfer, correct?

3 A. Not that I'm aware of.

4 Q. As far as you know, neither you or your
5 father paid any transfer tax when you deeded the one
6 percent interest back to him, correct?

7 A. Back to me.

8 Q. I'm sorry, back to you.

9 A. Correct.

10 Q. Okay. And so this document was notarized on
11 December 13, 2013. Is that when you signed it?

12 A. Yes.

13 Q. So you signed it before a notary?

14 A. Yes.

15 Q. Okay. As of December 13, 2013, your dad was
16 already in contract to sell the CSM property,
17 correct?

18 A. That was my understanding.

19 Q. So you were aware that he was going to sell
20 the property as of December 13, 2013, right?

21 A. That's correct.

22 Q. And am I correct also that at least one
23 reason you transferred your one percent interest back
24 to your father was so that you would not have to be a
25 seller in connection with the CSM sale?

1 A. I believe so.

2 Q. Okay. When your dad gifted the one percent
3 interest to you, you didn't have any written
4 agreement with him that he would -- I'm sorry, that
5 you would transfer the one percent back to him, did
6 you?

7 A. I'm sorry, Counselor, I don't know whether
8 gift is the right word for it because he transferred
9 it to me because the lender said it was required and
10 this was with the understanding that it would go
11 right back to him.

12 Q. Okay. Did you have any written agreement to
13 that effect?

14 A. No.

15 Q. There was no question in your mind that your
16 dad understood what you described as the
17 understanding, was there?

18 A. Correct.

19 Q. You thought, in other words, that he
20 understood that you would transfer the one percent
21 interest back to him later?

22 A. Correct.

23 Q. Okay. So when your dad -- well, one of the
24 reasons he bought the Flying Cloud property was that
25 he wanted to have a house near the water, right?

1 A. That is one of the reasons, yes.

2 Q. Okay. And you suggested to your father then
3 that if he did not like -- well, at some point, you
4 suggested to your father that if he didn't like the
5 Flying Cloud property, he could buy another house
6 that he did like and transfer the base year value to
7 that house?

8 A. Yes.

9 Q. And you thought he understood your
10 suggestion, correct?

11 A. Yes.

12 Q. In fact, he had said to you that he could do
13 that, correct?

14 A. That's correct.

15 Q. Okay. And then when you bought your
16 residence in Milpitas, your father acquired a one
17 percent interest, correct?

18 A. That's correct.

19 Q. Okay. So let's turn to Exhibit 503, same
20 volume.

21 Do you recognize Exhibit 503?

22 A. I do.

23 Q. And this is the deed by which your father
24 acquired an interest in the property in Milpitas when
25 you and your wife obtained the other 99 percent,

1 correct?

2 THE COURT: She wants to come back in.

3 THE WITNESS: That's correct.

4 THE COURT: Hold on a second.

5 (Debby Chang was re-admitted by Zoom.)

6 THE COURT: You can proceed.

7 BY MR. BAER:

8 Q. It's also correct that the reason your father
9 took a one percent interest was that that was
10 necessary -- well, it was done in contemplation of
11 transferring the base year value to the Milpitas
12 property, correct?

13 A. Correct.

14 Q. Okay.

15 MR. BAER: And let me move 503 into evidence.

16 MR. BIORN: No objection.

17 THE COURT: Received.

18 (Whereupon, Exhibit 503 was admitted into
19 evidence.)

20 BY MR. BAER:

21 Q. So he obtained that one percent interest in
22 the Milpitas property on August 13, 2015, right?

23 A. I'm sorry, could you repeat the question? I
24 couldn't quite hear.

25 Q. Sure. He obtained a one percent interest in

1 the Milpitas property on August 13, 2013 [sic], I
2 guess either that or September 2, 2015. Those are
3 respectively the date that the sellers signed and the
4 date that the document was recorded.

5 A. That's correct.

6 Q. Okay.

7 A. I'm sorry, did you say 2013 or did you say
8 2015?

9 Q. I meant to say 2015.

10 A. That's what I thought.

11 Q. If I didn't say that, that's what I meant.

12 Thank you.

13 A. Um-hmm.

14 Q. So how long after that was it before your dad
15 transferred the one percent interest back to you?

16 A. Approximately two years because he
17 transferred it back, I believe, in June of 2017.

18 Q. Okay. And you understood at the time that if
19 he later bought another -- well, you thought he
20 understood at the time that if he transferred the
21 base year value to you for -- or to this property,
22 the Galindo property, that if he purchased another
23 property, he wasn't going to be able to transfer the
24 base year value to that one?

25 A. That's correct. We both understood it was

1 once in a lifetime transfer.

2 Q. Okay. Do you remember how much you paid for
3 the Galindo property?

4 A. It was somewhere around 1.455 million.

5 Q. And do you remember the amount of the base
6 year value that you -- that your father transferred
7 to the Galindo property?

8 A. I don't recall exactly, but it was somewhere
9 around 200,000.

10 Q. Okay. So when your dad -- he submitted a
11 claim form to transfer the base year value to the
12 Galindo property, correct?

13 A. That's correct.

14 Q. And you understood at the time that that
15 could result in a financial sacrifice to him because
16 once that happened, he wasn't going to be able to
17 transfer his base year value to another property that
18 he purchased, that that was a possibility?

19 A. Yes, it was a possibility.

20 Q. So you reached an agreement with him to
21 essentially -- to make sure that he would not
22 actually have that financial sacrifice, correct?

23 A. That's correct.

24 Q. Okay. And could you explain what the terms
25 of that deal were?

1 A. The agreement was that if he purchased
2 another property, that Jeanny and I would pay the
3 difference in property tax.

4 Q. Was that the entire deal?

5 A. No.

6 Q. The rest of the deal was that you were going
7 to rebate to him the extra property tax that he had
8 had to pay on the Flying Cloud property by not
9 transferring the base year value to that property,
10 correct?

11 A. That's correct, because he didn't pay -- or
12 he did not transfer it to Flying Cloud.

13 Q. Okay.

14 A. At that time. So he paid two years extra.

15 Q. Okay.

16 A. The regular property tax rather than the
17 lowered one.

18 Q. And your father --

19 MR. BIORN: Sorry. Your Honor, can counsel
20 wait for my client to finish his answers?

21 THE COURT: Good idea.

22 MR. BAER: I apologize.

23 BY MR. BAER:

24 Q. So anyway, your father, he wouldn't take the
25 \$30,000, correct?

1 A. No, he didn't agree to it, but we still gave
2 it to him.

3 Q. So you gave it to him over his refusal; is
4 that right?

5 A. You can say that, yes.

6 Q. Okay. And the agreement that you described,
7 you thought your father understood that agreement,
8 correct?

9 A. Yes.

10 Q. If you didn't think he understood the
11 agreement, you wouldn't have entered into the
12 agreement with him, right?

13 A. That's correct.

14 Q. And there was nothing in writing for him to
15 refer back to at the time, right?

16 A. I think he actually wrote it down.

17 Q. You did not produce any document in this case
18 with the terms of the agreement that you reached with
19 your father, did you?

20 A. I could not find it. At the time, I thought
21 I saw him write it down on a piece of scratch paper.

22 Q. You didn't write it out for him, did you?

23 A. No, I did not.

24 Q. Okay. So your father, he was living at the
25 CSM property and then he sold it, correct?

1 A. Correct.

2 Q. And then his next step was to move to his
3 investment rental property at Boothbay Avenue, right?

4 A. Correct.

5 Q. So that was his primary residence for the
6 next few months, correct?

7 MR. FRASER: Calls for a legal conclusion.

8 MR. BAER: I think those are --

9 THE COURT: Sustained. It's his residence.

10 BY MR. BAER:

11 Q. He lived there for the next few months,
12 right?

13 A. I believe he lived there for the next two or
14 three months, yes.

15 Q. Okay. And then after he left the Boothbay
16 property, he moved into the property that he bought
17 at Flying Cloud Isle, correct?

18 A. Correct.

19 Q. And then he lived there, correct?

20 A. Yes.

21 Q. Okay. And he lived at the Flying Cloud
22 property until he moved out and rented the Promontory
23 Point property, correct?

24 A. Correct.

25 Q. Okay. And so from time to time, when he was

1 living at the Flying -- strike that.

2 From time to time when he was living at the
3 Promontory Point property, did he come to visit you
4 at the Galindo house?

5 A. Yes, he did.

6 Q. And did he do the same thing when he was
7 living at Flying Cloud?

8 A. Yes, he did.

9 Q. And when he came over to your place to visit,
10 he stayed a few days, correct?

11 A. That's correct.

12 Q. And when your father visited you at the
13 Galindo or Milpitas property, you understand it's the
14 same thing, right?

15 A. I do.

16 Q. Your and your wife's residence, okay.

17 You were never under the impression when he
18 visited you there that he was going to stay there
19 permanently, correct?

20 A. Correct.

21 Q. And when James visited on those occasions, he
22 never suggested to you that he was going to move into
23 your residence, did he?

24 A. He -- it would depend on the visit, but
25 sometimes he would say yes, I am eventually going to

1 move in with you and the room that we have prepared
2 for him was always called dad's room.

3 Q. Okay. I'd like to read from the deposition
4 transcript. This is volume 1, page 64, lines 2
5 through 10.

6 A. I need a copy.

7 MR. BAER: The judge, I put hers in front of
8 her.

9 THE WITNESS: Is there a witness copy?

10 MR. BIORN: Here you go.

11 MR. BAER: 64.

12 MR. BIORN: 64.

13 BY MR. BAER:

14 Q. "Question: Okay. So am I correct that from
15 time to time he visited you there?

16 Answer: Yes.

17 Question: Did he ever visit you and say at
18 that time I'd like to stay or something to that
19 effect?

20 Answer: No, he did not.

21 Question: Did he do that -- did he ever do
22 that in August of 2017?

23 Answer: No."

24 When you made the proposal to your father in
25 connection with the transfer of the base year value,

1 you never asked him, do you understand this, correct?

2 A. Correct.

3 Q. When you made that offer to -- a proposal to
4 your father, you did not ask him to move into the
5 Milpitas property, did you?

6 A. I believe I might have asked him to move in,
7 at least I mentioned that one of the requirements is
8 that this be your principal place of residence. And
9 if it wasn't at this time when I made the offer, it
10 was shortly thereafter.

11 Q. When you made that offer, he didn't tell you
12 when he would move in, did he?

13 A. He did not tell me.

14 Q. He just said, essentially, eventually he'll
15 move in with you, correct?

16 A. Correct.

17 Q. Didn't you tell him then, well, you're going
18 to have to move in when we claim -- when we request
19 the transfer or he requests the transfer of the base
20 year value, did you?

21 A. I can't recall if I told him that he had to
22 move in or that it was a requirement to move in.

23 Q. Okay. When he said to you something to the
24 effect, I'll move in eventually, you didn't say no,
25 dad, you have to move in when you transfer the base

1 year value, did you?

2 A. I said something to that effect, that you are
3 required to have your principal residence there, you
4 have to move in, something to that effect.

5 Q. Okay. You didn't say when, though, did you?

6 A. I said when you transfer the -- not an exact
7 date, no.

8 Q. Okay.

9 MR. BAER: Did I move 503 in?

10 MR. KUO: Yes.

11 MR. BAER: Okay.

12 BY MR. BAER:

13 Q. Let me show you what's been marked as
14 Exhibit 504. I don't know if your notebook has this,
15 but mine, for some reason, has as page 2 the seller
16 counteroffer number one.

17 Do you have that, too?

18 MR. BIORN: Our page 2 is a secured property
19 tax bill. Our page 3 is seller counter number 1.
20 Page 4 is an addendum number 1. And that's it.

21 MR. BAER: So is the first page of your 504
22 the claim to transfer the base year value?

23 MR. BIORN: Yes.

24 MR. BAER: Please remove the rest of the
25 document. It is not my intent that anything other

1 than page 1 be that exhibit.

2 MR. BIORN: That's fine.

3 MR. BAER: Just a mistake.

4 THE COURT: Did this get put in another
5 number?

6 MR. BAER: Oh, the rest? No, I don't think
7 so. If we need it, we'll figure it out then. I
8 don't think so.

9 BY MR. BAER:

10 Q. So Exhibit 504, you filled out this form for
11 your dad to sign, correct?

12 A. That's correct.

13 Q. Okay. And all the -- other than your dad's
14 signature and the date and what's preprinted, all the
15 text is what you put on this form, correct?

16 A. Correct.

17 Q. Okay. And you saw James sign this, right?

18 A. Yes.

19 Q. And then after he signed the form, he kept
20 the form, correct?

21 A. Yes, he kept it and then mailed it.

22 Q. Okay. And you didn't keep it yourself to
23 make sure that he wouldn't send it in when he wasn't
24 a resident of your house, did you?

25 A. Could you please rephrase?

1 Q. Certainly. Simply this, you did not keep
2 this form, correct?

3 A. Correct.

4 Q. So it was up to your dad to decide whether to
5 send it in or not to send it in, right?

6 A. Yes.

7 Q. Okay. And you didn't tell your dad don't
8 sign this form until you're actually living at the
9 Milpitas property, did you?

10 A. I did not.

11 Q. So he did not essentially sign this form
12 contrary to your advice, right?

13 MR. BIORN: Objection. Vague and ambiguous.

14 MR. BAER: Well, I'll withdraw.

15 BY MR. BAER:

16 Q. You never advised him not to sign the form,
17 right?

18 A. Correct.

19 Q. Okay. And do you see under the certification
20 there, do you see that part?

21 A. I do not. Could you be a little more
22 specific?

23 Q. Sure. It's about three-quarters of the way
24 down.

25 A. I see it now.

1 Q. Okay. And this states, I'll paraphrase,
2 that, I or we certify under penalty of perjury that,
3 one, as a claimant, occupant, I occupy the
4 replacement dwelling described above as my/our
5 principal place of residence.

6 You read that language in the certification
7 before your dad signed the form, right?

8 A. Yes, I did.

9 Q. Okay. And the third part there says "The
10 foregoing and all information hereon is true, correct
11 and complete to the best of my/our knowledge and
12 belief."

13 And you read that as well before your dad
14 signed the form?

15 A. Yes.

16 Q. So as of the time your dad signed the form
17 anyway, you realized that what he was certifying
18 wasn't true?

19 A. I'm confused as to which part's not true,
20 Counselor.

21 Q. The first part, section -- the first thing
22 that he certified. You knew that he wasn't occupying
23 your house as his principal place of residence?

24 A. Excuse me, Counselor. I still don't
25 understand where that's on this form.

1 Q. So you see the certification?

2 A. I see it.

3 Q. Okay. You see the number 1 in parentheses?

4 A. Yes.

5 Q. It states there "As a claimant occupant, I/we
6 occupy the replacement dwelling described above as
7 my/our principal place of residence."

8 A. Yes.

9 Q. And you knew, by signing the form, your dad
10 was going to be certifying that that was true?

11 A. Correct.

12 Q. And your dad was not living with you at the
13 time, was he?

14 A. That's correct.

15 Q. Okay. And at most, he had just been visiting
16 you from time to time for a few days as of the time
17 he signed this form, right?

18 A. That's right.

19 Q. Okay. And he, in fact -- he never moved in
20 to your residence, did he?

21 A. Only -- he did move in if you consider after
22 he was abandoned by Debby.

23 MR. BAER: I'm going to move to strike.
24 That's nonresponsive. That's just argumentative.

25 THE COURT: He did move in. I'm going to

1 strike the abandonment. That's what he believes, his
2 dad moved in.

3 MR. BAER: He moved in, okay.

4 BY MR. BAER:

5 Q. And he moved in. You picked him up at the
6 Fulton property in Redwood City on August 22nd, 2017,
7 right?

8 A. That's correct.

9 Q. Okay. And you didn't pick up all of his
10 things at the time, did you?

11 A. I did not.

12 Q. He never moved his things over to your house,
13 did he?

14 A. He could not.

15 Q. Never had them moved over to your house, did
16 he?

17 A. No.

18 Q. And he stayed at your house after you picked
19 him up for two days, correct?

20 A. For at least two days.

21 Q. Your father told you that he had mailed the
22 form to the assessor, correct?

23 A. Yes.

24 Q. And a year went by, say, to September of 2016
25 and your dad had not moved in, correct?

1 A. That's correct.

2 Q. You did not -- you didn't take any steps to
3 investigate whether you could rescind the transfer of
4 the base year value in light of the fact that your
5 father had not moved in, correct?

6 A. Correct.

7 Q. Okay. And when your father signed the form,
8 you believed that your father would be a principal --
9 that the Milpitas property would be, in the future,
10 his principal place of residence, but not that it was
11 then, correct?

12 A. That's correct.

13 Q. You never said anything to your father to the
14 effect, hey, you could get in trouble for signing
15 this form without actually moving into the Milpitas
16 property, correct?

17 A. That's incorrect. I did tell him that.

18 Q. And am I correct, then, that you left it to
19 him to decide whether to take any action to rescind
20 the -- transfer the base year value?

21 A. Well, this was before he actually signed this
22 form. That's when I informed him that he could get
23 in trouble.

24 Q. And once you knew and you were expecting at
25 that time that he was going to move in, right?

1 A. That's correct.

2 Q. Okay. And then later he submitted the form
3 and he actually did not move in, right?

4 A. That's correct.

5 Q. Okay. And so you didn't warn him, then, at
6 any point after he signed the base year value
7 transfer form, Exhibit 504, that he could get into
8 trouble now because he hadn't moved in?

9 A. Right. After he signed the form, I did not
10 warn him or inform him or what you just said.

11 Q. Okay. And so far as you know, he never took
12 any action to try to rescind the transfer of his base
13 year value, correct?

14 A. Correct.

15 Q. And you did not urge your father to inform
16 the Santa Clara County Assessor that he wasn't living
17 at the Milpitas property, did you?

18 A. I did not.

19 Q. Okay. And so you learned that the Santa
20 Clara County Assessor had approved the transfer of
21 the base year value, correct?

22 A. That's right.

23 Q. When did you learn that?

24 A. I believe it was February of 2016.

25 Q. Okay. So that was about five months after

1 your father had mailed in the claim form,
2 Exhibit 504, right?

3 A. Yes.

4 Q. Okay. And when you got that confirmation,
5 how did you get that confirmation?

6 A. We received it by mail.

7 Q. Okay. So after you got the confirmation, you
8 understood that there was a requirement that your dad
9 be living at the property to be able to claim or to
10 be able to transfer his base year value?

11 A. We actually knew that before.

12 Q. And you still thought that was the case,
13 right?

14 A. True.

15 Q. Okay. And so when you got the confirmation
16 that the base year value had been approved, you did
17 not get in touch with the assessor and say
18 something -- communicate something to the effect,
19 hey, you shouldn't have approved this, my dad isn't
20 living here, correct?

21 A. That's correct, none of us did.

22 Q. And you continued to take advantage of the
23 base year, you have continued to take advantage of
24 the base year value transfer to this very day,
25 correct?

1 MR. BIORN: Objection. Argumentative.

2 THE COURT: Overruled.

3 MR. BAER: Okay.

4 THE WITNESS: I'm not sure why you're
5 saying -- why you characterize it as I'm taking
6 advantage. Was there no advantage to my father?

7 BY MR. BAER:

8 Q. Sir, could you please answer the question?

9 A. Please repeat the question.

10 MR. BAER: You can read it back.

11 (The record was read by the Reporter.)

12 THE WITNESS: We do have a tax advantage that
13 we are -- that we see to this very day, because I
14 can't think of another word right now.

15 BY MR. BAER:

16 Q. Okay. And you were aware, at the time that
17 your father signed the claim form, Exhibit 504, that
18 if the base year value wasn't transferred, that the
19 assessor was going to value your property at the
20 purchase price, correct?

21 A. That's correct.

22 Excuse me, Counselor, can we take a very
23 short break?

24 Q. I'm glad you asked. It's a good time to take
25 a break.

1 (Whereupon, a break was taken.)

2 THE COURT: Okay.

3 MR. BAER: All right.

4 BY MR. BAER:

5 Q. So before James signed the claim form,
6 Exhibit 504, you never suggested to him that he
7 consult with an attorney to determine whether he
8 could transfer his base year value to essentially the
9 entirety of the Milpitas property, even though he was
10 only acquiring a one percent interest, did you?

11 A. That's correct.

12 Q. And your father never told you that he'd
13 consulted an attorney in connection with doing that,
14 correct?

15 A. Correct.

16 Q. So you had no obligations when he signed the
17 form to the effect that your father had spoken to an
18 attorney about the base year value transfer, right?

19 A. Right.

20 Q. And you had no idea, at that time, when he
21 signed the form that your father had spoken to any
22 kind of tax professional about transferring the base
23 year value the way it had been set up, right?

24 A. Not to my knowledge.

25 MR. BAER: I'd like to move Exhibit 504 into

1 evidence.

2 MR. BIORN: No objection.

3 THE COURT: Received.

4 (Whereupon, Exhibit 504 was admitted into
5 evidence.)

6 BY MR. BAER:

7 Q. Have you ever attempted to compute how much
8 money you have saved by transferring the base year
9 value that your father had to your home?

10 A. Yes.

11 Q. What did you determine?

12 A. Approximately \$15,000 per year.

13 Q. So at least up to this point, that saved you
14 about \$120,000? It's been eight years since your
15 father submitted the form, right?

16 A. Sorry, could you tell me the numbers again?

17 Q. Sure. The numbers are he signed the form
18 September 15, 2015, right?

19 A. Correct.

20 Q. And that was eight years ago?

21 A. Yes.

22 Q. And so far you've saved yourself about
23 \$120,000 then, correct?

24 A. The savings was approximately 120,000, but
25 when you say I saved myself --

1 Q. You and your wife.

2 A. Yes, and also the savings was split with my
3 sisters.

4 Q. Do your sisters have an ownership interest in
5 the Milpitas property?

6 A. They do not.

7 Q. Okay. And am I correct that the only kind
8 of -- at least through your deposition on February 4,
9 2020, that once your father submitted the claim form,
10 Exhibit 504, you had no communications with the
11 assessor's office in any form about the transfer of
12 the base year value?

13 A. That's not quite correct, but the thing is
14 if -- I did not ask to rescind. I did not do any of
15 that.

16 There were tax forms that were sent to us.
17 There were supplemental tax bills sent to us.

18 Q. So the extent of your communication with the
19 assessor's office since September 15, 2015 has been
20 the tax bills that they have sent to you, the
21 property tax bills and assessments, if they notified
22 you of supplemental assessments, and then your checks
23 back to them?

24 MR. BIORN: Objection. Your Honor, under
25 Evidence Code 452, this is cumulative at this point.

1 THE COURT: No, if he remembers what he got
2 from the assessor's office, he can ask about it.

3 BY MR. BAER:

4 Q. You don't remember receiving anything else
5 from the assessor's office or sending anything else
6 to the assessor's office since September 25 or 15 --
7 2015, correct?

8 A. Not that I recall at this time.

9 Q. Okay. All the way through August of 2017,
10 when your father visited you at the Milpitas
11 property, he never told you that he was moving in,
12 did he?

13 A. I'm sorry, could you please repeat the
14 question because it sounds like the one from before.

15 Q. Sure. Your father came to your house on
16 August 22, 2017, right?

17 A. Yes.

18 Q. Okay. And at no time before then did he ever
19 tell you when he came to visit that he was going to
20 move in, right?

21 A. That's incorrect. Some of those times he
22 said that he wanted to move in, he's planning to move
23 in, eventually he will move in with me and we called
24 it dad's room.

25 Q. Okay. I want to read from the deposition

1 transcript, page 63, line 14 to -- strike that.

2 MR. FRASER: This is volume 1.

3 MR. BAER: Yes. Volume 1, 64, line 2 to 10.

4 THE WITNESS: Excuse me, Counselor, I thought
5 you read that already.

6 BY MR. BAER:

7 Q. Did I read that?

8 A. Yes.

9 Q. Okay. When he visited you, you didn't have
10 the impression that he was moving in, right?

11 A. That's correct.

12 Q. At least before -- okay.

13 All right. Let me change gears here and talk
14 a little bit about McCollum property.

15 So you started helping your father in
16 preparing his income tax returns in 2007, right?

17 A. I started helping him with tax year 2007,
18 yes.

19 Q. And you continued to do that through tax year
20 2016?

21 A. That's correct.

22 Q. And I believe you characterized your role in
23 that process as the data entry person, right?

24 A. That's right.

25 Q. So your father's role, he had to gather the

1 information that you needed to enter the data into
2 the TurboTax program, right?

3 A. Right.

4 Q. Okay. And when you did that, did he provide
5 the data to you concerning the income and expenses
6 associated with the McCollum Street property?

7 A. Yes.

8 Q. And did you claim that on his tax return
9 forms?

10 A. Yes, we entered it in Schedule E of his tax
11 returns.

12 Q. Did you ask him if he owned a fifty percent
13 interest in the property?

14 A. I asked at some point. I don't recall if it
15 was during tax time of any year.

16 Q. He never informed you, at any point in his
17 lifetime, that he had signed a deed in 2006
18 transferring his interest in the McCollum property to
19 Debby's trust, correct?

20 A. Correct.

21 Q. And you never learned that that happened
22 until after he passed away, correct?

23 A. Incorrect. I believe I learned of it one
24 month before he passed away.

25 Q. After -- well, you never found any written

1 agreement between your father and Ms. Chang
2 concerning the McCollum property, correct?

3 A. That's correct.

4 Q. In fact, you don't know of any written
5 agreement between them on any transaction between
6 them, do you?

7 A. That's correct, regarding the McCollum
8 property.

9 Q. Regarding any transaction between them was
10 the question.

11 A. Excuse me, let me think, Counselor.

12 Yeah, I can't think of any at this time.

13 Q. When you input the data into TurboTax, do you
14 know whether you were inputting 50 percent of the
15 depreciation or a hundred percent of the
16 depreciation?

17 MR. FRASER: Vague and ambiguous as to which
18 return.

19 MR. BAER: His father's return.

20 MR. BIORN: For which years?

21 MR. BAER: Okay.

22 BY MR. BAER:

23 Q. Well, you started out -- let me just ask a
24 question broadly first.

25 Do you know for any of those years

1 whether what was being reported was half the
2 depreciation or all the depreciation?

3 A. I do know. It was fifty percent of the
4 depreciation for every year that I helped him, other
5 than tax year 2015 and after.

6 Q. So you understood when you were inputting the
7 data for the years where there was a net loss, that
8 was saving your father money, correct?

9 A. Correct.

10 Q. And that was true for every year from 2007 to
11 2014, correct?

12 A. Correct.

13 Q. You never ran any kind of title search to
14 determine if your father held a title interest in the
15 McCollum property, did you?

16 A. I did not.

17 Q. Okay. Did your father give you the 1098
18 forms?

19 A. No, I do not believe I've seen them.

20 Q. Did you ask him how much he had borrowed?

21 A. I don't recall asking him.

22 Q. You told him in 2016 that if he stopped
23 reporting the -- fifty percent of the McCollum income
24 and expenses, that his taxes were going to go up,
25 correct?

1 A. Correct.

2 Q. Okay. And you essentially left it to your
3 father to decide whether or not he wanted to continue
4 to claim fifty percent of the net income or net loss
5 on the McCollum property, right?

6 A. Yes.

7 Q. And you thought he was capable of making that
8 decision for himself, correct?

9 A. Correct.

10 Q. Okay. And at some point, I guess 2012, your
11 father said to you -- it's your testimony that your
12 father said something to you to the effect of Debby
13 owed him \$80,000 in connection with the -- making the
14 down payment on the McCollum property, right?

15 A. That's correct.

16 Q. Okay. And did he -- you understood at that
17 point that he had purchased the property in 2005,
18 right?

19 A. Yes.

20 Q. Okay. So that was seven years essentially
21 after the acquisition. Did you ask him when she'd
22 agreed to pay that \$80,000?

23 A. Well, first, that was the second time he told
24 me. The first time he told me in 2008.

25 Q. Okay. And am I correct that you made no

1 suggestion to your father that he take some action to
2 collect that money?

3 A. I did not make any recommendation.

4 Q. Okay. So you left that to him, correct?

5 A. Correct.

6 Q. And so you thought he was capable of deciding
7 for himself whether to try to get that \$80,000 from
8 Ms. Chang or not?

9 A. That's correct.

10 Q. And you didn't make any suggestion to him,
11 did you, that he get Ms. Chang to sign any kind of
12 written agreement or promissory note to confirm that
13 she owed the money, did you?

14 A. I did not.

15 Q. So both times your father mentioned this to
16 you, 2014, 2012, you left it to him to decide what to
17 do about collecting the money, right?

18 MR. BIORN: Objection. Assumes facts not in
19 evidence. You said 2014.

20 MR. BAER: I thought the witness said that.

21 BY MR. BAER:

22 Q. Was it '16?

23 A. It was 2012 and 2008.

24 Q. Oh, I'm backwards, sorry. So both times,
25 2008, 2012, you essentially left it to your dad to

1 decide what to do about enforcing that debt, right?

2 A. That's correct.

3 Q. You didn't ask Debby whether she agreed to
4 pay your father \$80,000, did you?

5 A. She was standing there when he told me.

6 Q. You didn't ask her then if she had the money
7 to pay your father back, did you?

8 A. I did not.

9 Q. And you didn't ask her then if she planned to
10 pay your father back, correct?

11 A. Correct.

12 Q. Okay. And am I right that you've
13 subsequently come to learn that your father signed a
14 deed transferring his interest in the McCollum
15 property at the office of an attorney named
16 Mr. Malone?

17 A. Yes.

18 Q. Okay. And you weren't there, right?

19 A. That's correct.

20 Q. You didn't know -- you have no personal
21 knowledge of what was said at that time, correct?

22 A. That's correct.

23 Q. Okay. And so you have no personal knowledge
24 that during any meeting with Mr. Malone, Ms. Chang
25 pressured your father to get him to sign the April

1 2016, right?

2 A. I have no personal knowledge.

3 Q. And you have no personal knowledge that
4 Ms. Chang misstated any important fact -- strike
5 that.

6 You have no personal knowledge that Ms. Chang
7 misstated any fact to your father to get him to sign
8 the April 20, 2016, do you?

9 A. I wouldn't know.

10 Q. You have no personal knowledge that she
11 concealed any fact from your father in order to get
12 him to sign that deed, correct?

13 A. Correct.

14 Q. Since you never -- since your dad -- well --

15 MR. BIORN: David, just a heads-up, it's
16 three minutes to 6:00.

17 MR. BAER: Okay. Let me just take a quick
18 look here. I think I'll ask just one more question.

19 BY MR. BAER:

20 Q. Did you ever have any discussion with your
21 father about the 2006 deed?

22 A. No.

23 MR. BAER: We can stop for the evening.

24 THE COURT: Great. See you tomorrow at
25 10:00.

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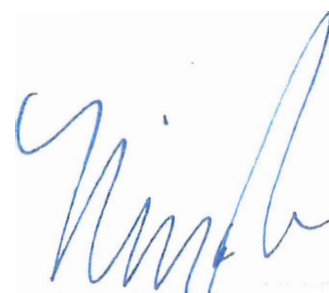
MR. BAER: Great.

(WHEREUPON, the proceedings were adjourned at
5:58 p.m.)

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 26, 2024

NINA PAVONE,
CSR No. 7802