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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 6

Date: Monday, September 25, 2023
Time: 10:09 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:

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P R O C E E D I N G S

THE COURT: Let's go on the record and hear from Mr. Garcia.

So we're on the record. Good morning, Counsel. I hope you all had a good weekend.

It's my understanding that Geofrey Garcia will be testifying; is that correct?

MR. BAER: Yes, Your Honor.

MR. BIORN: Yes, Your Honor.

THE COURT: And Mr. Garcia, I'm going to swear you in.

But, Counsel, could you make your appearance, please?

MR. PARSLEY: Walter Parsley for the witness Geofrey Garcia.

THE COURT: Thank you. Let the record reflect Mr. Parsley and I had a conversation before we went on the record about Mr. Garcia's potential Fifth Amendment rights.

Very good. It's your witness.

MR. BIORN: Thank you, Your Honor.

THE COURT: Mr. Garcia, could you start by stating your first and last name and spelling both?

THE WITNESS: Yes, Your Honor. I'm Geofrey

1 Garcia, G-E-O-F-R-E-Y, last name G-A-R-C-I-A.

2 THE COURT: Thank you.

3 MR. BIORN: Your Honor, have you sworn the
4 witness? Did I miss that?

5 THE COURT: No, I didn't.

6 Could you raise your right hand, please.

7 GEOFREY GARCIA,
8 being duly sworn by the Court to tell the truth, the
9 whole truth, and nothing but the truth, testified as
10 follows.

11 THE COURT: Thank you.

12 DIRECT EXAMINATION

13 BY MR. BIORN:

14 Q. Good morning, Mr. Garcia. How are you?

15 A. Good morning, sir.

16 Q. So we've got -- I believe you can see me in
17 two of the frames here on Zoom; one with the entire
18 room, and you're probably seeing me look at my
19 computer, but I also believe you can see me looking
20 straight at you through the Zoom on my computer; is
21 that right?

22 A. That's correct.

23 Q. Okay. Good. So I will look at you from that
24 direction. I mean no disrespect from the other view
25 where I'm not looking at you at all. Okay?

1 A. Yes.

2 Q. Mr. Garcia, we are here for your trial
3 testimony in the matter of Peter Ho versus Debby
4 Chang.

5 Do you understand that?

6 A. Yes, sir.

7 Q. You had your deposition taken in this matter,
8 correct?

9 A. Yes, sir.

10 Q. At your deposition, you were asked many
11 questions and we will ask you some of the same
12 questions, maybe some additional questions. So today
13 will be very similar to your deposition. Okay?

14 A. Yes, sir.

15 Q. I'd like to start with your employment at
16 Sterling Bank. When did you first start working at
17 Sterling Bank?

18 A. I started, I think, 2006, I believe, or 2007.
19 It's been a while.

20 Q. And when did you end?

21 A. I ended, I think, July of -- June or July of
22 around 2021.

23 Q. So you worked there about 15 years?

24 A. Approximately.

25 Q. What was the first position you held there?

1 A. I was a teller for the bank.

2 Q. T-E-L-L-E-R; is that right?

3 A. Yes, sir.

4 Q. So Mr. Garcia, sometimes I may do that today
5 because it can be difficult to understand exactly
6 what you're saying over Zoom. Okay?

7 A. Okay.

8 Q. If at any time you don't understand my
9 question, will you ask me to repeat it, please?

10 A. Yes, sir.

11 Q. So if you answer my question I'm going to
12 assume you understood it. Is that fair to you?

13 A. That's correct.

14 Q. Thank you. How long did you work as a
15 teller, about?

16 A. About two years.

17 Q. What was your next job?

18 A. I worked --

19 Q. I'm sorry, at Sterling Bank?

20 A. Yeah. I was a mortgage processor or
21 administrator after that.

22 Q. For how many years did you work in that
23 position?

24 A. Approximately a year or two, around like
25 that.

1 Q. Okay. What did you do -- what were your
2 duties in that position?

3 A. Just helping the loan officers packaging the
4 loan documents.

5 Q. What was the next position you held at
6 Sterling?

7 A. I was a loan officer or loan consultant after
8 that.

9 Q. Just in general terms, we'll get into it in
10 more detail, what were your duties as a loan officer
11 or a loan consultant?

12 A. It's going to be interviewing the borrowers
13 and gathering the documentations in regards to the
14 loan that they are applying.

15 Q. So to clarify for the court reporter, you are
16 interviewing the borrowers; is that right?

17 A. That's correct.

18 Q. So did you receive any on-the-job training
19 for that job?

20 A. Yes, sir.

21 Q. What training did you receive?

22 A. It's just about -- there's two training,
23 which is an online training that the bank provided
24 and also I have assist -- when I was a processor, I
25 was helping the loan officers to package the loan and

1 then that's also the training I received.

2 Q. What position did you hold after -- how long
3 were you a loan officer or loan consultant?

4 A. I think around three to four years, if I can
5 recall.

6 Q. What was the next position you held?

7 A. I was a mortgage underwriter.

8 Q. What does a mortgage underwriter do at
9 Sterling?

10 A. It's more on risk assessment for borrowers
11 applying for the mortgage and giving them the
12 approval or conditioning of the loan and denying the
13 loan.

14 Q. The first two words you used were risk
15 assessment; is that right?

16 A. Yes, sir.

17 Q. How long were you a mortgage underwriter?

18 A. I think around two, two and a half years or
19 three.

20 Q. Okay. What was your next position at
21 Sterling?

22 A. I was a BSA or Bank Secrecy Act, and
23 anti-money laundering analyst.

24 Q. Analyst, is that what you said?

25 A. Yes, sir.

1 Q. How long were you in this position?

2 A. I think just over a year or two.

3 Q. What was your job in this position?

4 A. It's really mostly reviewing customers'
5 account activity, made sure that there's no
6 suspicious transaction in their account.

7 Q. Did you receive training for this job?

8 A. Yes, sir.

9 Q. How much? Or describe your training for me.

10 A. I went to the headquarters in the Michigan
11 office to get trained by the BSA, or Bank Secrecy
12 Act, manager.

13 Q. Did you hold any -- was that the last
14 position you held at Sterling Bank?

15 A. I also -- no. There's like a few months I
16 assume like -- few months, that I get transferred to
17 lending department, training the loan officers over
18 California for the bank.

19 Q. So training the loan officers, that's the job
20 that you held for three or four years when you were
21 interviewing the borrowers; is that right?

22 A. Sorry, can you --

23 Q. You said you were training loan officers all
24 over California for Sterling. Are those loan
25 officers, were they doing the same job you were doing

1 for three or four years when you were interviewing
2 borrowers?

3 A. They are different loan officers, but I
4 provided mostly for the compliance.

5 Q. Did you hold any other jobs at Sterling?

6 A. No, that's all I have, sir.

7 Q. Which position did you hold when you first
8 met Ms. Chang?

9 A. That's when I was a mortgage loan officer or
10 mortgage consultant.

11 Q. Which branch were you working at at that
12 time?

13 A. That's in the Burlingame office.

14 Q. Mr. Garcia, I'd like to ask you about -- let
15 me ask you this: Do you recall Debby Chang?

16 A. Yes, sir.

17 Q. And you recall that was the borrower that we
18 discussed at your deposition; is that right?

19 A. That's correct.

20 Q. Did you have a chance to review your
21 deposition prior to your testimony today?

22 A. Yes, sir.

23 Q. Did you have a chance to review your
24 declaration prior to your testimony today?

25 A. Yes, sir.

1 Q. Did you also review the exhibits to your
2 deposition prior to your testimony today?

3 A. Yes, sir.

4 Q. And if I understand it, you have your
5 deposition transcript with you and you have the
6 exhibits to your deposition with you; is that right?

7 A. That's correct.

8 Q. Okay.

9 MR. BIORN: So, Your Honor, Mr. Baer, since
10 he has those with him, we are going to -- Mr. Baer
11 and I agreed that, to the extent they're the exact
12 same as the exhibits we're using at trial, we're
13 going to cross-reference those today and allow him to
14 look at the exhibits to his deposition right there.

15 Is that right, Mr. Baer?

16 MR. BAER: Yes.

17 BY MR. BIORN:

18 Q. So, Mr. Garcia, if you will turn to Exhibit 1
19 to your deposition, and what I'd like for you to look
20 at is Exhibit A to Exhibit 1. It's entitled -- I'm
21 sorry. It's Exhibit B to Exhibit 1. It's entitled
22 "Uniform residential loan application."

23 Do you have that in front of you?

24 THE COURT: Let the record reflect that
25 counsel has given me a sealed copy of the deposition,

1 which I'm now struggling to open, but I did.

2 So very good. You're looking for Exhibit 2;
3 is that correct?

4 MR. BIORN: Well, it's our Exhibit 146 in
5 trial, Your Honor. To his deposition, it is
6 Exhibit B to Exhibit 1.

7 MR. BAER: I'm sorry, what exhibit did you
8 say this is in the trial?

9 MR. BIORN: 146.

10 MR. BAER: Okay.

11 THE WITNESS: What exhibit again?

12 BY MR. BIORN:

13 Q. So we're looking at the uniform residential
14 loan application attached as Exhibit B to Exhibit 1,
15 which is your declaration in this case.

16 Are you looking at that loan application now?

17 A. I'm looking right now.

18 Okay, I saw it over here.

19 Q. Great. That's a five-page document; is that
20 right?

21 A. That's correct.

22 Q. Are you familiar with this document?

23 A. Yes, sir.

24 Q. And you're familiar with documents like this
25 that have not been filled out with any borrower

1 information, correct?

2 A. That's correct.

3 Q. What is this document before you fill it out
4 with borrower information?

5 A. So this is -- are you asking what this
6 document looks like before completing with the
7 borrower?

8 Q. I mean, what is this document?

9 A. Oh, this is a mortgage application form.

10 Q. Did Sterling Bank use this mortgage
11 application form for all of its residential home
12 loans?

13 A. Yes, sir, it's a loan application for
14 everyone.

15 Q. If you will turn to the fourth page, do you
16 see your signature near the bottom of that page?

17 A. Yes, sir.

18 Q. And do you see the date of February 22nd,
19 2017 to the right of your signature?

20 A. Yes, sir.

21 Q. Is that the date you signed this document?

22 A. Yes, sir.

23 Q. And above that, do you see another signature
24 underneath with the words "borrower's signature"?

25 A. Yes, sir.

1 Q. Whose signature is that?

2 A. For this one, it's the borrower, Ms. Debby.

3 Q. Debby Chang?

4 A. Yes, sir.

5 Q. So we can refer to her today as Debby or
6 Ms. Chang. Is that okay with you?

7 A. Yes, sir.

8 Q. Whichever way you feel more comfortable in
9 answering the question. Okay?

10 A. Okay.

11 Q. And the date next to Ms. Chang's name is
12 February 22nd, 2017. Did you see Ms. Chang sign this
13 document?

14 A. Signing this document, yes, sir.

15 Q. And did she sign at the same time on the same
16 day that you did?

17 A. Yes, sir.

18 Q. And that was February 22nd, 2017, right?

19 A. That's correct.

20 Q. Did you have a face-to-face meeting with her
21 that day?

22 A. Yes, sir.

23 Q. Do you recall meeting her prior to that date?

24 A. I cannot recall.

25 Q. Do you recall how many times you met with her

1 in your office?

2 A. I cannot recall.

3 Q. Do you recall meeting her anywhere else other
4 than your office?

5 A. What I can recall is one time, I went to her
6 residence -- sorry, not residence, but a place that
7 she want me to meet her. She told me it's a place
8 that I can meet her and do the e-signing on her
9 computer because she had a hard time doing it.

10 Q. Okay. We can come back to that.

11 Did you speak to her by phone?

12 A. During that time or the whole process?

13 Q. During the loan process, the entire loan
14 process, did you speak with her by phone?

15 A. Yes, sir.

16 Q. Do you recall how many times?

17 A. I cannot recall.

18 Q. Did you exchange any e-mails with her during
19 the loan process?

20 A. I don't think so. I cannot recall because --
21 what I can recall is that she don't do e-mail.

22 Q. When you were talking to her, what language
23 did you speak?

24 A. English.

25 Q. Do you speak Mandarin?

1 A. Not at all, sir.

2 Q. Did she ever say anything to you that
3 indicated to you that she couldn't understand you?

4 A. Not that I'm aware of.

5 Q. Did she ever do anything that indicated to
6 you that she could not understand you?

7 A. Not that I'm aware of.

8 Q. Did she ever say to you that she was having
9 difficulty explaining something to you?

10 A. Not that I'm aware of.

11 Q. Did she ever say to you that she was having
12 difficulty communicating with you?

13 A. Not that I'm aware of.

14 Q. Did she ever ask for an interpreter?

15 A. Not that I'm aware of.

16 Q. Did you ever meet a man during this loan
17 process by the name of James Ho?

18 A. No.

19 Q. Do you recall, when you met with Debby on
20 February 22nd, was anyone else with her?

21 A. No.

22 Q. Did she tell you that anyone else was with
23 her?

24 A. No.

25 Q. Did she tell you that somebody was waiting

1 for her in the lobby at Sterling Bank?

2 A. No, I cannot recall.

3 Q. Did she tell you that someone was waiting for
4 her in her car?

5 A. I cannot recall.

6 Q. There's a word that had been used at your
7 deposition from the documents. The word is
8 creditability. It's one word,
9 C-R-E-D-I-T-A-B-I-L-I-T-Y.

10 What does creditability mean to the loan
11 underwriting process?

12 A. So creditability is more about their credit
13 and they have no late payments on their credit
14 history.

15 Q. Does it only refer to late payments or does
16 creditability refer to any other thing, anything else
17 about the borrower?

18 A. And that's also about ability to repay the
19 mortgage or debts that they are applying.

20 Q. Anything else?

21 A. That's what I can recall for now.

22 Q. From a large overview, can you walk me
23 through the typical process of initiating a loan
24 request at Sterling Bank in 2017?

25 A. So basically they will come to the office,

1 talk to me as a loan officer, and I'm going to ask
2 them questions about themselves, about completing the
3 loan application. It's either they're going to do it
4 in front of me, telling me all the information, and
5 then while I talk to them, I put this information
6 into the system.

7 And then I also ask them -- we'll talk about
8 the loan program that the bank offering during that
9 time, giving them the options, which ones work best
10 for them and which one they want to apply.

11 And then from there, whatever their answer
12 is, that's how I proceed as a loan officer with the
13 loan program that they're going to apply, gather all
14 the necessary documentation.

15 Q. During this initial process of initiating a
16 loan request, do you request with the borrower her
17 cash flow to make payments on the loan?

18 A. That's correct.

19 Q. Do you discuss with the borrower the purpose
20 of buying the house?

21 A. That's correct. So I ask them what is this
22 subject -- the property that they are applying, is it
23 a either secondary home or primary home or investment
24 property.

25 Q. Let's go back to the loan program that the

1 bank is offering. In February 2017, do you recall
2 which loan program Sterling Bank was offering to
3 purchase a single-family residence?

4 A. I think what I can recall is that they offer
5 alternative loan program. They also offer Fannie Mae
6 loan program, which would -- was held by the
7 investors. And then tenancy in common loan program
8 which is a portfolio that the bank offers.

9 Q. We have the Fannie Mae loan and the other
10 one, what did you call that?

11 A. It's a tenancy in common loan program, or TIC
12 loan.

13 And also the program that she applied, we
14 call that Advantage Loan Program it's a portfolio
15 loan program that the bank offered during that time.

16 Q. What does it mean when you say a portfolio
17 loan program?

18 A. It's actually -- the bank will use their
19 money to fund the loan and not sell it to investor
20 during that time.

21 Q. Did you say the bank does or does not sell
22 this loan out to investors?

23 A. Does not during the time.

24 Q. What is a TIC common loan program?

25 A. So TIC, like it's a -- properties in San

1 Francisco. For example, those Victorian houses with
2 three or four units and each individual will buy and
3 have -- they share ownership for those multiple
4 units.

5 Q. So that sounds like that would not be a loan
6 program that would have been appropriate for Debby
7 Chang at this time?

8 A. That's correct.

9 Q. The Fannie Mae loan program, what is that?

10 A. That's a full documentation loan program that
11 requires pay stubs, W-2 and tax returns and bank will
12 qualify you based on what you have on those
13 documentation.

14 Q. So as I understand it, the Advantage Loan
15 Program does not require pay stubs, W-2 and tax
16 returns; is that correct?

17 A. That's correct.

18 Q. Is that something that you typically explain
19 to borrowers at this initial meeting?

20 A. Sorry, say it again.

21 Q. Is that something you explain to borrowers --
22 you typically explain to borrowers at this initial
23 meeting?

24 A. That's correct.

25 Q. Around this time, did you see loans

1 frequently in which the borrower was receiving a gift
2 for the down payment from someone?

3 A. It's typical.

4 Q. It's typical, is that what you said?

5 A. Yes.

6 Q. What was the -- what would you tell potential
7 borrowers about the documentation for a gift that
8 they would use for the down payment?

9 A. Gift funds should be coming from a family
10 member.

11 Q. Did the bank -- how did the bank treat gifts
12 that were not coming from a family member?

13 A. Can you say the last word? I can't
14 understand the last part.

15 Q. How would the bank treat gifts that would not
16 come from a family member?

17 A. It's unacceptable for the bank to get them
18 because these funds should be coming from a family
19 member. So it's not acceptable for the bank for
20 that.

21 Q. Is this something that in or around February
22 2017 you typically communicated to a potential
23 borrower?

24 MR. BAER: Objection. Vague and ambiguous.

25 THE WITNESS: Can you say that again, please?

1 Can you rephrase it?

2 THE COURT: Yes. There's been an objection.

3 Let me think about it.

4 MR. BAER: It just wasn't specific about the
5 program.

6 THE COURT: Okay. Just rephrase.

7 BY MR. BIORN:

8 Q. When you were talking to a potential borrower
9 who would be using a gift for the down payment, would
10 you typically communicate the bank rules regarding
11 the gift, i.e., that it had to come from a family
12 member?

13 A. That's correct.

14 Q. And that would typically occur at the initial
15 meeting; is that right?

16 A. That's correct.

17 Q. Do you recall which program Debby Chang
18 chose?

19 A. I think she chose the alternative loan
20 program, which doesn't require the tax return or W-2.

21 Q. My notes are confusing to me. Is that the
22 Advantage Loan Program or the alternative loan
23 program?

24 A. Sorry, it's both the same. It's also
25 alternative, that's also a different name for that

1 loan program.

2 Q. Thank you. And typically, how would you
3 obtain the information specific to each borrower to
4 enter onto the loan applications?

5 A. So it's either they complete the loan
6 application at the office or they will come to me
7 face-to-face and while talking to them, I put those
8 information into the computer.

9 Q. The first answer, typically they would
10 complete it at the office, do you mean the borrower
11 would complete the loan application at the office?

12 A. Yes. So it's either I bring an application
13 form and they handwrite all the information at the
14 office, or another option is to sit down in front of
15 me at the office, tell me all the information and put
16 those information into the system.

17 Q. How did you proceed to obtain this
18 information from Debby Chang at this initial meeting?

19 A. She came into the office face-to-face and she
20 was sitting with me at the office.

21 Q. Do you recall if she had an appointment with
22 you that day?

23 A. I cannot recall.

24 Q. I'm going to refer to it as the loan -- let's
25 go back to the loan application, Exhibit 146, at

1 trial, Exhibit B to Exhibit 1 at your deposition that
2 you're reviewing, Mr. Garcia.

3 And this document looks like it has some
4 information typed into it that is specific to Debby
5 Chang as a borrower; is that true?

6 A. That's correct.

7 Q. And during the process, when would you type
8 this information into the loan application?

9 A. This should be the time that I'm talking to a
10 client and, in this particular time, I'm talking to
11 Ms. Debby.

12 Q. Do you recall if that's how you entered it in
13 this particular instance?

14 A. Sorry, can you say it again?

15 Q. Do you recall whether you entered the
16 information specific to Debby on the loan application
17 contemporaneously while you were speaking with Debby
18 on February 22nd?

19 A. Yes. So while I'm talking to her, I'm
20 inputting all this information into the system while
21 talking to her.

22 Q. When she first arrived to your office, before
23 you filled out the loan application, did she tell
24 you -- sorry. Did you tell her that she was
25 pre-approved for a loan?

1 A. I cannot recall.

2 Q. Based on your experience, the underwriting
3 rules and custom and practice at Sterling in February
4 of 2017, would it be possible for you to pre-approve
5 Debby for her loan before you obtained loan
6 information from her?

7 A. No, because first, we need to -- we need to
8 run their information first, like run the credit
9 report and get all the necessary documentation. And
10 after that, we need to put the information into the
11 system to determine if they're qualified or not.

12 Q. Let's take a look at the loan application.
13 The first section starts with the Roman numeral I,
14 type of mortgage and terms of loan.

15 Do you see that?

16 A. Yes.

17 Q. The mortgage applied for was a conventional
18 loan. Where did you get that information?

19 A. That's actually a type of loan that she's
20 applying, a conventional loan.

21 Q. And that was her choice, to make that type of
22 loan, correct?

23 A. That's correct, and that's the type of loan
24 that she applied. We call that conventional loan for
25 the Advantage Loan Program that she applied.

1 Q. Okay. The amount of the loan, \$1,135,000,
2 where did you obtain that information?

3 A. The loan amount, sir?

4 Q. Correct.

5 A. That's based on the purchase price, the down
6 payment that she's putting in.

7 Q. Who would have -- who told you how much of a
8 down payment she was putting in?

9 A. For the loan program that she applied, the
10 bank requires 35 percent down payment as the minimum
11 down payment that a borrower needs to put down.

12 Q. During this initial meeting with Debby, did
13 you explain that to her?

14 A. Yes, sir.

15 Q. The amortization type says ARM, which stands
16 for adjustable rate mortgage, right?

17 A. That's correct.

18 Q. It says 3/1ADV. What is that?

19 A. So that's the three years fixed for that
20 interest rate, the 5.625 interest rate. It's going
21 to be adjusted right after that.

22 Q. Did you offer other types of ARM loans within
23 the Advantage Loan Program?

24 A. I think we -- the bank at that time offer
25 three years, five years and seven years, if I recall

1 correctly. And she choose the three years based on
2 the application form.

3 Q. Did you discuss all three types of -- all
4 three terms for the loan with her?

5 A. I cannot recall.

6 Q. Would that be normal in your custom and
7 practice to do so?

8 A. Yes.

9 Q. Let's go down to the second section, Roman
10 numeral II, property information and purpose of loan,
11 the subject property is listed as 229 Fulton in
12 Redwood City.

13 You obtained that information from Debby?

14 A. Yes, and also from the purchase agreement.

15 Q. Okay. Did she have a copy of the purchase
16 agreement with her that day?

17 A. I cannot recall.

18 Q. And where -- just below that but over to the
19 right it says property will be, box is checked for
20 primary residence.

21 Who provided you that information?

22 A. That's Debby.

23 Q. That was -- was that required for the
24 Advantage Loan Program?

25 A. Yes. So then you choose it's either primary

1 home, secondary or investment.

2 Q. A few lines down on the far left, it says
3 "Title will be held in what name or names," and it
4 says Debby Chang.

5 Who provided you that information?

6 A. Her.

7 Q. Do you recall whether Ms. Chang told you
8 there was a co-purchaser of this property during the
9 meeting you had with her on February 22nd?

10 A. I cannot recall.

11 Q. Go down to the next section Roman numeral III
12 borrower information, borrower's name says Debby
13 Chang. Social Security, home phone and date of
14 birth.

15 How did you obtain that information?

16 A. That's coming from her.

17 Q. All right. No co-borrower is listed in this
18 section; is that right?

19 A. That's correct.

20 Q. At this meeting, do you recall her mentioning
21 James Ho?

22 A. That's correct.

23 Q. No, did she mention James Ho during this
24 meeting?

25 A. James Ho is not -- is not in this meeting.

1 It's by herself is what I can recall.

2 Q. But during the meeting, did she mention the
3 name James Ho at all in any way?

4 A. I cannot recall.

5 Q. If you go down, the next line the box is
6 checked that she is unmarried.

7 Who provided you that information?

8 A. For this one, I don't know, on this part
9 because I know the whole time that she is married.

10 Q. Okay. The next section says "Present address
11 1390 Brewster Court."

12 Who provided you that information?

13 A. It's Debby.

14 Q. Going back to her present address on Brewster
15 Court, did she tell you anything else about her
16 current home during this meeting?

17 A. In El Cerrito?

18 Q. Yes. Did you discuss her home at all with
19 Debby?

20 A. Yes --

21 MR. BAER: Objection. Lacks foundation.
22 Hold on. Objection. Lacks foundation.

23 THE COURT: Establish a foundation.

24 BY MR. BIORN:

25 Q. Well Debby told you the El Cerrito property

1 was her present address, correct?

2 A. That's correct.

3 Q. Did you discuss that property with her at all
4 any further during this initial meeting?

5 A. I cannot recall.

6 Q. The next section, it says Roman numeral IV,
7 employment information.

8 Do you see that section?

9 A. Yes.

10 Q. Prior to completing this portion of the loan
11 application on February 22nd, did you tell Debby that
12 she was already pre-approved for a loan?

13 MR. BAER: Objection. Asked and answered.

14 THE WITNESS: I cannot recall saying that.

15 THE COURT: Sustained.

16 MR. BAER: I'll withdraw it.

17 MR. BIORN: All right.

18 BY MR. BIORN:

19 Q. But what you said before is, based on the
20 rules at Sterling Bank, that you could not have done
21 that, right?

22 MR. BAER: Same objection.

23 THE WITNESS: That's correct.

24 THE COURT: Sustained.

25 BY MR. BIORN:

1 Q. The employer for the borrower is listed as
2 Evergreen Life Company.

3 Where did you obtain that information?

4 A. From Debby.

5 Q. Years on job, it says five years.

6 How did you obtain that information?

7 A. Sorry, say again the last part.

8 Q. The next box says "Years on job" and it says
9 5Y which I presume means five years; is that correct?

10 A. That's correct.

11 Q. How did you get that information?

12 A. From Debby.

13 Q. The position title or type of business says
14 sales executive and accounting.

15 How did you obtain that information?

16 A. From Debby.

17 Q. Let's turn to the next page, the section that
18 says Roman V, monthly income and combined housing
19 expense information.

20 Do you see that section?

21 A. That's correct.

22 Q. The first line says "Base EMPL income." I
23 presume that means base employment income; is that
24 right?

25 A. That's correct.

1 Q. And amount says \$18,500, right?

2 A. That's correct.

3 Q. Does that refer to her income from Evergreen
4 Life Company?

5 A. That's correct.

6 Q. How did you obtain that information, the
7 amount of her income?

8 A. I cannot recall.

9 Q. Did you fill out this form entirely on
10 the first day you met Debby, including the 18,500?

11 A. I cannot recall.

12 Q. So the net rental income, you go down it says
13 2101.

14 Did you obtain that information on the next
15 page where it says "Schedule of real estate owned"
16 where it says the net rental income from both
17 properties is 2101?

18 A. That should be coming from the rental
19 property and would be transferred to this section.

20 Q. Okay. Did that happen automatically in the
21 program that you used for the loan application?

22 A. Yes.

23 Q. And it also lists just down below there SS
24 and pension income of \$2,100 a month.

25 Did you obtain that information from Debby?

1 A. That should be coming from Debby.

2 Q. Now, let's go down to Roman VI assets and
3 liabilities. First asset on the left is EMD.

4 What does that stand for?

5 A. That would be the escrow money deposit which
6 is the initial deposit that she will put into the
7 escrow.

8 Q. And the next line is Sterling Bank account
9 listed as \$1.1 million.

10 Did Debby provide that you information?

11 A. I cannot recall.

12 MR. BAER: I'm sorry, where are you?

13 MR. BIORN: Sterling Bank assets and
14 liabilities, \$1.1 million.

15 BY MR. BIORN:

16 Q. Did Debby provide you that information?

17 A. I cannot recall.

18 THE COURT: One moment. Mr. Baer, did you
19 get that?

20 MR. BAER: Yes.

21 THE COURT: Okay.

22 BY MR. BIORN:

23 Q. Going back to the employment information at
24 Evergreen Life Company, was that information
25 important to the loan underwriting process?

1 A. Yes.

2 Q. Why?

3 A. Because a borrower need to have an employment
4 to qualify for the mortgage.

5 Q. The amount of money that she made in her
6 employment, was that important to the loan
7 underwriting process?

8 A. That's correct.

9 Q. Why?

10 A. That would show the ability for the borrower
11 to pay the monthly mortgage.

12 Q. During this initial meeting with Debby, did
13 you explain to her that the loan program she applied
14 for required her to be employed?

15 A. That's correct.

16 Q. Did you explain to her that she needed to
17 have sufficient income to be able to repay the loan
18 on a monthly basis?

19 A. That's correct.

20 Q. With respect to the employment information
21 both listed at the bottom of page 1 as well as the
22 monthly base employment income of 18,500, did you
23 tell Debby the information would be verified?

24 A. I cannot recall.

25 Q. Does the bank verify that information?

1 A. Yes.

2 Q. And they did so back in February of 2017,
3 right?

4 A. This I assume.

5 Q. How did they -- back in February of 2017, how
6 did they verify the employer and the amount of
7 monthly income that was paid to the borrower? How
8 did the bank do that?

9 A. I don't have the documents referring to
10 February of 2017 right now.

11 Q. Okay. We'll get to that document.

12 Do you recall anything else Debby told you on
13 this first day about her employment at Evergreen Life
14 Company?

15 A. I cannot recall.

16 Q. Okay. Do you recall what type of business it
17 is?

18 A. Well, based on the application, she told me
19 that she worked in an insurance company.

20 Q. Did she tell you that during this initial
21 meeting?

22 A. That's correct.

23 Q. Did she tell you what her day-to-day duties
24 were at Evergreen?

25 A. I cannot recall.

1 Q. During this initial meeting, did you tell
2 Debby that she would need to provide tax returns to
3 show that she was employed by Evergreen Life Company?

4 A. No, I cannot recall. And again, that's
5 because she applied for a benefit loan program or a
6 foundational program and that doesn't require tax
7 return or W-2.

8 Q. Did you tell her that during this meeting?

9 A. That's correct.

10 Q. Going back to assets and liabilities, the
11 Sterling Bank line item for \$1.1 million, during this
12 meeting, did she tell you that was a gift?

13 A. Sorry, which one you're referring to?

14 Q. The \$1.1 million at Sterling Bank, so listed
15 on page 2, about two-thirds of the way down, during
16 this meeting, did Debby tell you that was a gift?

17 A. I cannot recall.

18 Q. But at sometime during this meeting, you did
19 talk to Debby about her using a gift for the down
20 payment, right?

21 A. That's correct.

22 Q. And during that conversation, did you tell
23 her that the bank would confirm information about the
24 gift?

25 A. That's correct, but typically, I tell the

1 clients that the bank will confirm those gifts.

2 Q. Okay. At this initial meeting, did you tell
3 Debby how the bank would confirm the gift?

4 A. I cannot recall.

5 Q. Based on your experience and the underwriting
6 rule at Sterling Bank in February 2017, if the
7 \$1.1 million had not been a gift, would she have
8 qualified for this loan?

9 A. Sorry, can you say the last part?

10 Q. Would she have qualified for this loan?

11 A. If she --

12 MR. BAER: Hold on, hold on. Incomplete
13 hypothetical.

14 THE COURT: Can you help me out? What's
15 missing?

16 MR. BAER: That's just the only fact,
17 \$1.1 million could come from any number of sources,
18 including her.

19 THE COURT: Okay. Rephrase, asking if she
20 didn't have --

21 MR. BIORN: I'll come back to that.

22 BY MR. BIORN:

23 Q. Going to the next page, 3 of 5, two-thirds of
24 the way down, there is a schedule of real estate
25 owned.

1 Do you see that?

2 A. Yes, sir.

3 Q. There are two properties listed, one in Los
4 Angeles and one in El Cerrito.

5 Do you see those?

6 A. That's correct.

7 Q. And looks like the net rental income on a
8 monthly basis for both properties combined was \$2101;
9 is that right?

10 A. That's correct.

11 Q. Where did you obtain all of the information
12 in this little chart? So for each property, the
13 present market value, the amount of mortgages, the
14 rental income, the mortgage payments and the
15 expenses, where did you obtain that information?

16 A. This one, if I can recall correctly, when she
17 gave me the address on each property, I check online
18 what's the approximately present market value on each
19 property and then she told me what kind of property
20 are this.

21 And then also, the gross rental income, if I
22 can recall correctly, she provided me all this income
23 over here, the rent for each property and then the
24 mortgage payment, it should be coming from her credit
25 report.

1 And then the insurance and taxes and
2 miscellaneous, that should be coming from her and
3 then the net income -- net rental income, that should
4 be computer generated.

5 Q. Would the \$2,101 a month in real estate
6 rental income have been sufficient income to support
7 the loan payments?

8 A. I don't think so.

9 Q. If you added on top of that \$2,101 Debby's
10 Social Security and pension income of \$2,100 would
11 those two amounts combined have been enough to
12 support the monthly loan payments on this loan?

13 A. That's possible.

14 Q. Do you recall the monthly payment on this
15 loan?

16 A. If you go to the upper page of this, page 2
17 of the mortgage application on the right side it
18 shows there 8,771.

19 Q. That information that just referred to which
20 includes the -- strike that.

21 Well, that section, it also lists a present
22 first mortgage hazard insurance, taxes and lists a
23 present amount -- monthly amount of 2,761.

24 Do you see that?

25 A. Yes.

1 Q. And then the proposed column, that would have
2 the present amounts, plus the new amount for the new
3 loan that she was applying for; is that right?

4 A. The proposed is the subject property which is
5 the property that she's buying. That includes the
6 first mortgage, principal and interest, property tax
7 and insurance.

8 So that will bring you to 8,771 and the
9 present mortgage that's -- that we understand, if I'm
10 not mistaken, that should be coming from the property
11 that she's claiming as her primary residence, which
12 is coming from the El Cerrito property that she own.

13 Q. If you look at the mortgage payment for the
14 El Cerrito property on the next page under schedule
15 of real estate owned, mortgage payments listed as
16 2,111.

17 Do you see that?

18 A. Yes.

19 Q. And then back to page 2, the first mortgage
20 for present is also listed as 2,111.

21 Does that indicate the first mortgage in the
22 present column was for the El Cerrito property?

23 A. Yes, the property that she currently owned,
24 which is the El Cerrito.

25 Q. And as part of this transaction she was not

1 refinancing that loan on the El Cerrito property,
2 correct?

3 A. Not that I can recall.

4 Q. So the proposed first mortgage of 6,533, that
5 would be the El Cerrito mortgage of 2,111, plus the
6 new mortgage that she was applying for; is that
7 correct?

8 A. No. The present over here, that's the
9 present residence that she's currently living,
10 showing the property mortgage based on if you go
11 to -- it shows the property mortgage for the Brewster
12 Court is 2,111 and the proposed monthly payment,
13 that's proposed monthly payment for the property that
14 she's buying.

15 Q. Thank you. So if you go to the next page --
16 I'm sorry.

17 Go to the bottom of the second page where it
18 says liabilities, so the bottom over in the middle.

19 Do you see that?

20 A. Yes.

21 Q. And it lists various liabilities for -- in
22 order, Ocwen, O-C-W-E-N, Quicken loans, JP Morgan and
23 the top of the next page with Chase cards and Citi
24 cards.

25 Where did you obtain all that information?

1 A. That's actually coming from her credit
2 report. So automated from the bank system that once
3 you -- or a loan officer or someone for the credit
4 report, it will automatically fill in this
5 information in the system, in the application form.

6 Q. Is that the only area in this form that is
7 automatically populated from an outside source of
8 information?

9 MR. BAER: Objection. Lacks foundation.

10 THE WITNESS: That's what I can recall.

11 THE COURT: Sustained. Rephrase.

12 MR. BIORN: He just testified that came from
13 the credit report.

14 THE WITNESS: Yes.

15 BY MR. BIORN:

16 Q. Is the credit report an outside source of
17 information?

18 A. Yes, it's a system that the bank used
19 connected to the mortgage processing system, so
20 they're all built in that system.

21 Q. Okay. So that is within the Sterling Bank
22 system?

23 A. That's correct.

24 Q. Is this the only liabilities section and what
25 you testified to on the schedule of real estate owned

1 are those the only areas that are populated with
2 information other than from Debby?

3 A. That's what I can recall.

4 Q. Let's go down to the bottom of the third
5 page, Roman VII, details of transaction.

6 Do you see that?

7 A. That's correct.

8 Q. Where did you obtain this information?

9 A. This is actually automated once we put all
10 the information into the system.

11 Q. By all the information, you're talking about
12 the purchase price and -- strike that.

13 A. That is correct.

14 MR. BAER: There's no question pending.

15 MR. BIORN: There's no question pending.

16 BY MR. BIORN:

17 Q. Next column where it says Roman VIII,
18 declarations, there are five boxes checked.

19 Did Debby provide you that information?

20 A. That's correct.

21 Q. And top of the next page is Roman VIII,
22 declarations continued, F through M.

23 Did Debby provide you that information?

24 A. That's correct.

25 Q. Then down below, right above your signature

1 it says "This information was provided" and then
2 there's a check box for in a face-to-face interview.
3 When did you check that box in the process?

4 A. That should be during the process.

5 Q. So that would have been on February 22nd,
6 2017?

7 A. Yes.

8 THE COURT: Could you point out where?

9 MR. BIORN: Information was provided in a
10 face-to-face interview. Your Honor, it's down here
11 about four lines above his signature.

12 THE COURT: Very good. Got it.

13 BY MR. BIORN:

14 Q. Did you obtain all the information in this
15 report -- in this loan application that we're looking
16 at on February 22nd, 2017?

17 A. That's what I can recall.

18 Q. Did Debby review this loan application after
19 it was completed?

20 A. That's what I can recall.

21 Q. Did she sign this loan application after you
22 had filled out all the information in it?

23 MR. BAER: That's asked and answered.

24 THE WITNESS: I cannot recall.

25 THE COURT: Sustained, but I don't think it

1 makes a difference.

2 MR. BIORN: Okay.

3 BY MR. BIORN:

4 Q. After you get all this information on the
5 loan application, what is the next step in the
6 process during this initial meeting?

7 A. So after this initial meeting, I will -- I'm
8 trying to recollect my memory. It's been a while.

9 So after I get this information, I will issue
10 the pre-approval. Usually, that's the process for
11 this.

12 Q. You said the pay approval or the prepay
13 approval?

14 A. The pre-approval.

15 Q. Okay.

16 A. So typically, once we run the -- for the bank
17 process, if we run all the informations into the
18 system and the credit report is good, then that's
19 when we tell the borrower that they are qualified for
20 the mortgage.

21 Q. Did you say when the credit report is good?

22 A. Yes, sir.

23 Q. And do you run the credit report before you
24 tell the borrower she is pre-approved?

25 A. I cannot recall that, but for the bank

1 procedure, as I said, we need to run the credit
2 report first before telling the client.

3 Q. And if you look back on page 4 of 5, there's
4 a section in the middle Roman IX, acknowledgement and
5 agreement.

6 A. Okay.

7 Q. In that section, it essentially tells the
8 borrower that if she signs it, she's agreeing that
9 all the information is true and correct; is that
10 right?

11 A. That's correct.

12 Q. Did you review that with Debby before she
13 signed this document?

14 A. I cannot recall going through this to her,
15 but again, it's standard procedure really to tell the
16 borrower that everything is -- they're acknowledging
17 that everything is correct on the application form.

18 Q. Is it also typical for you to tell the
19 borrower that it's bank fraud, or words to that
20 effect, if you lie on a loan application?

21 MR. BAER: Objection. Leading.

22 THE COURT: It appears to be.

23 THE WITNESS: That's correct.

24 THE COURT: Leading. Rephrase.

25 MR. BIORN: I'll withdraw it.

1 BY MR. BIORN:

2 Q. Does this acknowledgement and agreement
3 section refer to any laws concerning bank fraud?

4 MR. BAER: Objection. The document speaks
5 for itself.

6 THE WITNESS: That's correct.

7 THE COURT: Sustained.

8 MR. PARSLEY: Mr. Garcia, when there's an
9 objection made, you should let the judge rule on the
10 objection before you answer the question.

11 THE WITNESS: Okay.

12 MR. BAER: Thank you, Mr. Partridge [sic].

13 BY MR. BIORN:

14 Q. You mentioned it was bank procedure to go
15 through this section with the borrower before they
16 signed.

17 Do you have any reason to believe that you
18 did not follow that procedure with Debby Chang?

19 A. I cannot recall.

20 MR. BIORN: Your Honor, we've been going for
21 about an hour. Good time to break?

22 THE COURT: Perfect.

23 MR. BAER: Thank you.

24 THE COURT: We're going to be taking a break.
25 Traditionally, they're at least ten minutes. We'll

1 see you then.

2 MR. PARSLEY: Ten minutes. Thank you.

3 (Whereupon, a break was taken.)

4 THE COURT: Back on the record.

5 MR. BIORN: Thank you.

6 BY MR. BIORN:

7 Q. Mr. Garcia, we'll continue with your trial
8 testimony. Can you hear me?

9 A. Yes.

10 Q. Great. Let's turn to Exhibit A to your
11 deposition Exhibit 1. It is our Exhibit 148 in
12 trial. The name of the document is "Loan summary."

13 A. Let me go there real quick.

14 MR. BAER: Exhibit A to Exhibit 1, correct?

15 MR. BIORN: Yes, to the deposition. It's a
16 single-page document. The title of the document is
17 "Loan summary."

18 BY MR. BIORN:

19 Q. Let me know when you have that in front of
20 you, Mr. Garcia.

21 A. Yes, sir.

22 Q. What is this document?

23 A. It's a loan summary.

24 Q. Is this a normal -- a typical document in the
25 loan application process?

1 A. It's part of the loan application process for
2 us to complete based on the loan application.

3 Q. At what point in the loan initiation process
4 do you typically complete this loan summary?

5 A. This one typically -- there's no -- there's
6 no standard. It's either sometimes the very first
7 time we meet with the client or the time -- or the
8 loan officers submit the loan to the underwriter.

9 Q. With respect to filling out the loan
10 application, when is the loan summary typically
11 completed, timing-wise?

12 A. That should be the very beginning of the loan
13 process.

14 Q. Do you complete this loan summary before you
15 get the information for the loan application or
16 after?

17 A. It should be after.

18 Q. Do you recall if that's when you -- when you
19 wrote this loan summary in this case with Ms. Chang?

20 A. I cannot recall.

21 Q. Do you see the date on loan summary of
22 2-22-2017?

23 A. That's correct.

24 Q. And you see your signature down below?

25 A. That's correct.

1 Q. Did you sign this document on February 22nd,
2 2017?

3 A. I assume.

4 Q. Well, do you have any reason to believe you
5 didn't sign it on February 22nd, 2017?

6 A. I cannot recall.

7 MR. PARSLEY: I'll object to that. I don't
8 think he understood the question.

9 MR. BIORN: Okay.

10 THE COURT: Very good. Mr. Biorn, in your
11 exhibits, what number is this?

12 MR. BIORN: It's 148, Your Honor.

13 MR. BAER: Your Honor, this is not a
14 deposition. I'm not aware that counsel for a witness
15 has the right to object to questions.

16 THE COURT: I think you're right, he can't
17 object, but he was trying to be, I believe, helpful
18 based on the answers Mr. Garcia gave.

19 So rephrase.

20 BY MR. BIORN:

21 Q. Mr. Garcia --

22 A. Yes, sir.

23 Q. -- do you know of any reason not to believe
24 that you signed this document on February 22nd, 2017?

25 A. No.

1 Q. If you look to the third paragraph here, will
2 you read that to yourself? Starts with "Debby Chang
3 is a hard-working individual."

4 A. Yes.

5 Q. Did you type this document?

6 A. That's correct, I did.

7 Q. Who provided you the information in that
8 third paragraph?

9 A. This is based on my conversation with Debby
10 Chang.

11 Q. And if you signed this document on February
12 22nd, 2017, the conversation would have been the one
13 you had that day with her; is that right?

14 A. That's correct.

15 Q. The signature of Debby Chang, do you see
16 that, lower right?

17 A. That's correct.

18 Q. Did you see her sign this document on
19 February 22nd?

20 A. That's what I can recall.

21 Q. How important is this document to the
22 underwriting process?

23 A. It's just to have an idea how the loan looks
24 like.

25 Q. Prior to drafting this document, did

1 Ms. Chang tell you that she would be obtaining a gift
2 to help with her down payment?

3 A. Not that I can recall.

4 Q. Let me have you take a look at your
5 deposition.

6 Do you have that in front of you?

7 A. Let me get there right now. At what page?

8 Q. At page 123, at line 9 through line 22. No,
9 I'm sorry, 123, line 9 through page 123, line 1.
10 Just read it to yourself, and then I'll ask you a
11 question. Let me know when you're done.

12 A. On page 123?

13 Q. Yes, line 9 and then to the top of page 124,
14 line 1.

15 A. Okay. Okay. I'm finished.

16 Q. Does that refresh your recollection on
17 whether, prior to you drafting this loan summary
18 letter, Ms. Chang told you that the source of her
19 down payment would be a gift?

20 A. Based on what I have over here, yes.

21 Q. And how does it refresh your recollection?
22 Did Debby tell you that the source of the down
23 payment would be a gift? Did she tell you that prior
24 to you drafting the loan summary letter?

25 A. So I think, with my recollection, I think I

1 drafted the letter after completing the loan
2 application which told me that the gift -- the down
3 payment would be a gift.

4 Q. The down payment would be a gift, is that
5 what you said?

6 A. That's correct.

7 MR. BIORN: Let's turn to Exhibit 80 for us
8 in the trial, Your Honor.

9 BY MR. BIORN:

10 Q. And for you, Mr. Garcia, it's Exhibit C to
11 Exhibit 1.

12 MR. BAER: This is your Exhibit 80?

13 MR. BIORN: Correct.

14 THE WITNESS: Exhibit C.

15 BY MR. BIORN:

16 Q. C as in cat.

17 A. I'm here.

18 Q. The title of the document is "Request for
19 verification of employment."

20 Do you see that?

21 A. Yeah, I'm here.

22 Q. Okay. What is this document?

23 A. This is a request for verification of
24 employment, sir.

25 Q. How often was this document used in the loan

1 processing -- in loan processing at Sterling at this
2 time?

3 A. This should be -- this will verify the
4 borrower's income and employment.

5 Q. Let's take a look at part 1, request and it
6 says to Evergreen Life Company and then a little more
7 information on the other side it says from Geoffrey
8 Garcia and then your information.

9 Who typed in that information?

10 A. That's computer generated.

11 Q. Do you recall whether you typed it in?

12 A. I cannot recall. This is actually -- if we
13 go to the system, we generate the request for
14 verification, it will be generated.

15 Q. Okay. And the font that is used in those two
16 areas, item 1 and 2, does that look like a typical
17 font that was used at Sterling in February 2017?

18 MR. BAER: Objection. Overbroad.

19 THE WITNESS: Are you referring to the part 1
20 and part 2?

21 MR. BIORN: Correct.

22 MR. BAER: I'm going to say overbroad and
23 calls for speculation.

24 THE WITNESS: Yes --

25 MR. BAER: Hold on.

1 THE COURT: Hold on. Overruled. I'm going
2 to permit it.

3 You can answer.

4 BY MR. BIORN:

5 Q. Is that the typical font that was used at
6 Sterling in February 2017?

7 A. Yes, sir, that's the standard -- again, this
8 is a computer-generated font.

9 Q. Now, item 4, title, mortgage consultant, is
10 that automatically generated by the program?

11 A. Yes, sir.

12 Q. Is that your signature, item 3?

13 A. That's correct.

14 Q. Is that your handwriting in item 5?

15 A. That's correct.

16 Q. Did you sign this document on March 10, 2017?

17 A. That's correct.

18 Q. Going down to item 7, says name and address
19 of applicant, Debby Chang, in El Cerrito.

20 Is that also automatically generated by the
21 system?

22 A. That's correct.

23 Q. Now, did you use typewriters at all at
24 Sterling in February 2017?

25 A. No, not that I can recall.

1 Q. Do you recall ever seeing anyone use a
2 typewriter at Sterling in February of 2017?

3 A. No, I cannot recall.

4 Q. Let's go to the next part, part 2,
5 verification of present employment.

6 Do you see Jan 9, 2012?

7 A. Yes, sir.

8 Q. And sales executive/accounting?

9 A. That's correct.

10 Q. And then this other information of 18,500
11 monthly. So all of this information filled out in
12 part 2, is that a font style that was typically used
13 by Sterling in February of 2017?

14 MR. BAER: Objection. Overbroad. Calls for
15 speculation.

16 THE COURT: Yes, I'm sorry. Why is this
17 relevant?

18 MR. BIORN: Because I believe this was not
19 filled out by the bank. I think it was filled out by
20 Ms. Tsai or Ms. Chang.

21 THE COURT: I thought he said it was auto
22 generated.

23 MR. BIORN: No -- let me ask.

24 BY MR. BIORN:

25 Q. Mr. Garcia, the information filled out in

1 part 2, verification of present employment, was that
2 borrower specific information also automatically
3 generated by the program?

4 A. No, not that I'm aware of.

5 Q. Do you recall filling out this section?

6 A. No.

7 Q. Is that a font that you used in February
8 2017?

9 A. No, not that I can recall.

10 Q. As you sit here now, do you ever recall
11 seeing that font in a document that was generated by
12 an employee of Sterling Bank in February of 2017?

13 MR. BAER: Objection. Overbroad.

14 THE COURT: Sustained.

15 THE WITNESS: Sorry, can you say it again?

16 THE COURT: I sustained the objection. He
17 can't ask you that. Sorry.

18 BY MR. BIORN:

19 Q. So down in part 4 where it says item 29, a
20 Chinese name, I'm not sure how to pronounce it, but
21 it's S-H-I-O-W, dash, Yuh, Y-U-H, Tsai, T-S-A-I.

22 Do you see that?

23 A. Yes, sir.

24 Q. Did you know the name of Debby's employer at
25 Evergreen Life Company before you saw this document?

1 A. Not that I can recall.

2 Q. Based on your experience at Sterling in
3 February of 2017, does it appear to you that anyone
4 at Sterling Bank filled out part 2 of this document?

5 MR. BAER: Objection. Overbroad. Calls for
6 an opinion.

7 THE COURT: Sustained. Anyone is overbroad.
8 BY MR. BIORN:

9 Q. Does it appear that anyone in the loan
10 servicing department filled out this document?

11 MR. BAER: Objection. Overbroad. Calls for
12 speculation. Calls for an opinion.

13 THE COURT: Sustained.

14 MR. BIORN: Okay.

15 THE WITNESS: Do I need to answer that?

16 THE COURT: No. Thank you, sir.

17 BY MR. BIORN:

18 Q. Do you recall how -- do you recall whether
19 this document was provided to Debby in the loan
20 process?

21 A. No, not that I recall.

22 Q. Do you recall how this document was sent to
23 the employer?

24 A. No, I cannot recall.

25 Q. Do you recall who returned this document

1 after it had been filled out and signed by the
2 employer?

3 A. No, I cannot recall.

4 Q. How important is the information on this
5 document to Sterling in the loan underwriting
6 process?

7 A. It is part of the final approval for the
8 mortgage that they are applying.

9 Q. Let's go to Exhibit 149, at trial, Your
10 Honor, and for you, Mr. Garcia, it's Exhibit D, as in
11 dog, to Exhibit 1.

12 Let me know when you have that in front of
13 you, Mr. Garcia.

14 A. Give me one second.

15 Okay, I'm here.

16 Q. Mr. Garcia, what is this document?

17 A. It's a letter of explanation.

18 Q. Is this a document that's typically used in
19 the loan process?

20 A. It's actually part of the loan conditions
21 requested by underwriter.

22 Q. Can you estimate how often you would see a
23 letter of explanation as part of a loan file?

24 A. It varies. I cannot really tell how often.
25 It varies for each file.

1 Q. Did you type this document?

2 A. No.

3 Q. When the underwriting department issues loan
4 conditions, do they send anything -- do they send any
5 documents to the applicant?

6 A. No, it's actually sometimes up to the
7 processor to either communicate with the applicant or
8 sometimes it's either the loan processor or the
9 mortgage -- or the loan officer.

10 Q. When a letter of explanation like this was
11 requested, would the letter typically be drafted by a
12 Sterling employee?

13 MR. BAER: Objection. Calls for speculation.

14 THE WITNESS: No --

15 BY MR. BIORN:

16 Q. Based on the letter of explanations that you
17 saw, were these letters typically drafted by a
18 Sterling employee?

19 A. No, not that I'm aware of.

20 Q. You what?

21 A. Not that I'm aware of.

22 Q. With regards to the letters of explanation
23 that you saw in your loan files, who typically
24 drafted the letters of explanation?

25 MR. BAER: I'm going to object. Calls for

1 speculation.

2 THE WITNESS: The borrower or the applicant.

3 THE COURT: Who typically? Overruled.

4 (Reporter clarification.)

5 MR. BIORN: The borrower or the applicant.

6 BY MR. BIORN:

7 Q. Do you know whether Debby Chang provided this
8 or drafted this document?

9 A. I cannot recall.

10 MR. BAER: Objection. Calls for speculation.

11 THE WITNESS: I assume.

12 THE COURT: Sustained.

13 BY MR. BIORN:

14 Q. Did Debby Chang tell you that she drafted
15 this document?

16 A. I cannot recall.

17 Q. Did you see Debby Chang sign this document?

18 A. I cannot recall.

19 Q. If Debby had not provided this letter of
20 explanation, would the loan likely have not been
21 approved?

22 A. I'm not sure because, again, sometimes the
23 bank can do their own exceptions.

24 Q. Did you cut and paste any of Debby's
25 signatures into any of the loan documents?

1 A. No.

2 Q. Have you ever done that on any loan
3 application?

4 A. No.

5 Q. Why not?

6 A. It's against the bank policy.

7 Q. On the first day of the loan when you filled
8 out the loan application with Debby, did you ask her
9 if she had a friend who could just say that she
10 worked there even if she didn't?

11 A. No.

12 Q. Did you tell Debby to put down how much her
13 monthly employment income -- did you tell Debby how
14 much her monthly employment income should be on the
15 loan application?

16 A. No.

17 Q. Did you make up the number \$18,500?

18 A. No.

19 Q. Did you tell Debby that her loan was already
20 pre-approved so this information didn't really
21 matter?

22 MR. BAER: Objection. Asked and answered.

23 THE COURT: I'm not sure at this point, so
24 I'm going to permit you to answer.

25 BY MR. BIORN:

1 Q. Did you hear the question?

2 MR. BIORN: Can you repeat the question?

3 (The record was read by the Reporter.)

4 THE WITNESS: Not that I can recall.

5 BY MR. BIORN:

6 Q. If I can have you turn to Exhibit 1 to your
7 deposition, which is the declaration of Geoffrey D.
8 Garcia and this is next in order for us.

9 MR. BIORN: What number is this, Scott?

10 MR. FRASER: 178.

11 (Whereupon, Exhibit 178 was marked for
12 identification.)

13 MR. BIORN: I'm going to ask if it refreshes
14 his recollection. I'm not going put it into
15 evidence.

16 MR. BAER: Okay. Thank you.

17 BY MR. BIORN:

18 Q. Mr. Garcia, I'm showing you the declaration
19 of Geoffrey D. Garcia from this matter of Peter Ho
20 versus Debby Chang. And I'd like you to read the
21 third paragraph, paragraph number 3 on page 2.

22 A. I'm sorry, what exhibit?

23 Q. Paragraph 3 on page 2. It starts with "An
24 essential part of evaluating." Do you see that?

25 A. What document am I going? Which document are

1 you referring to?

2 Q. Oh. It's Exhibit 1 to your deposition.

3 A. Exhibit 1. Let me go there. What page on
4 the deposition?

5 Q. Page 2, paragraph number 3. It starts with
6 "An essential part of evaluating."

7 A. Sorry, I think I'm lost with the documents.
8 I'm on the -- are you referring to the deposition
9 transcript?

10 Q. No. I'm referring to Exhibit 1 to your
11 deposition.

12 A. Oh, okay.

13 MR. PARSLEY: It's your declaration,
14 Mr. Garcia.

15 THE WITNESS: Okay. Sorry. I get confused.
16 Okay, paragraph number 3.

17 BY MR. BIORN:

18 Q. Yes. Will you read that paragraph to
19 yourself and let us know when you're done, and then
20 I'll ask you a question.

21 A. Sure.

22 Okay.

23 Q. So in particular, in the middle there on the
24 right-hand side, four lines down, it starts with the
25 word "She also told me that she received gross

1 monthly income."

2 Do you see that sentence?

3 A. Yes.

4 Q. Does that refresh your recollection on
5 whether Ms. Chang told you at that initial meeting
6 that the amount of her gross monthly income at
7 Evergreen Life was \$18,500?

8 A. Yes, based on this statement, I have the
9 recollection that she told me when she come into the
10 office on February 22nd.

11 Q. And she told you that she made 18,500 at
12 Evergreen Life, correct?

13 MR. BAER: Objection. Leading.

14 THE COURT: Sustained. He just said that's
15 what she --

16 MR. BIORN: That's good. I thought I heard
17 it differently.

18 BY MR. BIORN:

19 Q. Okay. Let's move on to our Exhibit 79. This
20 is Exhibit 2 to your deposition, Exhibit 2, it's
21 entitled "Gift letter." Let me know when you have it
22 in front of you.

23 A. Sure.

24 THE COURT: Could you tell me where in your
25 exhibits this is?

1 MR. BIORN: This is Exhibit 79 in ours.

2 THE COURT: Thanks.

3 BY MR. BIORN:

4 Q. Let me know when you have that document in
5 front of you.

6 A. Yes, just bear with me.

7 Okay. I'm here.

8 Q. What is this document?

9 A. This is a gift letter.

10 Q. How is it used in the loan underwriting
11 process?

12 A. This is requested by the -- it should be
13 provided to the borrower if there's even any gift.

14 Q. Other than the signatures, whose handwriting
15 is this on this form?

16 A. That should be my handwriting.

17 Q. The signature above donor signature where it
18 appears to say James F. or Z Ho, did you see Mr. Ho
19 sign this document?

20 A. No. I cannot recall.

21 Q. Did you ever meet Mr. Ho at any point in the
22 loan process with Ms. Chang?

23 A. No.

24 Q. Did you ever talk to him?

25 A. Not at all.

1 Q. Did anyone ever tell you that that was
2 Mr. Ho's signature?

3 A. I mean, no. I'm just shown that that's his
4 signature.

5 Q. And the signature below that is Debby Chang
6 for borrower's signature.

7 Did she sign that in front of you?

8 A. I cannot recall. I think she -- I think she
9 signed this one -- yeah, I mean -- I may be wrong,
10 but I assume she signed this at the office.

11 Q. At your office?

12 A. Yes.

13 Q. Did Debby tell you that she obtained the
14 signature of Mr. Ho on this document?

15 A. I cannot recall.

16 MR. BIORN: Your Honor -- no.

17 BY MR. BIORN:

18 Q. Mr. Garcia, this gift letter in your
19 deposition has got four -- let's see -- yes, four
20 pages attached to it.

21 Do you see that?

22 A. Let me -- is it the cashier's check and the
23 screenshot?

24 Q. In the deposition, it was referred to the
25 following -- the following three of these documents

1 were attached to the gift letter which is the escrow
2 trust receipt, the cashier's check and the Sterling
3 Bank account history inquiry.

4 Do you see those three pages?

5 A. Yes, sir.

6 THE COURT: One moment. He said screenshot.

7 THE REPORTER: Thank you.

8 BY MR. BIORN:

9 Q. Typically, were those type of documents
10 attached to a gift letter like this?

11 MR. BAER: Objection. Vague and ambiguous.

12 THE WITNESS: That's correct.

13 THE COURT: Hold on. I have an objection.

14 MR. PARSLEY: Hold on, Mr. Garcia.

15 THE COURT: Typically these documents --

16 MR. BAER: These kinds were of documents.

17 THE COURT: Oh, rephrase.

18 BY MR. BIORN:

19 Q. Mr. Garcia, do you recall that these three
20 documents were attached to the gift letter?

21 A. I cannot recall.

22 Q. What --

23 MR. BIORN: Your Honor, let me provide you --
24 well --

25 MR. BAER: We had this as a new exhibit with

1 all four pages if you want.

2 MR. BIORN: Which exhibit?

3 MR. KUO: 647.

4 MR. BAER: Yes, 647.

5 MR. KUO: Do you want me to hand it out?

6 MR. BAER: Yes.

7 MR. BIORN: 647?

8 MR. BAER: Yes. It's not in there yet.

9 MR. BIORN: I have it here.

10 I'll just go next in order which is --

11 MR. FRASER: 179.

12 MR. BIORN: 179.

13 THE COURT: Thank you.

14 MR. BIORN: 179.

15 (Whereupon, Exhibit 179 was marked for
16 identification.)

17 BY MR. BIORN:

18 Q. Mr. Garcia, the second page of your
19 Exhibit 2, the document entitled "Escrow trust
20 receipt" and it has a check from Mr. Ho to Old
21 Republic Title Company for \$67,050.

22 Do you see that?

23 A. That's correct.

24 Q. You see on the gift letter, part of the gift
25 is also \$67,050?

1 A. That's correct.

2 Q. Would it be typical to attach the escrow
3 trust receipt to the gift letter?

4 MR. BAER: Objection. Calls for speculation.

5 THE COURT: Sustained.

6 THE WITNESS: That's possible.

7 BY MR. BIORN:

8 Q. The last page of this exhibit in your
9 deposition is also a gift letter.

10 MR. BIORN: And this is also in our
11 Exhibit 79, Your Honor, the second page of that
12 exhibit. It's the gift letter that has the words
13 "Wells Fargo" printed on it.

14 THE COURT: You're saying --

15 MR. BIORN: No, no --

16 THE COURT: -- the last page in the
17 deposition?

18 MR. BIORN: Of Exhibit 2.

19 THE COURT: Oh, Exhibit 2.

20 MR. BIORN: But this is our Exhibit 79.

21 MR. BAER: Oh, I see, you're in Exhibit 79.

22 THE COURT: Yes.

23 MR. BIORN: Okay.

24 BY MR. BIORN:

25 Q. Mr. Garcia, do you see in this -- on this

1 page of the gift letter the words "Wells Fargo" are
2 written after bank name?

3 A. Yes, sir.

4 Q. And do you see in the very first page of this
5 exhibit that version of the gift letter does not have
6 the words "Wells Fargo"?

7 A. Yes, sir.

8 Q. Do you know how that happened?

9 A. Sorry, I cannot recall.

10 Q. When you send a gift letter to the loan
11 processing department, how do you send it to them?

12 A. It's either I e-mail -- I upload those
13 documents to the system or I will hand the file to
14 them directly.

15 Q. Do you keep the original yourself?

16 A. We keep the original at the branch.

17 Q. Do you recall doing anything in the loan
18 process to confirm that the \$1.1 million -- strike
19 that.

20 Let's go to your Exhibit 6. It will be our
21 Exhibit 180, a new document, new exhibit.

22 Do you have Exhibit 6 in front of you,
23 entitled "Uniform residential loan application" at
24 the top?

25 A. Let me go there real quick.

1 Yes, I'm here.

2 Q. If you would turn to the signature page which
3 is page 3 of 4, it appears to have Debby Chang's
4 signature on there.

5 Do you see that?

6 A. That's correct.

7 Q. It appears to have a date of March 25, 2017.

8 Do you see that?

9 A. That's correct.

10 Q. Do you see the last page also has her
11 signature and the same date.

12 Do you see that?

13 A. That's correct.

14 Q. Now, those dates of signing are different
15 than the original loan application we looked at,
16 correct?

17 A. They are completely different date.

18 Q. And this new document appears to have
19 additional information added on page 4 of 4 with two
20 more as assets of Chase Bank and Chase Bank.

21 Do you see that?

22 A. That's correct.

23 Q. Why is there -- why is this loan application
24 dated March 25, 2017 also in your file in addition to
25 that original loan application?

1 A. I assume that the first one is the initial
2 loan application and the second one is part of the
3 loan disclosure if the borrower want to proceed.

4 MR. BAER: I'm going to move to strike for
5 lack of foundation, personal knowledge.

6 BY MR. BIORN:

7 Q. Is it typical to have a loan, a borrower to
8 sign the second loan application in the loan process?

9 A. That's correct.

10 MR. BIORN: Are you still moving to strike?

11 MR. BAER: No, that's okay.

12 BY MR. BIORN:

13 Q. Mr. Garcia, do you still work at Sterling
14 Bank?

15 A. Not anymore, sir.

16 Q. Where do you work now?

17 A. I'm working as a real estate agent at E3
18 Realty.

19 Q. EM3?

20 A. E, and the number 3, and realty.

21 Q. E3 Realty.

22 MR. BIORN: Your Honor, I don't have anything
23 further at this time.

24 MR. BAER: Okay.

25 THE COURT: Cross.

CROSS-EXAMINATION

BY MR. BAER:

Q. Good afternoon -- yes, it's afternoon now.
Good afternoon, Mr. Garcia. My name is David Baer.
I represent Debby Chang in this case.

You had another meeting with Ms. Chang that
you recall besides the one that was in your office on
February 22, 2017, correct?

A. That's correct.

Q. Okay. And you don't recall seeing anyone
there at that time, is that right, besides Ms. Chang?

A. Not that I can recall.

Q. Okay. Did you ask to see James Ho when you
were there? Do you recall that?

A. I'm sorry, can you say again?

Q. Do you recall asking to meet with James Ho
when you were meeting with Ms. Chang off the
Burlingame branch premises?

A. Did I recall meeting James Ho outside the
branch?

Q. No. Did you ask to see him when you were
there? Did you ask if he was there?

A. No, no.

Q. Okay.

A. Not that I can recall.

1 Q. Okay. And do you remember what the purpose
2 of that meeting was?

3 A. Which meeting?

4 Q. The offsite meeting. Sorry. The offsite
5 meeting.

6 A. Oh, what I can recall is that -- because
7 there's a process -- initial process for the mortgage
8 that she need to do in consent for us to move forward
9 to put her information into the system.

10 So I asked her if she can do it on her e-mail
11 and she said that she cannot, she need help doing
12 that. So she gave me an address, to go to that
13 address in Foster City. And I went there to help her
14 fix that issue on her behalf.

15 Q. Okay. And you don't know whether that was
16 her home or not, correct?

17 A. No.

18 Q. Okay. So at that point when you were meeting
19 with her, you already understood that Ms. Chang was
20 in contract to purchase the property that was going
21 to be secured -- was going to provide the security
22 for the loan, correct? Let me put it a different
23 way.

24 You wouldn't have been meeting with her
25 unless she was in contract, correct?

1 A. I cannot recall because that's just the
2 initial process of the loan. So I cannot really
3 recall that because the meeting that I went to, the
4 place that she told me, is just to really help her
5 acknowledge that e-consent was sent to her e-mail.

6 Q. Okay. And so that meeting was before the
7 meeting at the bank on February 22nd, 2017, correct?

8 A. I cannot recall.

9 Q. Wouldn't that have been preliminary to the
10 process in general of collecting information for the
11 loan application to get her to essentially
12 acknowledge e-consent?

13 A. I cannot recall because it's the system that
14 we need to go through and during that time if I can
15 recall correctly we are using a new system at the
16 bank. So I cannot recall that.

17 Q. Okay. And you were not successful there in
18 essentially getting her to acknowledge the e-consent,
19 correct?

20 A. I cannot recall if I wasn't or not. I cannot
21 recall.

22 Q. You don't recall communicating with her by
23 e-mail at all, do you?

24 A. I cannot recall.

25 Q. You didn't see any e-mail communications with

1 Ms. Chang in your file, did you?

2 A. No, I cannot. I don't recall.

3 Q. You cannot recall or you did not?

4 A. I did not.

5 Q. Okay. And were you trying to assist
6 Ms. Chang in being able to sign documents by DocuSign
7 or some similar program that would essentially allow
8 her to sign from her computer?

9 A. No, because, again, I think most of the
10 documents she sign it with -- like ink, not e-sign.

11 Q. I understand that. Were you trying to help
12 her set up her computer so that she could sign
13 documents by e-sign?

14 A. That's what I can recall.

15 Q. Okay. And you were not able to do that,
16 correct?

17 A. I cannot recall.

18 Q. Okay. So in any event, you don't recall
19 having any conversations with Ms. Chang other than by
20 telephone or in person, right?

21 A. That's correct.

22 Q. You didn't have any e-mail exchanges with
23 her, correct?

24 A. Yes, that's correct.

25 Q. And you don't remember mailing anything to

1 her, do you?

2 A. I cannot recall.

3 Q. Have you ever seen any indication in your
4 file that you mailed any documents to her?

5 A. I cannot recall.

6 Q. Do you have any recollection of having her
7 mail any documents to you?

8 A. I cannot recall.

9 Q. All right. And so you met with Ms. Chang at
10 the branch on February 22, 2017.

11 Did you have an office or a cubicle?

12 A. It's a cubicle.

13 Q. Do you know how it came to pass that she met
14 with you that day?

15 A. I cannot recall if she made an appointment or
16 if she just came in during that day. I cannot
17 recall.

18 Q. Do you recall overhearing her making a
19 deposit at the teller's station?

20 A. No, I cannot recall.

21 Q. Do you recall asking her when you saw her at
22 the bank to come talk to you?

23 A. I cannot recall.

24 Q. How long did you meet with her for?

25 A. I cannot recall.

1 Q. You don't maintain a log or anything like
2 that that would show how long your meeting lasts,
3 correct?

4 A. No.

5 Q. And you don't prepare notes from your
6 conversation with an applicant in the process of
7 filling out a loan application, correct?

8 A. No, not that I can recall.

9 Q. So basically the process is the applicant
10 gives you a piece of information, you add it to the
11 computer and you don't separately make any note of
12 what the applicant told you, right?

13 A. No, not that I can recall.

14 Q. So at the time, February 2017, typically how
15 many loan applications were you working on every
16 month?

17 A. It's just hard for me now. I'm sorry. I
18 cannot really recall during that time.

19 Q. Can you give any kind of estimate or range?

20 A. It's hard for me to speculate, sir. I'm
21 sorry.

22 Q. Okay. Were you, in general, busy at your job
23 processing loan applications as of February of 2017?

24 A. I'm sorry, I cannot recall.

25 Q. Okay. So the -- well, first of all, I

1 believe you testified to learning that Ms. Chang was
2 going to obtain a \$1.1 million loan for the down
3 payment.

4 Do you remember that?

5 A. Yes, sir.

6 MR. PARSLEY: Sorry, misstates his testimony.
7 I object.

8 MR. BIORN: I don't think --

9 MR. BAER: Okay.

10 MR. PARSLEY: The loan, no.

11 THE COURT: It's just slightly different.
12 The 1.1 was the gift. The loan was slightly
13 different.

14 MR. BAER: Oh, okay.

15 MR. PARSLEY: Yes.

16 THE COURT: But not a heck of a lot.

17 BY MR. BAER:

18 Q. Okay. So the loan summary, that is
19 Exhibit 148 for us or for you, Exhibit A to --
20 Exhibit A to Exhibit 1 of your deposition.

21 Do you see that?

22 A. The loan summary, yes.

23 Q. Yes. And am I correct that you got all of
24 the information that you -- let me put it
25 differently: Am I correct that you had already

1 received all of the information in this loan summary
2 letter in the course of getting the information
3 necessary to prepare the loan application?

4 A. I think I received the basic information from
5 the borrower during this time.

6 Q. Okay. And that was before you printed out
7 the loan application and signed it and Ms. Chang
8 signed it, correct?

9 A. I received those information verbally and put
10 this information into the system.

11 Q. Okay. So this -- this loan summary letter
12 refers to Ms. Chang and her husband.

13 Do you see that?

14 A. Are you still referring to the loan summary?

15 Q. Yes.

16 A. That she want to purchase the property on the
17 loan summary says here that Debby Chang want to
18 purchase the subject property so she and her husband
19 can live their own place.

20 Q. Okay. And the loan application, Exhibit 146
21 or Exhibit B to Exhibit 1 of your declaration at --
22 do you recall that that indicated that Ms. Chang was
23 unmarried?

24 A. I cannot recall why this happened, sir.

25 Q. Yes, I understand. Okay. So under Roman

1 numeral III borrower information, on the left-hand
2 side there, there's a check mark next to unmarried,
3 including single, divorced, widowed, correct?

4 A. That's correct.

5 Q. And you're the one who put that check mark
6 there, correct?

7 A. I cannot recall putting that.

8 Q. You don't recall putting that?

9 A. I cannot recall. I don't know why that mark
10 unmarried because all along with my conversation with
11 Debby Chang, that she's married.

12 Q. You don't have any reason to believe that
13 anyone other than you put the check mark in the box
14 unmarried, do you?

15 A. Sorry, can you rephrase that? It's a bit
16 confusing for me.

17 Q. Do you have any reason to believe that
18 someone besides yourself put the check mark in the
19 box unmarried?

20 A. No, because, again, this file was -- for the
21 mortgage, this will go through different people, the
22 processor, underwriter, closing department. So this
23 will be transferred from one person to another.

24 Q. It was important in this particular case for
25 Ms. Ho -- I'm sorry, Ms. Chang to be married,

1 correct?

2 A. Again, based on the information that she told
3 me with our conversation and all the documents, all
4 along that she is married person.

5 Q. But it was particularly important in this
6 case that she be married because she was going to
7 receive a gift to fund the down payment, correct?

8 A. It's not necessary to be married because,
9 again, the gift would be coming from any family
10 member.

11 Q. So that might be important, that might not.

12 Do you remember her identifying any other
13 family member who might be the source of this gift
14 besides James Ho?

15 A. Oh, she also said that she had a daughter, if
16 I can recall correctly.

17 Q. But she never told you that her daughter
18 provided any money for the down payment, did she?

19 A. I cannot recall.

20 Q. And in fact, if the money, the whatever gift
21 was used for the down payment wasn't coming from a
22 relative, the bank was not going to approve the loan,
23 correct?

24 A. That's correct because, again, these funds
25 should be coming from a family member or relative.

1 Q. So am I correct that one of your
2 responsibilities as a loan officer or mortgage
3 consultant for Sterling at the time is to make sure
4 that you complete the loan application correctly,
5 right?

6 A. Yes, sir, as much as I can. But again, even
7 if you go through the whole thing, there's still some
8 errors that you can go through. That's why there's
9 processors and underwriters to go through the final.

10 Q. Okay. And when you -- but you do review a
11 loan application before you sign it, correct?

12 A. Yes, sir.

13 Q. You want to make sure that the loan
14 application is consistent with what the applicant has
15 told you in the interview, correct?

16 A. That's correct, sir.

17 Q. Do you recall doing that in this case?

18 A. I cannot recall.

19 Q. Do you have any reason to believe that you
20 would not have done that consistent with your typical
21 custom and practice?

22 A. I cannot recall.

23 Q. I guess it's not a question of recollection.
24 The question is: Do you have a reason to believe
25 that you would not have reviewed this particular loan

1 application before signing it?

2 A. Yes --

3 MR. PARSLEY: Objection. Vague and
4 ambiguous.

5 THE COURT: That's Mr. Biorn's job to object.

6 MR. PARSLEY: Okay.

7 THE COURT: So having no objection, you can
8 answer that, sir.

9 THE WITNESS: Yes, I should review the
10 documents before, you know, signing -- before signing
11 it.

12 BY MR. BAER:

13 Q. Okay. And was it your custom and practice at
14 the time to advise the applicant to review the loan
15 application before signing it to make sure all the
16 information in it is correct?

17 A. That's correct. So I have to tell them to go
18 through the application, make sure it's correct.

19 Q. Okay. Do you recall that this application
20 was somehow an exception to that, that is that you
21 did not tell Ms. Chang to review it and make sure it
22 was all correct?

23 A. Again, this is standard practice to tell
24 clients to review the documents before signing, but I
25 cannot recall if, during that time, I tell her that

1 information or not.

2 Q. Okay. But you don't have any reason to
3 believe that that did not occur, correct?

4 A. That's correct.

5 Q. Okay. And when you completed this loan
6 application, had input the information and printed it
7 out for Ms. Chang to sign, you don't recall her
8 telling you that anything in the loan application was
9 incorrect, do you?

10 A. I cannot recall.

11 Q. You don't have any recollection of her saying
12 anything to the effect that there was anything wrong
13 with this application, any information was wrong, do
14 you?

15 A. I cannot recall.

16 Q. Do you recall her raising any questions at
17 all about what was in the loan application?

18 A. I cannot recall.

19 Q. And do you recall her correcting the
20 application by saying essentially, no, it's wrong
21 that I'm unmarried, I'm actually married?

22 A. No, I cannot recall.

23 Q. All right. Let me go to another document now
24 and -- let's see here.

25 MR. BAER: Can I please get -- what is 645,

1 Kysen?

2 MR. KUO: Yes.

3 THE COURT: Off the record.

4 (Whereupon, there was a discussion off the
5 record.)

6 MR. BAER: So you'll have to screen share
7 this with him, Kysen.

8 MR. KUO: I understand.

9 MR. BAER: Thank you.

10 MR. BIORN: What number is this?

11 MR. BAER: 645. Can I be admitted, please?

12 Thanks a lot.

13 THE COURT: I believe they're going to show
14 you a document on the screen. I'm not sure if we're
15 going to have to fool around with the audio. I don't
16 hear any feedback, though.

17 THE WITNESS: Okay.

18 THE COURT: And I've been handed two pages.
19 First one's labeled 1 of 3. Second one is labeled 2
20 of 3?

21 MR. BAER: Yes.

22 THE COURT: There's no 3 of 3 that we're
23 going to get?

24 MR. BAER: No.

25 THE COURT: That's fine. Thanks.

1 BY MR. BAER:

2 Q. Okay. So we have up on the screen an e-mail
3 thread between you and a woman named Christine Cane?

4 A. Okay.

5 Q. Can you explain who Christine -- this is
6 Exhibit 645. Can you explain who Ms. Cane is?

7 A. She is the assigned escrow officer for this
8 purchase, sir.

9 Q. Okay. And so turning to page -- the second
10 page of the document, page 2 of 3, am I correct that
11 you were trying to get from her the ratified
12 contract?

13 A. I believe so.

14 Q. Okay. And am I correct that she sent it to
15 you with her e-mail -- her e-mail of February 22,
16 2017 at it looks like 8:53 a.m.? Do you see that on
17 the -- at the bottom of page 1 of this exhibit,
18 continuing on to the second page?

19 A. I cannot.

20 Q. Okay. So do you see the bottom of page 1?

21 A. Yes.

22 Q. It shows that there was e-mail from someone
23 named Vicki Fellows to you and Christine Cane.

24 Do you see that e-mail?

25 A. I'm sorry, can you just keep moving it?

1 I see Christine Cane escrow officer, and then
2 from Geoffrey Garcia and to Vicki Fellows and cc
3 Christine Cane, received, thank you.

4 Q. Right. So she sent you the contract to
5 purchase 229 Fulton then, correct?

6 A. That's what it shows.

7 Q. And she sent that to you at 8:53 in the
8 morning on February 22, 2017, right?

9 A. Based on the -- based on the e-mail date,
10 yes.

11 Q. Okay. And so did you -- did you read -- and
12 then you -- sorry.

13 In the e-mail -- in the e-mail above,
14 there's -- do you see the e-mail from you at 6:22
15 p.m., February 22, 2017, and you say "Received, thank
16 you."

17 Do you see that?

18 A. That's correct.

19 Q. Okay. So as of February 22, you had received
20 the purchase agreement for 229 Fulton, right?

21 A. That's correct.

22 Q. Okay. Did you review it?

23 A. I cannot recall if I reviewed the full
24 contract during that day.

25 Q. Did you review it to see who the purchasers

1 were going to be?

2 A. I cannot recall.

3 Q. You don't recall having any discussion with
4 Ms. Chang about the purchase agreement, do you?

5 A. No, I cannot recall. What I recall is that I
6 completed the initial application during that time,
7 but I cannot recall going through the purchase
8 agreement.

9 Q. Okay. So you don't recall going through the
10 purchase agreement seeing that James Ho was going to
11 be a purchaser and asking Ms. Chang about that, do
12 you?

13 A. I cannot recall. I'm sorry.

14 MR. BAER: I'd like to move 645 into
15 evidence.

16 MR. BIORN: No objection.

17 THE COURT: Received.

18 (Whereupon, Exhibit 645 was admitted into
19 evidence.)

20 BY MR. BAER:

21 Q. Okay. Now, let me give you another exhibit,
22 which is Exhibit 510. That is a risk assessment
23 report.

24 MR. BAER: Is that new?

25 MR. KUO: That's already -- that's in volume

1 3.

2 MR. BAER: Okay.

3 THE WITNESS: Your Honor, can I use the
4 restroom? Like 30 seconds?

5 THE COURT: Absolutely.

6 (Whereupon, a break was taken.)

7 MR. BAER: Back on the record?

8 THE COURT: Yes.

9 BY MR. BAER:

10 Q. Mr. Garcia, if you take a look at Exhibit 10
11 to your deposition transcript, that is same thing
12 that we are talking about here as Exhibit 510.

13 A. Let me just go there.

14 Q. What is it, Exhibit 10 to your deposition
15 transcript, yes, that's what it is.

16 A. That's on the transcript, right?

17 Q. Yes.

18 A. Sorry, what page again, sir?

19 Q. It's not a page. It's Exhibit 10. It's --
20 let's see.

21 A. Oh, Exhibit 10.

22 Q. It's the -- it's almost at the end. I think
23 there's -- it's maybe about three or four pages from
24 the end of the document.

25 A. Give me one second. Please bear with me.

1 Q. Sure.

2 A. All right. I'm there, sir.

3 Q. Okay. So do you recognize this exhibit?

4 A. Yes, sir.

5 Q. Okay. At the top it says "Risk assessment
6 report" and then in the -- there's -- under the
7 factual data, there's an address listed and then do
8 you see the date requested? It's about --

9 A. It's February 22.

10 Q. At 14:19, in other words, 2:19 in the
11 afternoon?

12 A. That's correct.

13 Q. And so you requested, essentially, to have
14 this report generated at 2:19 on February 22nd, 2017,
15 right?

16 A. That's correct.

17 Q. Was Ms. Chang already there?

18 A. I cannot assume, sir.

19 Q. So you could have generated this before she
20 came; is that possible?

21 A. I cannot recall. I cannot assume.

22 Q. Is that possible, though? Is there some
23 reason that could not happen, that you could not
24 generate this report until she came?

25 A. Again, I don't know. I cannot really recall

1 at this time.

2 Q. Okay. And am I correct that one reason to
3 generate this risk assessment report is to give you a
4 sense of whether the applicant will qualify for a
5 loan?

6 A. It's not necessary. I think this is part of
7 the credit report, not for qualification purposes.

8 Q. So this is part of the credit report?

9 A. Yes, sir.

10 Q. Did you review this document shortly after
11 you received it?

12 A. For this one, it's not actually -- to my
13 understanding, I may be wrong, but to my
14 understanding, during that time, it's not the
15 mortgage loan officer to review this.

16 Q. Okay. So do you remember one way or the
17 other whether you reviewed this?

18 A. I cannot recall, but, again, as I said,
19 during that time, it's not a common practice for the
20 loan officer to go through this.

21 Q. Did you say it was or was not?

22 A. I assume it's not part for the loan officer
23 to go through this to the borrower.

24 Q. In one of these risk assessment reports would
25 you typically expect an applicant's spouse to be on

1 the report as associated with the applicant in some
2 way?

3 MR. BIORN: Calls for speculation.

4 THE WITNESS: Again, as I said, this --

5 MR. BIORN: Excuse me, excuse me, hold on one
6 second. Calls for speculation. He just testified it
7 wasn't his job to review this.

8 THE COURT: Sustained. Rephrase.

9 MR. BAER: Okay.

10 BY MR. BAER:

11 Q. In the course of your employment at Sterling
12 Bank, did you ever review these risk assessment
13 reports?

14 A. I reviewed this when I was an underwriter.

15 Q. Oh, you reviewed it when you were an
16 underwriter, okay.

17 So when you were reviewing these as an
18 underwriter, would you expect an applicant's spouse
19 to also show up on the risk assessment report given
20 the relationship?

21 MR. BIORN: Objection, Your Honor.
22 Relevance.

23 THE WITNESS: I --

24 MR. BIORN: No. Objection. Relevance. He
25 was a mortgage underwriter after this loan was

1 processed.

2 MR. BAER: It's still relevant if he has the
3 information.

4 THE COURT: I'm going to permit that
5 question.

6 BY MR. BAER:

7 Q. Is this part of a credit report, sir?

8 A. Yes, sir. Yes, that's what I can recall.

9 Q. Okay. So on this risk assessment report,
10 about a third of the way down on the right-hand side
11 under the word "actions," it says "Verify input,
12 review Social Security card, pay stubs, W-2s and/or
13 tax returns for consistency."

14 Do you see that?

15 A. Sorry, on what page?

16 Q. So the first page, about a third of the way
17 down, there are the words in bold "Risk categories."

18 Do you see that?

19 A. Yes.

20 Q. Okay. And to the right slightly below, do
21 you see the print "Actions: Verify input, review
22 Social Security card, pay stubs, W-2s and/or tax
23 returns for consistency"?

24 A. Hold on just a second. Let me move my camera
25 because it's covering it.

1 Under actions on the right side, correct?

2 Q. Yes. So am I correct that you did not do any
3 of that? You did not review any pay stubs of
4 Ms. Chang, her W-2s and/or her tax returns?

5 A. No, I did not because, again, this is
6 actually a supplement -- to my understanding, this is
7 a supplement of part of the credit report and it's
8 not the loan officer's job to go through this.

9 Q. Okay. You did, though, receive from
10 Ms. Chang some bank account statements, correct?

11 A. Say again. It was cut off at the very end.

12 Q. Did you request any bank account statements
13 from Ms. Chang in connection with her application?

14 A. I cannot recall.

15 Q. Do you remember reviewing any bank account
16 statements that -- of Ms. Chang in connection with
17 her application?

18 A. I cannot recall.

19 Q. All right.

20 MR. BAER: Let's go to Exhibit 650, Kysen --
21 actually, 651.

22 MR. BIORN: Can you give me a binder?

23 MR. BAER: We'll give it to you.

24 MR. KUO: I'm giving it to you.

25 MR. BIORN: Oh, you're handing it out.

1 MR. BAER: Thank you.

2 BY MR. BAER:

3 Q. So before I show this to you, let me ask: In
4 connection with this kind of loan, was one of your
5 responsibilities to request a bank statement?

6 A. That should be requested if they are using
7 another type of bank statement.

8 Q. Okay. And one of the reasons you -- the bank
9 wants to get bank statements from a borrower is to
10 see if there are any unexplained deposits into the
11 account, right?

12 A. Yes, if they are using that bank statement
13 for the down payment.

14 Q. Okay. And so they get bank statement and
15 they see if there's unexplained deposits and if there
16 are, the bank asks the borrower about those deposits,
17 correct?

18 A. That's correct.

19 Q. Okay. Now, let's put up Exhibit 651, please.

20 MR. BIORN: Your Honor, he just testified it
21 was important as to the accounts -- I'll object to
22 the use of this exhibit on relevance. He just
23 testified it mattered if it was the account that the
24 down payment was coming from. This is not that
25 account.

1 MR. BAER: It's in his file. That doesn't
2 make it irrelevant.

3 THE COURT: I don't see the relevancy, but
4 I'm going to give you some latitude.

5 MR. BAER: Okay. Thank you.

6 THE COURT: So make the relevancy obvious
7 real quick, please.

8 MR. BAER: Sure.

9 BY MR. BAER:

10 Q. So Exhibit 651, this is a bank account
11 statement from Ms. Chang's Chase account from January
12 14, 2017 through February 13, 2017 and this was
13 produced as part of your file.

14 Do you see the Bates stamping Sterling 305 to
15 308 at the bottom right corner of these pages?

16 A. Okay.

17 Q. Okay. So do you see anything on Exhibit 651
18 to indicate that Ms. Chang was receiving any kind of
19 salary into this account?

20 A. This is Exhibit 651, correct?

21 Q. Yes.

22 MR. BAER: I think you'll have to scroll a
23 little further for him, Kysen, because he can't see
24 the whole thing at one time.

25 BY MR. BAER:

1 Q. So we'll go through it slowly for you. Let
2 us know when you want us to change the page.

3 MR. BAER: Was he done with the first page?
4 Okay.

5 BY MR. BAER:

6 Q. So let's start with page 2, the transaction
7 detail. Okay. So let us know when you've had a
8 chance to review that.

9 And let me just ask you, since we're going
10 page by page here: Do you see anything in here to
11 indicate that Ms. Chang was receiving a salary into
12 this account?

13 A. No, I don't see any particular income coming
14 into this transaction history.

15 Q. Okay. And the Sterling account from which
16 Ms. Chang was going to deposit the down payment, she
17 had not opened that until she applied for the loan,
18 correct? You can go back to look at that exhibit if
19 you want. Do you remember there was a \$1.1 million
20 deposit into a Sterling account?

21 A. That's correct.

22 Q. Okay. And Ms. Chang opened that account in
23 connection with the loan application, right?

24 A. That's correct.

25 Q. Okay. So Ms. Chang would not have been

1 receiving salary into that account for the period
2 covered by this account because, essentially, the
3 Sterling account didn't exist yet, right?

4 A. That's correct.

5 Q. So let's go to page 2 then. I'm sorry, it's
6 the third page. There we go, this page. Okay.

7 Do you see the entries under transaction
8 detail on this page? Can you go just slightly down a
9 little more -- no, the other way.

10 A. The one with the rent?

11 Q. Yes. Do you see this one?

12 A. Yes.

13 Q. Okay. So take a look at those entries, sir,
14 and let me know if you see any indication there that
15 Ms. Chang was receiving any kind of salary into this
16 account.

17 MR. BIORN: Objection. Calls for speculation
18 as to the entries on January 20th and February 13th
19 for deposit. Lacks foundation.

20 THE WITNESS: Well, the only --

21 MR. BIORN: No.

22 MR. BAER: There was a question pending.

23 MR. BIORN: I made an objection.

24 MR. BAER: I understand. Your Honor is going
25 to rule on it.

1 THE COURT: Right. You're saying --

2 MR. BIORN: I'm saying it lacks foundation
3 that he knows what the deposit on January 24th was
4 for or the deposit on February 13th was for, one for
5 3,000 and one for 9,100.

6 THE COURT: In essence, this is cross. I'm
7 going to allow some latitude.

8 MR. BAER: Okay.

9 THE COURT: Can you answer the question, sir?

10 THE WITNESS: Yeah, I don't see any income
11 coming over here except the transfer from J. Levine,
12 and based on what it shows over here, that it's rent
13 from the -- it's a rental income.

14 BY MR. BAER:

15 Q. Okay. And -- part of your job responsibility
16 at the time was to review bank account statements,
17 correct?

18 A. That's correct, sir.

19 Q. And one of the reasons you did that at the
20 time was to determine whether or not a reported
21 salary from an applicant was correct; is that true?

22 A. It's not very particular to that, but
23 reviewing the -- the statement is to make sure that
24 there's a large deposit there per bank -- bank
25 policy, if it's 50 percent of the borrower's income

1 we need to ask those -- from the borrower to explain.

2 Q. Okay. So let's go back to page 2 of this
3 exhibit. Thanks. And do you see any indication from
4 this checking account statement that was in your file
5 that Ms. Chang was receiving a salary of \$18,500 at
6 the time?

7 A. No, I don't.

8 Q. And let me ask you the same question with
9 respect to the next page.

10 A. No, there's none.

11 Q. Okay. Let's go to the fourth page of the
12 document now. You see some more transaction detail
13 there.

14 Do you see any indication in any of that
15 transaction detail that Ms. Chang was receiving a
16 salary of \$18,500 at the time?

17 A. No, sir.

18 Q. Do you see any indication from the
19 transaction detail at the time that Ms. Chang was
20 being paid any salary into this account?

21 A. No, sir.

22 Q. You don't recall asking Ms. Chang any
23 questions about this checking account statement, do
24 you?

25 A. I cannot recall.

1 MR. BAER: Okay. I'd like to move 651 into
2 evidence.

3 MR. BIORN: No objection.

4 THE COURT: Received.

5 (Whereupon, Exhibit 651 was admitted into
6 evidence.)

7 BY MR. BAER:

8 Q. So let's --

9 MR. BAER: Do you want to take a break now or
10 do you want to keep going?

11 MR. BIORN: How much longer do you think
12 you're going to have?

13 MR. BAER: I'm not going to finish soon. I'd
14 say I have another hour and a half or so.

15 MR. BIORN: Can we go off the record?

16 THE COURT: Sure. Off the record.

17 (Whereupon, there was a discussion off the
18 record.)

19 THE COURT: Okay. Court's in recess.

20 (Lunch recess taken.)
21
22
23
24
25

1 AFTERNOON SESSION:

2 THE COURT: Mr. Garcia, I remind you you're
3 still under oath.

4 BY MR. BAER:

5 Q. Good afternoon, Mr. Garcia.

6 A. Good afternoon, sir.

7 Q. Let me turn your attention back to the loan
8 summary. That's Exhibit A to Exhibit 1 to your
9 declaration. It's our Exhibit 148 here.

10 A. Let me go there.

11 Q. So I'll just read from that. It says "I
12 request and support the approval of this loan with
13 the borrower's employment stability and decent down
14 payment and excellent credit history."

15 Am I correct that, in stating that, you are
16 essentially telling the underwriting department that,
17 at least preliminarily, you were supporting approval
18 of the loan?

19 A. Yes, we are -- what I meant for that is
20 requesting for the approval.

21 Q. And in part, you made that statement that you
22 were requesting and supporting the application's
23 approval based on the bank statements that you
24 obtained from Ms. Chang, correct?

25 A. No.

1 MR. BAER: Your Honor, I'd like to read from
2 the deposition, page 30, lines 9 through 15.

3 THE COURT: Yes.

4 MR. BIORN: Okay.

5 BY MR. BAER:

6 Q. "Question: Now, you go on in this paragraph
7 to indicate that you requested and supported the
8 approval of Ms. Chang's application for a loan. What
9 does it mean when you say that you requested and
10 supported the approval of the application?

11 Answer: Yeah, so based on the information
12 she provided me, like the bank statements and about
13 her credit, I sent the approval to our underwriting
14 department."

15 All right. So let me turn your attention now
16 to a different exhibit called a letter of
17 explanation -- or, actually, I think we have
18 referenced that before, and that's our Exhibit Number
19 149. Let's see here.

20 MR. BAER: Do you remember which one that
21 was, Kris?

22 MR. BIORN: Letter of explanation?

23 MR. BAER: Yes. I thought it was one of
24 these two exhibits.

25 MR. BIORN: Yes, 149.

1 MR. BAER: Okay, maybe it's just 149. Yeah.

2 BY MR. BAER:

3 Q. Okay.

4 So Exhibit 149, can you show it on the
5 screen, please?

6 A. Exhibit 149?

7 Q. Yes. We'll show it to you.

8 A. Okay.

9 Q. So Exhibit 149, this letter of explanation
10 dated March 14, 2017, at the top -- first of all,
11 have you seen the document before?

12 A. Can you please show it again?

13 Q. Sorry. Do you want to see the rest of it?

14 A. Yes, please.

15 Q. Okay. Have you seen this document before?

16 A. Yes, sir.

17 MR. BAER: Can you bring it back down?

18 BY MR. BAER:

19 Q. So now, at the top of the document there's
20 some large deposits in the Chase bank account listed,
21 one for \$10,000 on February 27 and another for \$9,100
22 on February 13.

23 Do you see that?

24 A. That's correct.

25 Q. And those are items that the underwriting

1 department was inquiring about, correct?

2 A. That's correct.

3 Q. So they basically wanted to know,
4 essentially, the source of these deposits into
5 Ms. Chang's Chase bank account, correct?

6 A. That's what I see based on this letter.

7 Q. So does that indicate to you that the
8 underwriting department had reviewed whatever
9 checking account statements or statement covered from
10 February 13 through February 27?

11 A. I assume.

12 Q. Okay. And that was of interest to them
13 because, essentially, the bank wants to determine
14 whether it's into -- whether it's a deposit into the
15 account from which the down payment is going to be
16 made or another account that the borrower doesn't
17 have obligations to third persons that would
18 essentially compete with the obligation to the bank?

19 A. Sorry, can you rephrase that? It's hard for
20 me to --

21 Q. It was kind of a long question. Okay.

22 So the bank wants to look at any large
23 deposits into the account from which the down payment
24 is going to be made, correct?

25 A. I'm trying to analyze and process what you're

1 saying. Can you rephrase that for me?

2 Q. Am I correct that one thing the bank wants to
3 know, Sterling Bank wants to know, is whether there
4 is an explanation for large deposits made into an
5 account from which the down payment is going to be
6 made?

7 A. Not actually for the down payment that they
8 are going to use. They are actually -- borrower can
9 use a different account and not to be used for the
10 down payment or for a closing cost.

11 Q. So basically what you're saying then, as I
12 understand it, is Sterling Bank wants to find out
13 about any large deposits into the applicant's bank
14 accounts, correct?

15 A. That's correct.

16 Q. And they want to find that out because those
17 would flag the possibility that the applicant may
18 have an obligation to repay some other person besides
19 the bank, right?

20 A. That's possible.

21 Q. Do you know of another reason the bank looks
22 at those large deposits?

23 A. Again, it's possible that they just want to
24 know what are those deposits.

25 Q. Okay.

1 A. Yeah, or any income that they're going to use
2 from those bank statements.

3 Q. Okay. And one of the things the bank wants
4 to know is the source of those deposits, right?

5 A. Yes, that's possible.

6 Q. Did you review this letter of explanation
7 after you got it?

8 A. I cannot recall.

9 Q. Would that be part of your job
10 responsibilities in the ordinary course of business
11 during this time period?

12 A. Sometimes. I cannot recall. Sometimes I
13 receive this kind of documentation from either the
14 borrower or from someone else. These documents will
15 be given to a loan processor to process this.

16 Q. So you don't remember basically if you
17 reviewed this, but somebody reviewed it, in any
18 event, correct, at Sterling?

19 A. I assume.

20 Q. Well, don't you know that from the -- from --
21 let me put it like this, that would be Sterling
22 Bank's ordinary custom and practice, correct?

23 A. Yes, that should be reviewed by someone else,
24 especially for the underwriting part.

25 Q. Okay. Let us take a look -- go back to

1 Exhibit 651, please.

2 A. (Witness complies.)

3 Q. And on page 3 of the exhibit -- yes, that's
4 it. On page 3 of the exhibit, on February 13,
5 there's a deposit for \$9,100, correct?

6 A. That's correct.

7 Q. So it was that deposit that the underwriting
8 department was flagging for an explanation, correct?

9 A. That's -- based on the letter, that's
10 correct.

11 Q. Okay. And now, let me show you what's been
12 marked as Exhibit 652, I believe.

13 MR. KUO: 650.

14 MR. BAER: 650.

15 BY MR. BAER:

16 Q. I'm sorry. Okay. Exhibit 650, this is
17 another Chase bank account statement of Ms. Chang or
18 Debby Chang or Rita Chang, same account as 651 ending
19 in 2798. And this one covers February 14, 2017
20 through March 13, 2017. The Bates stamping indicates
21 it was produced by Sterling as part of your file in
22 connection with this loan.

23 So let me ask you first: Do you remember
24 ever seeing this document before?

25 A. I cannot see right now.

1 Q. Oh, I'm sorry. I'm ahead of the game. Wait
2 a sec.

3 MR. BAER: Why don't you show him the top.

4 BY MR. BAER:

5 Q. Do you see this account statement?

6 A. Yes.

7 Q. Same account as Exhibit 651, right?

8 A. That's correct.

9 Q. Okay. And let's scroll down to the bottom of
10 just this page. Okay.

11 So you see the Sterling 297 Bates stamp
12 there, at the bottom of the page. So we can go
13 through it a little more slowly if you want. But
14 have you seen this document before?

15 A. Yes, sir.

16 Q. Okay. Did you review it as part of
17 Ms. Chang's loan application?

18 A. I cannot recall.

19 Q. Do you have any reason to believe that you
20 would not have reviewed it if it was found in your
21 file?

22 A. I cannot recall.

23 Q. Would it be fair to say that either you
24 reviewed it and/or the underwriting department
25 reviewed it?

1 A. It's either me or the underwriting, I don't
2 recall, but someone should review this document.

3 Q. But in the ordinary course of business at
4 Sterling Bank, would you review an account statement
5 found in your file?

6 A. It's possible.

7 Q. Okay. So that might have happened, but not
8 necessarily; is that what you're saying?

9 A. Yes.

10 Q. Okay. The underwriting department, though,
11 they would review it, correct?

12 A. That's correct.

13 Q. Okay. And let's go to page 3 of this
14 exhibit. That's it. Great.

15 So under the transactional detail there,
16 about not quite two-thirds of the way down, do you
17 see a deposit there from February 27 in the amount of
18 \$10,000?

19 A. That's correct.

20 Q. Okay. And that one is dated -- that's the
21 same date and amount as the first item listed on the
22 letter of explanation, Exhibit 149, right?

23 A. That's correct.

24 Q. Okay. And if Ms. Chang was receiving a
25 salary of \$18,500 you would expect the employer to

1 have various withholdings from that check, right?

2 A. I cannot assume.

3 Q. You cannot assume?

4 A. Yes, I cannot assume.

5 Q. Okay.

6 MR. BAER: I'd like to move 150 [sic] into
7 evidence as well.

8 MR. BIORN: No objection.

9 MR. KUO: 650.

10 MR. BIORN: No objection still.

11 THE COURT: Received.

12 (Whereupon, Exhibit 650 was admitted into
13 evidence.)

14 MR. BAER: Okay.

15 BY MR. BAER:

16 Q. So let's turn back to the loan application
17 that's our Exhibit 146 and I believe Exhibit B to
18 Exhibit 1 of your declaration. So let me turn to the
19 bottom of page 5.

20 MR. BAER: He should have that.

21 MR. KUO: Okay.

22 BY MR. BAER:

23 Q. Okay. So I'm sorry, go to page 4. I'm
24 looking at the wrong thing.

25 MR. BIORN: We're all looking at the screen

1 share, right?

2 MR. BAER: No, we're not.

3 THE WITNESS: Okay.

4 MR. BAER: You can turn that off. Great.

5 Thank you.

6 BY MR. BAER:

7 Q. Okay. So on the fourth page of this document
8 do you see Roman numeral X acknowledgement and
9 agreement?

10 A. That's from the Exhibit B?

11 Q. Yes, Exhibit B.

12 A. And you said number -- what section, please?

13 Q. Section Roman numeral IX, acknowledgement and
14 agreement.

15 A. Okay.

16 Q. Okay. And then further down, there's the
17 word about, I don't know, 80 percent of the way down
18 Roman numeral IX, there's the word "acknowledgement"
19 that's underlined.

20 Do you see that? It's right above
21 Ms. Chang's signature.

22 A. Yes.

23 Q. Okay. And that states "Each of the
24 undersigned hereby acknowledges that any owner of the
25 loan, its servicers, successors and assigns may

1 verify or reverify any information explained in this
2 application or obtain any information or data related
3 to the loan for any legitimate business purpose
4 through any source including a source named in this
5 application or a consumer reporting agency."

6 This acknowledgement authorized Sterling
7 Bank, if it wanted to, to obtain Ms. Chang's tax
8 return, correct?

9 A. I cannot fully say that. Can I read myself?

10 Q. Sure, of course.

11 A. Okay, can you --

12 Q. I'll ask a question now. So you don't see
13 any limitation there on the sources from whom
14 Sterling Bank can obtain information to verify or
15 reverify what it has learned from the applicant,
16 correct?

17 A. That's correct.

18 Q. Okay. So I think that's -- I think that's
19 good enough.

20 So in essence, am I right that Sterling Bank
21 could have requested Ms. Chang's tax returns, but it
22 did not do so?

23 MR. PARSLEY: Object. That calls for a legal
24 conclusion.

25 MR. BIORN: Yes, I'm going to object. It

1 calls for speculation. Lacks foundation.

2 THE COURT: Mr. Biorn's objection I'll
3 sustain. Just rephrase.

4 BY MR. BAER:

5 Q. Let me put the question a little differently.
6 So I think you called this the Advantage Program. In
7 your experience, did Sterling Bank ever obtain the
8 tax return of an applicant for a loan through that
9 program?

10 A. No. This program doesn't require tax return
11 or W-2.

12 Q. It didn't prohibit it, though, did it?

13 A. As I said, it's not a requirement for the
14 bank to ask for a tax return or a W-2.

15 Q. Okay. But the question is a little
16 different, okay? There wasn't any prohibition
17 against obtaining a W-2 or a tax return from an
18 applicant, correct?

19 A. It's a bit confusing question for me.

20 Q. Did the bank prohibit -- was the bank, in
21 this program, prohibited from obtaining an
22 applicant's income tax returns?

23 A. It's not required to ask or required for
24 someone to apply for this kind of mortgage.

25 Q. Now, from -- strike that.

1 Let me call your attention to another exhibit
2 and this is a new one, Exhibit 648.

3 All right, 6 -- oh, I'm sorry, we need to
4 show it to you. I'm sorry. Exhibit 648, this is a
5 request for transcript of tax return.

6 MR. BAER: Can you scroll down a little bit
7 to Ms. Chang's signature?

8 BY MR. BAER:

9 Q. This was signed by Ms. Chang on March 25,
10 2017 or at least that appears to be the case. Have
11 you ever seen this document before?

12 A. Yes.

13 Q. Okay. Can you explain what this document is?

14 A. This is a 4506 transcript.

15 Q. And what is a request for transcript of tax
16 return?

17 A. So this is actually one of the bank's
18 disclosure package that if the bank wants to request
19 a 4506, then they are asking the borrower to
20 request -- I mean to approve that, approving the
21 bank.

22 Q. Okay.

23 A. If the bank needed the 4506 or the tax return
24 transcript for the borrower even after the loan
25 process.

1 Q. Okay. So a transcript of a tax return, that
2 shows the employee's wages, correct?

3 A. That's correct.

4 Q. Do you have any information to the effect
5 that Sterling Bank ever requested a transcript of any
6 of Ms. Chang's tax returns?

7 A. I have no idea.

8 MR. BAER: I'd like to move 648 into
9 evidence.

10 MR. BIORN: No objection.

11 THE COURT: Received.

12 (Whereupon, Exhibit 648 was admitted into
13 evidence.)

14 MR. BAER: Thanks.

15 BY MR. BAER:

16 Q. Now, going back to the loan summary document
17 that's our Exhibit 148 and -- Exhibit A to Exhibit 1
18 to your deposition.

19 A. Let me go there.

20 Q. Okay.

21 A. Okay, I'm here.

22 Q. I believe you testified you typed this while
23 Ms. Chang was in the bank, correct?

24 A. Yes, that's correct.

25 Q. Okay. And she signed it in your presence at

1 the bank?

2 A. That's what I can recall.

3 Q. And you don't have any recollection of her
4 leaving the bank and coming back -- strike that.

5 So you also testified -- sorry. I'll make my
6 question clear.

7 You also testified that she signed her loan
8 application that day and she signed the loan
9 application before the loan summary, right?

10 A. I cannot recall which one she signed first,
11 if she signed this one or she signed the application,
12 but I assume she signed the loan application first.

13 Q. That would be your normal procedure, right,
14 to get the applicant to sign the loan application and
15 then go on to the loan summary, right?

16 A. It's not just my normal process. Maybe it
17 just happened.

18 Q. Okay. And you don't recall her leaving the
19 bank between the time that she signed these two
20 documents, do you?

21 A. I cannot recall at all.

22 Q. You don't have any recollection that she did
23 that, do you?

24 A. No, I don't.

25 Q. All right. So let me go on to another

1 exhibit number and this one is called
2 "Acknowledgement of intent to proceed." And that one
3 is Exhibit 12 to your deposition transcript.

4 MR. BAER: And this is going to be our 644.

5 MR. PARSLEY: Counsel, what page are you
6 looking at?

7 MR. BAER: It's a one-page exhibit, it's
8 Exhibit 12 to his deposition transcript. It's called
9 "Acknowledgement of intent to proceed."

10 THE WITNESS: Going there right now. Bear
11 with me.

12 BY MR. BAER:

13 Q. It's to the very last page of the transcript.

14 MR. PARSLEY: That helps.

15 MR. BAER: Yes. Sorry.

16 BY MR. BAER:

17 Q. Are you there?

18 A. Yes, I am reading right now.

19 Q. Sure.

20 A. Okay, I'm here.

21 Q. The date on this document, that's your
22 writing, correct?

23 A. Can you say again?

24 Q. There's a date on the document about midway
25 in the page, February 24, 2017. Did you write that?

1 A. No. You mean the date of the -- is it on the
2 document provided by Sterling Bank or on the right
3 side?

4 Q. Do you see Ms. Chang's signature line?

5 A. Yes.

6 Q. And to the right of that you see the date
7 February 24, 2017?

8 A. Yes.

9 Q. That's your writing?

10 A. I assume that's my writing.

11 Q. You don't have any reason to believe it's not
12 your writing, do you?

13 A. No.

14 Q. Okay. Did you prepare this acknowledgement
15 of intent to proceed document?

16 A. This is part of the loan disclosure package.

17 Q. And do you prepare this document or does
18 someone else prepare it?

19 A. For this one, I cannot assume during that
20 time.

21 Q. You cannot what?

22 A. I cannot assume if this one was generated by
23 me or by my processor because this is a full
24 disclosure package.

25 Q. Okay.

1 A. This is not a sole disclosure. It's a part
2 of a bigger disclosure.

3 Q. Okay. So would it be fair to say, then, that
4 there would be a package of documents that were part
5 of the disclosure prepared for Ms. Chang to sign?

6 A. This is part of those disclosure.

7 Q. Okay. And does she have to sign other
8 documents besides this one as part of the disclosure?

9 A. That's correct.

10 Q. Okay. And how many other documents are
11 there, roughly, for her to sign as part of the
12 disclosure?

13 A. I don't know. I cannot assume. Maybe around
14 30, 40, 50 disclosures.

15 Q. Okay. And were you there -- strike that.

16 Was she in your presence when she signed the
17 disclosure documents?

18 A. I cannot recall, but I assume maybe she was
19 there.

20 Q. You assume. Do you have any recollection of
21 it?

22 A. I cannot assume.

23 Q. Do you remember --

24 A. I cannot recall.

25 Q. Okay. Do you have any reason to believe you

1 wouldn't have been with her when she signed the
2 disclosure documents?

3 A. Sorry, I cannot recall.

4 Q. Okay. So now, Exhibit 644, is that attached
5 to your transcript or are the pages loose?

6 A. Can you show me the exhibit, please?

7 Q. Sorry. The last page in your deposition
8 transcript.

9 A. Okay.

10 Q. Can you please remove it from the deposition
11 transcript?

12 Have you done that?

13 A. Sorry, can you say it again?

14 Q. Please remove it from the deposition
15 transcript. Take it out of the transcript.

16 A. Sorry, I don't understand. I remove the
17 acknowledgement from the deposition or --

18 Q. Yes, take out of the document.

19 MR. BIORN: I think he's looking at this
20 online, David.

21 MR. BAER: No, he's got -- the
22 acknowledgement of intent to proceed is the last
23 page, it's Exhibit 12 in your deposition transcript.

24 MR. BIORN: I think I misspoke in the
25 beginning when I said that they were in paper copy.

1 It appeared to me that he's looking at them on a
2 computer. He has a computerized version.

3 MR. BAER: I misunderstood.

4 MR. BIORN: I'm not sure. You can ask him.

5 BY MR. BAER:

6 Q. So in reviewing your deposition transcript,
7 are you looking at a computer screen or are you
8 looking at paper?

9 A. I'm looking for the PDF format.

10 Q. Okay. So you have that up on your screen to
11 look at, not a piece of paper?

12 A. No, not a piece of paper.

13 Q. Okay.

14 MR. BAER: Why don't we try to put these up
15 together. Put up 644 and the loan summary, 148.

16 THE WITNESS: Your Honor, can I use restroom
17 for 30 seconds?

18 THE COURT: Sure.

19 MR. BAER: Yes.

20 THE WITNESS: Thank you.

21 (Whereupon, a break was taken.)

22 MR. BAER: Are we ready to go back on?

23 THE COURT: Yes.

24 BY MR. BAER:

25 Q. Do you see Ms. Chang's signatures on these

1 two documents, Exhibit 148, the loan summary, and
2 Exhibit -- what was it -- 644, the acknowledgement of
3 intent to proceed?

4 A. Yes.

5 Q. Okay. Can you tell me if there's any
6 difference that you can observe between those two
7 signatures?

8 MR. BIORN: Objection. Lacks foundation. I
9 mean, there is an Evidence Code that allows for a lay
10 opinion for signatures, but he hasn't laid a
11 foundation that he's sufficiently knowledgeable.

12 THE COURT: Sustained.

13 BY MR. BAER:

14 Q. Ms. Chang signed various documents in front
15 of you?

16 A. That's correct.

17 Q. And she signed these two documents in front
18 of you, correct?

19 A. The acknowledgement intent to proceed, I
20 cannot recall if she did it in front of me.

21 Q. Let me turn your attention to page 139, lines
22 4 through 6. Do you see that in your deposition
23 transcript?

24 A. I'm going there right now.

25 Q. Sorry.

1 A. What line?

2 Q. Page 139, lines 4 through 6. And have you
3 read those?

4 A. I'm reading right now.

5 Q. Okay. I'm just going to read it out loud.

6 "Question: Did Debby sign Exhibit 12 in
7 front of you?

8 Answer: Yes."

9 Does that refresh your recollection that
10 Ms. Chang signed the acknowledgement of intent to
11 proceed in your presence?

12 A. Sorry, you're asking me now or you're just
13 reading the deposition?

14 Q. The question is: Does the -- do the question
15 and answer that I just read and you read to yourself
16 refresh your recollection that Ms. Chang signed
17 Exhibit 12 in your presence?

18 A. Yes.

19 Q. Okay. So let me ask you this: Did you cut
20 and paste Ms. Chang's signature on the loan summary
21 into the acknowledgement of the intent to proceed?

22 A. No.

23 Q. You were saying something else?

24 A. No, I cannot recall doing that.

25 Q. You cannot recall doing it. Do you deny

1 doing it?

2 A. No, I don't -- I didn't do that.

3 Q. Okay. And did you ask anybody else to do
4 that?

5 A. No.

6 Q. Did you cut and paste Ms. Chang's signature
7 from the acknowledgement of intent to proceed into
8 the loan summary?

9 A. No.

10 Q. Did you ask anybody else to do that?

11 A. No.

12 Q. Okay.

13 MR. BAER: Now, can you please show together
14 the loan summary in either one of these documents?

15 MR. BIORN: Objection. Vague.

16 MR. BAER: I was just talking to Kysen.

17 MR. BIORN: Oh.

18 MR. BAER: Just pull one of these down and
19 put up the letter of explanation.

20 THE COURT: I'm sorry, the letter of
21 explanation, what exhibit is that?

22 MR. BAER: It's our exhibit -- or theirs,
23 149.

24 THE COURT: Thank you.

25 BY MR. BAER:

1 Q. Okay. So now, we're showing on the screen
2 and you have in your --

3 MR. BAER: It's smaller. Can you make it
4 bigger and bring them closer together if you can?
5 Just get the signatures at the same level.

6 BY MR. BAER:

7 Q. Now, we're looking at the letter of
8 explanation, Exhibit 149, and the acknowledgement of
9 intent to proceed which is Exhibit 644. Okay.

10 And you don't remember whether Ms. Chang
11 signed the letter of explanation in your presence,
12 correct?

13 A. I cannot recall.

14 Q. Okay. So did you cut and paste the signature
15 on the letter of explanation into the acknowledgement
16 of intent to proceed?

17 A. No.

18 Q. Did you ask somebody else to do that for you?

19 A. No.

20 Q. Did you cut and paste the signature from the
21 acknowledgement of intent to proceed into the letter
22 of explanation?

23 A. No.

24 Q. Did you ask somebody else to do that?

25 A. No.

1 Q. Did you cut and paste the signature on the
2 loan summary document into either of these two
3 documents, the letter of --

4 A. No, I didn't.

5 Q. Did you use some document, other than these
6 three documents, the loan summary, the letter of
7 explanation and the acknowledgement of intent to
8 proceed, to cut and paste a signature into any of
9 these?

10 A. No.

11 Q. Did you ask anybody else to do that for you?

12 A. No.

13 Q. You knew, as of February 2017, that if you
14 did that, that would violate Sterling's policies,
15 correct?

16 A. That's correct.

17 Q. And you knew then, based on your training,
18 that cut and pasting an applicant's signature from
19 one loan document to another would be cause for
20 Sterling to terminate your employment, correct?

21 A. That's correct.

22 Q. Let me turn your attention to Exhibit 518.
23 And think -- no, that is Exhibit 9 to his deposition.

24 MR. KUO: That should be volume 3.

25 MR. BAER: Okay. Great.

1 BY MR. BAER:

2 Q. I'm going to ask you some questions about a
3 deed of trust that was Exhibit 9 to your deposition.

4 A. Exhibit 9?

5 Q. Yes.

6 A. Let me just go there.

7 Q. That's good. Thank you.

8 A. I'm here.

9 Q. Okay. Do you see the exhibit?

10 A. I see it right now.

11 Q. And this deed of trust, this basically is the
12 document by which Ms. Chang provides collateral for
13 repayment of the loan, right?

14 A. This is part of the closing documents.

15 Q. Right. This is the document that essentially
16 lets Sterling Bank foreclose if Ms. Chang doesn't
17 meet her obligations under the loan?

18 A. That's how I understand it.

19 Q. Okay. And do you notice there it says about
20 two-thirds of the way down the page "Borrower is
21 Debby Chang, an unmarried woman"?

22 A. That's correct.

23 Q. Whose responsibility is it to prepare the
24 deed of trust in the loan process?

25 A. It should be the closing department of the

1 bank.

2 Q. So the bank would have prepared the deed of
3 trust and written down that Debby Chang was an
4 unmarried woman?

5 A. That's my understanding.

6 Q. Okay. And do you know, is there any custom
7 and practice as to what documents the bank reviews to
8 prepare the deed of trust to essentially determine
9 the marital status of the borrower?

10 A. I don't know because, again, that's part of
11 the closing department to get that information.

12 Q. You understood at the time -- let's go back
13 and look at the last page, actually, or the next to
14 the last page.

15 So the next to last page of the document has
16 Ms. Chang's signature, March 25, 2017 and then the
17 notarization.

18 Do you see that?

19 A. Is it underneath?

20 Q. It's next to last page of Exhibit 9.

21 A. Let me just go there real quick.

22 Q. Sure.

23 A. Yes, I see now.

24 Q. Okay. And that shows that Ms. Chang signed
25 the document on March 25, 2017, right?

1 A. Yes, based on these documents.

2 Q. And it was notarized that day. Do you see
3 that, too?

4 A. Yes.

5 Q. Okay. So as of March 25, 2017, whose
6 responsibility was it at the bank to make sure that
7 the vesting information for the borrower matched up
8 to the loan application documents?

9 A. It should be the closing department.

10 Q. Did the closing department ever contact
11 you -- strike that.

12 You don't recall any communications from the
13 closing department to you concerning this deed of
14 trust, do you?

15 A. I cannot recall at all.

16 Q. You understood at the time, that is March 25,
17 2017, that if Ms. Chang was not married, her loan
18 application would have been rejected, right?

19 A. Can you rephrase that? It's a bit -- very
20 long.

21 Q. Yes, okay. If Ms. Chang was not married, her
22 loan application would have been rejected because the
23 down payment would not have come from her husband,
24 correct?

25 A. That's correct, just because, again, and

1 that's also being questioned by the underwriter
2 during that time.

3 Q. But you don't recall any communications about
4 this?

5 A. I cannot recall any communication.

6 Q. Okay. This was something that was important
7 for the bank to find out in the loan application
8 process, correct?

9 A. That's my understanding.

10 Q. So for you to explain why this -- am I
11 correct that to tell me why this deed of trust
12 indicates that Ms. Chang is unmarried, you'd have to
13 speculate?

14 A. Sorry, can you rephrase that for me?

15 Q. Yes. Would you have to speculate to tell me
16 why this deed of trust indicates that Ms. Chang is
17 unmarried? Let me ask a better question. I'll ask a
18 better question, okay?

19 Can you explain why this deed of trust
20 indicates that Ms. Chang is not married?

21 MR. BIORN: Lacks foundation.

22 MR. BAER: I don't know what he knows.

23 THE COURT: It's just can he?

24 THE WITNESS: I don't know. I cannot assume.

25 BY MR. BAER:

1 Q. Okay. So you don't have any explanation for
2 that, correct?

3 A. No, I don't have explanation.

4 Q. Okay. So let me call your attention to
5 Exhibit 649. We'll have to put that up on the
6 screen.

7 THE COURT: Thank you.

8 MR. KUO: No problem.

9 MR. BAER: I'm not sure if I've moved 644
10 into evidence.

11 THE COURT: Any opposition?

12 MR. BIORN: None.

13 MR. BAER: Thank you.

14 THE COURT: Received.

15 (Whereupon, Exhibit 644 was admitted into
16 evidence.)

17 MR. BAER: Okay.

18 BY MR. BAER:

19 Q. So we'll show you this in just a sec.

20 A. Okay.

21 Q. So Exhibit 649, this is a letter from
22 Ms. Cane, the senior escrow officer, to someone named
23 Mary Ann Moore at Sterling Bank in Michigan
24 concerning Ms. Chang's loan secured by 229 Fulton
25 Street. This has the Bates stamp also Sterling 126,

1 indicating it came from your file.

2 Have you seen the document before?

3 MR. BIORN: I'll object. The question
4 misstates -- the question misstates the facts, Your
5 Honor.

6 THE COURT: He said he never saw it.

7 MR. BIORN: When you say "your file," you're
8 referring to the Sterling Bank file or just his
9 personal file?

10 MR. BAER: I mean the bank's file on the
11 loan.

12 MR. BIORN: Thank you.

13 MR. BAER: I don't know if it was in his
14 personal file.

15 BY MR. BAER:

16 Q. Sir, in connection with this loan, did you
17 maintain a file that was separate from the rest of
18 the bank's files on this loan?

19 A. No, I don't.

20 Q. Okay. So all of the bank's documents
21 concerning this loan were accessible to you in 2017;
22 is that right?

23 A. That's correct.

24 Q. Okay.

25 A. Sorry, I'll take that back because there are

1 some documents sent by the closing department that I
2 cannot see those informations or documents.

3 Q. All right. In any event, did Ms. Moore ever
4 contact you concerning the deed of trust that this
5 letter shows was sent to her?

6 A. Not that I can recall.

7 Q. Do you know who Ms. Moore is?

8 A. She's the closing department person in charge
9 during that time.

10 Q. As head of the closing department, was it her
11 responsibility to make sure that the vesting
12 information in a deed of trust matched up to the
13 information that the bank had received in connection
14 with the application?

15 A. That's what I can remember.

16 Q. Did you ever have any communication with
17 anybody else in her department concerning the vesting
18 information in the deed of trust?

19 A. I cannot recall.

20 Q. Did you have any communication with anybody
21 at all in Sterling Bank concerning the vesting
22 information in the deed of trust showing that
23 Ms. Chang was unmarried?

24 A. I cannot recall.

25 MR. BAER: So I'd like to move 649 into

1 evidence.

2 MR. BIORN: No objection.

3 THE COURT: Received.

4 (Whereupon, Exhibit 649 was admitted into
5 evidence.)

6 MR. BAER: Let's go now to the gift letter.
7 For us, it's 179, I believe.

8 MR. BIORN: Exhibit 79.

9 MR. BAER: Oh, 79, I wrote it down wrong.

10 MR. FRASER: It's 79 because 79 is the
11 original and 179 is the one with the attachments.

12 MR. BAER: Oh, okay. So it is -- so 179 has
13 the attachments. And that one is -- that's Exhibit 2
14 to your deposition transcript. Okay.

15 BY MR. BAER:

16 Q. So does Exhibit 179 have both versions of the
17 gift letter also?

18 MR. BIORN: No. His Exhibit 2 did.

19 MR. BAER: Okay. That's fine. Well, you'll
20 find them there.

21 MR. BIORN: But 79 has both versions of the
22 exhibit of the gift letter.

23 MR. BAER: That's fine.

24 BY MR. BAER:

25 Q. So Exhibit 2, the first page of the exhibit,

1 do you see relationship to borrower, husband?

2 A. Hold on one second.

3 Q. The -- the first page of Exhibit 2 in your
4 file.

5 MR. BIORN: Okay. Got it.

6 THE WITNESS: I'm going there right now. Are
7 you referring to the gift letter?

8 BY MR. BAER:

9 Q. Yes.

10 A. Yes, I'm here.

11 Q. Okay. So good. Am I correct, other than the
12 signatures, all of the writing on -- handwriting on
13 this document is yours?

14 A. That's correct.

15 Q. And you see on the first page here the bank
16 name is blank? Do you see that?

17 A. That's correct.

18 Q. Okay. And do you also see at the top there
19 there's the number \$67,050 and there's a slash and
20 what should be \$1.1 million, but if you ignore the
21 commas, is \$110,000.

22 Do you see that?

23 A. That's correct.

24 MR. BIORN: Actually it's \$1,100.

25 MR. BAER: I guess it depends on whether you

1 think that's a comma or a period.

2 MR. BIORN: Okay.

3 BY MR. BAER:

4 Q. But in any event, the slash and what should
5 be \$1.1 million, that's heavier writing, correct?

6 A. That's correct.

7 Q. Okay. Do you recall basically completing --
8 well, strike that.

9 So going down to the relationship to
10 borrower, that's also heavier ink than the rest of
11 the page, correct?

12 A. That's correct.

13 Q. Did you use a pen or a pencil to complete
14 this document?

15 A. I cannot recall at all.

16 Q. Did you use both in your -- when you were a
17 loan officer, both pens and pencils to complete loan
18 documents?

19 A. No, I don't.

20 Q. You used just pens, right?

21 A. Yes.

22 Q. Okay.

23 A. That's what I can recall.

24 Q. Okay. Did you use a different pen for the
25 slash, \$1.1 million and the husband, those words?

1 A. It looks like there's two different pen, but
2 I cannot recall at all.

3 Q. Okay. Do you recall adding those parts, the
4 slash, the \$1.1 million and the husband after you had
5 written in the rest of the handwriting in the
6 document, again, other than the signatures?

7 A. I cannot recall at all.

8 Q. Okay. The fact that the slash and the
9 \$1.1 million follow the \$67,050 does that refresh
10 your recollection that you added these -- the slash
11 and the other two after the rest of the document had
12 been completed?

13 A. I cannot recall at all. I don't know what
14 happened during this time if after I put all these
15 numbers in the same time, maybe I dropped my pen,
16 used a different pen. I have no idea what happened
17 here, why there's two different kind of pen.

18 THE COURT: Mr. Baer, can I ask a question?
19 The dates on that in the bottom, were those
20 written by you or someone else, March 9th, 2017?

21 THE WITNESS: I think -- I cannot -- I don't
22 know. It's hard for me to assume, Your Honor.

23 THE COURT: Okay. And are you looking at a
24 printed copy or something on your computer?

25 THE WITNESS: It's in my computer, Your

1 Honor.

2 THE COURT: And is that in color or is it in
3 black and white?

4 THE WITNESS: It's in black and white, Your
5 Honor.

6 MR. BAER: I believe he testified that all
7 the handwriting on the document was his and I
8 excluded the signatures from that question.

9 THE COURT: He did.

10 MR. BIORN: Yes, he's testified to that twice
11 for each of us.

12 BY MR. BAER:

13 Q. So let me turn your attention, now, to the
14 last page of this exhibit. This is another version
15 of the gift letter and that would be, what, the
16 second page of Exhibit 79. I forget which is first,
17 but anyway, one of them.

18 MR. BIORN: Yes, it's the second page of the
19 Trial Exhibit 79.

20 MR. BAER: Okay.

21 BY MR. BAER:

22 Q. Are you with me on the last page of Exhibit 2
23 to your deposition?

24 A. On the gift letter?

25 Q. Yes.

1 A. Yes, I'm here.

2 Q. Okay. And on this one, do you see the word
3 "Wells Fargo" in the bank name?

4 A. That's correct.

5 Q. Okay. And that's not on the first page of
6 the other one that we were just looking at, right?

7 A. That's correct.

8 Q. Okay. And in terms of the handwriting that's
9 on this document, you don't see any difference
10 between the two, do you? And I'll exclude, in case
11 this confuses things, but we'll take out of this
12 question -- let me ask the question again. Okay?

13 You don't have to think about the signature
14 or the dates. But other than those things and the
15 word "Wells Fargo," all the handwriting on these two
16 pages is the same, correct?

17 A. That's correct.

18 Q. Okay. So let me --

19 THE COURT: Could I just have a moment?

20 MR. BAER: Make sure she's looking at it,
21 please.

22 MR. KUO: Oh, I'm sorry.

23 MR. BAER: Exhibit 79.

24 THE COURT: Oh, 79.

25 MR. KUO: Here it is. I'm sorry, I took the

1 wrong binder.

2 THE COURT: Okay, I got it.

3 MR. BAER: Thank you.

4 THE COURT: I was just confused, Mr. Baer.
5 Thank you.

6 MR. BAER: Okay. So if you look at the
7 exhibit, I think you'll be able to follow a little
8 better. Okay.

9 BY MR. BAER:

10 Q. Did you prepare the last page of this
11 exhibit, that is the page with Wells Fargo, by making
12 a copy of the first page of the exhibit and writing
13 in the words "Wells Fargo"?

14 A. I cannot recall.

15 Q. Did you create the first page of the exhibit,
16 the ones without the words "Wells Fargo," the one
17 without the words "Wells Fargo," from the last page
18 of the exhibit by copying the last page and whiting
19 out or deleting the words "Wells Fargo"?

20 A. And again, I cannot recall what happened
21 here.

22 Q. You have no explanation for at least the
23 handwriting on these documents is identical other
24 than the fact that one has the words "Wells Fargo,"
25 correct?

1 A. I have no explanation for this. I don't know
2 what happened during this time, why -- the first page
3 there's no Wells Fargo and then the other one was
4 Wells Fargo. I -- I -- I cannot explain why.

5 Q. You don't recall giving Ms. Chang two
6 different gift letters to sign, do you?

7 A. I cannot recall at all.

8 Q. It wouldn't make -- strike that.

9 So did Ms. Chang -- okay. The first page of
10 this exhibit without the words "Wells Fargo," did
11 Ms. Chang sign that in your presence?

12 A. Yes, that's what I can recall.

13 Q. And did she sign the last page of the
14 exhibit, the one with the words "Wells Fargo" in your
15 presence?

16 MR. BIORN: Objection. Assumes facts not in
17 evidence. Calls for speculation. Lacks foundation
18 that they're two different documents.

19 THE COURT: Your objection is overruled.

20 Sir, if you remember the question, you can
21 answer that.

22 THE WITNESS: I cannot remember.

23 THE COURT: And Mr. Garcia, just so I'm
24 clear, this is a document, the form is something that
25 you had and you gave to Ms. Chang?

1 THE WITNESS: Sorry, Your Honor, I cannot
2 hear you very well. I'm very sorry.

3 THE COURT: No problem. This document is a
4 form that you gave to Ms. Chang filled out? It's --
5 what is it?

6 MR. BAER: Is it Exhibit 2?

7 THE COURT: On the bottom, it says it's from
8 Ellie Mae in very small print. It's a standard gift
9 letter form?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: And you gave it to her?

12 THE WITNESS: Yes, Your Honor.

13 BY MR. BAER:

14 Q. Did you give both of them to her?

15 MR. BIORN: Objection. Lacks foundation.

16 THE WITNESS: I cannot say.

17 MR. BIORN: Objection. Lacks foundation that
18 there are two different documents.

19 THE COURT: Overruled.

20 THE WITNESS: I'm saying those two documents
21 are the same. So there's no explanation for that.

22 BY MR. BAER:

23 Q. You said there's no explanation for that?

24 A. Yes, there's no explanation for that. For
25 me, I'm not saying that those two documents are

1 different or the same.

2 Q. On the first page, did you add anything to
3 that first page to your exhibit -- what did we say it
4 is -- 2? Did you add anything to that document
5 before -- strike that.

6 Exhibit 2, the first page, did you add
7 anything to that document after Ms. Chang signed it?

8 A. No, I don't.

9 Q. Okay. Exhibit 2, the last page, did you add
10 anything to that document after Ms. Chang signed it?

11 A. No, not that I recall.

12 Q. Okay. At this time, i.e., March 9, 2007
13 [sic], you received training from Sterling Bank by
14 then, correct?

15 A. Sorry, say it again.

16 Q. By March 9, 2017, you'd received training
17 from Sterling Bank on how to perform the job
18 functions of a loan officer, correct?

19 A. March 9, 2007?

20 Q. 2017. If I said '7, it's my bad. 2017.

21 A. Where is that documentation?

22 Q. I'm asking you a question. It's not about a
23 document.

24 A. Oh, I don't know. I cannot recall.

25 Q. As of March 9, 2017, you understood that

1 basically Sterling Bank prohibited you from adding
2 anything to a document after the applicant had
3 already signed it, correct?

4 A. That's correct.

5 Q. Okay. And you understood that if you did
6 that, that would be grounds for termination at
7 Sterling Bank, correct?

8 A. That's correct.

9 Q. Did anybody at Sterling Bank ever tell you
10 that to do that would be criminal?

11 A. No.

12 Q. Did anybody at Sterling Bank ever tell you
13 that copying and pasting a signature from one
14 document to another would be criminal?

15 A. No.

16 Q. All right. Let's go to Exhibit --

17 MR. BIORN: Your Honor, it's 3:30. We've
18 been going for a while.

19 THE COURT: You'd like a break?

20 MR. BIORN: Yes.

21 MR. BAER: I have maybe 15 minutes, if you
22 want to tell your witness.

23 MR. BIORN: I'm going to have a few
24 questions, too.

25 THE COURT: We're off the record.

1 (Whereupon, a break was taken.)

2 THE COURT: Back on.

3 MR. BAER: Can you put up 513? It's a loan
4 request consumer information letter.

5 MR. BIORN: Which exhibit is this?

6 MR. BAER: 513.

7 BY MR. BAER:

8 Q. Have you had enough time to review this
9 document to tell me whether you've seen it before?

10 THE COURT: Mr. Garcia, I think you're on
11 mute.

12 THE WITNESS: Oh, sorry.

13 THE COURT: No problem. You just have to
14 start over again.

15 THE WITNESS: Okay.

16 THE COURT: Have you had enough time to
17 review this document to see if you have observed this
18 before?

19 THE WITNESS: Yes, I remember this, Your
20 Honor.

21 THE COURT: And this is Exhibit 513.

22 MR. BIORN: Have we shown him the entire
23 exhibit?

24 MR. BAER: Yes, I think we did before.

25 MR. BIORN: Sorry. Okay.

1 BY MR. BAER:

2 Q. And so can you explain what this document is?

3 A. So this -- before those handwriting, this is
4 a computer-generated loan request consumer
5 information letter about inquiries or about -- yeah,
6 about credit inquiries into their credit report.

7 Q. Am I correct that all of the handwriting on
8 this document, other than the signature, is yours?

9 A. Yes, sir.

10 Q. Okay. And then on the second page, it shows,
11 ostensibly anyway, that Ms. Chang signed the document
12 I think on February 9, 2017.

13 But anyway, first let me just ask you this:
14 Did she sign this document in your presence?

15 A. I cannot recall, Your Honor -- sir. But I
16 can go to the deposition if I have that.

17 Q. Okay. February 9, 2017, that's not right, is
18 it?

19 MR. BIORN: It's March.

20 MR. BAER: I thought it was February.

21 MR. PARSLEY: March.

22 MR. BAER: I thought I saw February. Maybe I
23 misread it. I thought the 2 was a 3.

24 BY MR. BAER:

25 Q. I'll ask a different question. You added the

1 date there March 9, 2017?

2 A. I assume, sir.

3 Q. That's your handwriting?

4 A. Seems like it. I assume.

5 Q. So let me pull up a different --

6 MR. BAER: Let me move 513 into evidence.

7 MR. BIORN: No objection.

8 THE COURT: Received.

9 (Whereupon, Exhibit 513 was admitted into
10 evidence.)

11 BY MR. BAER:

12 Q. Let me now show you Exhibit 514.

13 MR. KUO: Separately?

14 MR. BAER: Yes, separately. Well, if you
15 could show them together, that would be good.

16 BY MR. BAER:

17 Q. So the exhibit on the right side, that is
18 Exhibit 514, the one on the left is Exhibit 513. So
19 is all of the handwriting -- and I think I'll scroll
20 up some more, the other one.

21 Is all of the handwriting on Exhibit 514,
22 other than Ms. Chang's signature, yours?

23 A. That's correct.

24 Q. Am I correct that you do not see any
25 difference between these two documents other than the

1 additional text that's added on Exhibit 514?

2 A. That's correct.

3 Q. Okay. And I'm sorry if I asked you this, but
4 did Ms. Chang sign Exhibit 514 in your presence?

5 A. As I said, I cannot recall.

6 Q. Okay. Did you copy Exhibit 513 and add the
7 additional text that's on 514 after Ms. Chang had
8 signed it?

9 A. I cannot remember. Sorry, I cannot recall
10 what happened at this time.

11 Q. Did you copy Exhibit 514 and create
12 Exhibit 513 by deleting the text, the additional text
13 that's on Exhibit 514 by whiting it out or in some
14 other way blocking it?

15 A. I cannot recall. To my understanding, that's
16 not necessary.

17 Q. Okay. You don't --

18 MR. BAER: Do you have it?

19 BY MR. BAER:

20 Q. Let's go to Exhibit -- your deposition
21 transcript -- 159.

22 So did you ask anybody to make an extra --
23 make a copy of Exhibit 513 so that could you add
24 additional text to it after Ms. Chang had signed it?

25 A. I cannot remember.

1 Q. Did you ask anybody to use 514, Exhibit 514
2 to make a copy and delete the additional text that is
3 on Exhibit 514, but not on Exhibit 513?

4 A. No, I cannot remember.

5 Q. Do you have any explanation for the fact that
6 Exhibit 514 has additional text that 513 does not,
7 but otherwise, these documents, passing on the
8 question of the signature, are identical?

9 A. No, I cannot give an explanation for this.

10 Q. So am I correct that, during this time period
11 at Sterling Bank, you were working on a commission
12 basis?

13 A. That's correct.

14 Q. So if a loan did not close, you would not get
15 paid anything for having worked on the application,
16 correct?

17 A. That's correct.

18 Q. Okay. And then if the loan did close, you
19 would get -- you would be compensated on the basis of
20 a percentage of the loan amount, correct?

21 A. That's correct.

22 Q. Okay. And how many basis points was your
23 compensation then, if you can recall?

24 A. To my recollection, I think it's about 25
25 basis points of the loan amount.

1 Q. 25 basis points?

2 A. Yes, sir.

3 Q. So am I correct that that would mean \$250 for
4 each \$100,000 on the loan?

5 A. Most likely.

6 Q. So if my math is correct then, for -- when --
7 or after, I guess, the loan amount was \$1,135,000,
8 right?

9 A. Yes, sir.

10 Q. So you would have been paid a little less
11 than \$3,000, a little more than \$2750 for working on
12 Ms. Chang's loan application, right?

13 A. That's possible.

14 Q. Okay. That's possible or that is correct if
15 it's 25 basis points?

16 A. Sorry. I don't have any calculator pulling
17 up the numbers.

18 Q. In any event -- well, that's okay.

19 MR. BAER: I don't have any further questions
20 at this time.

21 REDIRECT EXAMINATION

22 BY MR. BIORN:

23 Q. Mr. Garcia, were you also paid a salary?

24 A. Yes, sir, I'm paid salary during that time,
25 so I have the base salary plus commission.

1 Q. Going back to Exhibit 514, as long as we have
2 that still up there, that's the one on the right-hand
3 side, at the -- where it says, handwritten in your
4 handwriting, inquiries only, no account open. Then
5 it goes on on Jan 5th, my daughter and myself went to
6 a mortgage broker to inquire about rates.

7 Did Debby provide you that information?

8 A. Yes, sir.

9 Q. It goes on, "They sent our information to
10 other company" and the rest of the paragraph there,
11 in handwriting by you. Is that information all
12 provided to you by Debby?

13 A. That's correct.

14 Q. Going to the gift letter, which is Exhibit 2
15 in your deposition, do you -- tell me when you have
16 that up.

17 A. It's a transcript?

18 Q. No. Exhibit 2 to your deposition.

19 A. Which document are you pertaining to?

20 Q. The very first page, gift letter. Do you see
21 that?

22 A. I'm still -- give me one second.

23 Okay, I'm here.

24 Q. Do you see down below, just above Mr. Ho's
25 signature it says donor telephone and then there's a

1 number written in there.

2 Do you see that?

3 A. Yes, sir.

4 Q. Did Debby provide that to you?

5 A. I get that from Debby, that's correct.

6 Q. Do you recall dialing that number to see if
7 you could get a hold of Mr. Ho?

8 A. No.

9 Q. Mr. Baer asked you whether Debby's
10 application would have been rejected if you knew that
11 the gift from Mr. Ho was not from a family member and
12 you said yes. I have some similar questions.

13 Would Debby's application for a loan have
14 been rejected if she was not employed at that time?

15 A. That's correct.

16 Q. Would Debby's loan have been rejected if her
17 employer had not signed and returned a verification
18 of employment?

19 A. That's correct.

20 Q. If you could go to Exhibit 12 to your
21 deposition. It's Exhibit 64 at trial. Oh, I'm
22 sorry, Exhibit 644 at trial.

23 Do you have Exhibit 12 open?

24 A. I'm going there right now.

25 I'm here.

1 Q. You refer to that as one of the disclosure
2 documents. Are those the documents that you went to
3 meet Debby at a house for her to sign?

4 MR. BAER: Objection. Lacks foundation.

5 THE WITNESS: I cannot recall. As I said
6 from my previous statement, I went to her house to
7 help her with the e-signature on her computer. I
8 cannot recall if she signed this in her house or in
9 the office.

10 BY MR. BIORN:

11 Q. If you'd turn to Exhibit 9 to your
12 deposition, the deed of trust, which is Exhibit 518
13 in our trial.

14 A. I'm here.

15 Q. The deed of trust is recorded on the day the
16 loan closes escrow; is that right?

17 A. This is the day that they signed the
18 documents.

19 Q. Okay.

20 A. Close of escrow is after signing the
21 documents and funding the loan. And escrow closed
22 after that.

23 Q. Do you see on the first page, the kind of the
24 right-hand top version where it has a stamp from the
25 San Mateo County recorder.

1 Do you see that?

2 A. Yes.

3 Q. Is that the date that the document is
4 recorded?

5 MR. BAER: Objection. The document speaks
6 for itself.

7 THE WITNESS: I cannot really -- I'm not the
8 expert on this one.

9 BY MR. BIORN:

10 Q. Do you know if that's date that -- do you
11 know if the deed of trust is recorded on the date
12 that they close escrow?

13 A. That's possible.

14 Q. If --

15 MR. BIORN: David, can Kysen pull up
16 Exhibit 151?

17 MR. BAER: Sure. We can screen share it.

18 BY MR. BIORN:

19 Q. Actually, can you turn to your declaration,
20 which is Exhibit 1 of your deposition and turn to the
21 last exhibit to that declaration, which is Exhibit D.
22 It's that document entitled "Letter of explanation."
23 Let me know when you have that document up.

24 A. Give me one second.

25 I'm here.

1 Q. There are two large deposits listed in the
2 Chase bank account here, both in February, one for
3 \$10,000 and one for \$9,100 and both of them indicate
4 "part of my income and bonus."

5 Did you get that information from Debby?

6 A. Again, this one was given to me by Debby
7 Wong.

8 Q. Debby Chang?

9 A. I'm sorry, Debby Chang.

10 Q. So based on this information you received
11 from Ms. Chang, did it appear to you that she made at
12 least \$18,500 in the month of February 2017?

13 MR. BAER: Objection. Leading.

14 THE WITNESS: Based on this --

15 THE COURT: Sustained. Stricken.

16 THE WITNESS: Based on this --

17 BY MR. BIORN:

18 Q. No, the judge has sustained the objection.
19 We can't get an answer right now, but thank you.

20 A. Okay.

21 Q. Can we look at Exhibit 10 to your deposition.
22 That's the True Alert document.

23 Do you see that document?

24 A. I'm going there right now. Please bear with
25 me. I'm here on the first page.

1 Q. Great. Do you see about three lines down on
2 the right-hand side where it says Social Security and
3 then it has Debby's Social Security number there?

4 A. That's correct.

5 Q. Did she provide that information to you?

6 A. This is actually generated from the loan
7 application that she provided.

8 Q. Okay. So this information on here is from
9 the loan application. Does that indicate that you
10 did not obtain this True Alert until after you
11 completed the loan application?

12 A. I cannot answer that. I don't know. But
13 again, this is part of the credit report once we
14 pulled the borrower's credit report, to my
15 understanding.

16 Q. But if this document is generated from
17 information on the loan application, could this
18 document have been generated if the loan application
19 was not done yet?

20 A. I cannot tell.

21 Q. Well, how would the computer know what the
22 Social Security number is from the loan application
23 if that information had not been entered into the
24 loan application yet?

25 A. For this one, the process for this is we get

1 the information into the system. And then once we
2 get in all the information into the system, the
3 system will -- if we request a credit report inquiry,
4 then this will generate during that time.

5 Q. Let's go back to your declaration, Exhibit 1
6 to your deposition. And we'll go to Exhibit B which
7 is a loan application. Tell me when you're there.

8 A. I'm here.

9 Q. So on the first page where it says Roman III
10 borrower information, and then just below Debby's
11 name is the Social Security that's entered into the
12 loan application.

13 Do you see that?

14 A. Yes, sir.

15 Q. And you entered that contemporaneously with
16 your face-to-face meeting with Debby on February
17 22nd, right?

18 A. That's correct.

19 Q. Is that how the Sterling computer system
20 obtained the Social Security number for Debby?

21 A. That's correct.

22 Q. If you'll turn to page 4 of this loan
23 application, again, on the item Roman IX
24 acknowledgement and agreement.

25 When you reviewed that with borrowers, did

1 you typically tell them they were signing this
2 document under penalty of perjury?

3 A. Yes, sir.

4 Q. Do you recall if you told Debby that she was
5 signing this document under penalty of perjury?

6 A. I don't recall saying that, but it's -- as a
7 loan officer, we review this to them.

8 Q. So let's turn to your deposition testimony
9 now on page 52. Let me know when you're there.

10 A. On the declaration? Deposition declaration?

11 Q. No, just your deposition, page 52. Nothing
12 about the declaration.

13 A. Okay. Page 52, okay, I'm here with the --
14 the e-mail coming from Vicki Fellows.

15 Q. No, it's not an e-mail. I'm actually looking
16 at your deposition transcript. I think you're
17 looking at an exhibit.

18 A. Oh, okay.

19 Q. Can you go into the actual deposition
20 transcript? If you want, I can just read you your
21 deposition here. Is that okay with you?

22 A. Can you please?

23 Q. Okay. It says on lines 18 to 25, it says,
24 "Question: Did you have a discussion with her about
25 the fact that she was signing the application under

1 penalty of perjury?

2 Answer: Yes.

3 Question: So as you sit here today, are you
4 certain that you indicated to her that the
5 application was being signed under penalty of
6 perjury?

7 Answer: Yes."

8 Does that refresh your recollection that you
9 told Debby that she was signing the loan application
10 under penalty of perjury?

11 A. Yes, sir.

12 Q. Let's try it the same way again. I'm going
13 to read to you from your deposition, page 53 lines 12
14 to 17. Well -- and with -- hold on one minute.

15 So I'll read to you page 53 starting line 3
16 to 17.

17 "Question: Can you please tell me what
18 Exhibit C is?

19 Answer: So this is the Fannie Mae employment
20 verification form that I was referring to a while
21 ago.

22 Question: And did you create this document?
23 Strike that.

24 This document is a generic Fannie Mae form,
25 correct?

1 Answer: That's correct.

2 Question: Did you fill out this document to
3 include information that is specific to Debby Chang's
4 loan application?

5 Answer: No. Only the address, but that was
6 generated by our computer. But other than that, it's
7 all filled out by her employer."

8 So if we look at -- does that refresh your
9 recollection that the employer filled out part 2
10 verification of present employment on the request for
11 verification of employment? And if we need to refer
12 to that exhibit again, we can refer to it.

13 A. Yes, please.

14 Q. Let's go to Exhibit C to your declaration.
15 Remember, your declaration is Exhibit 1 to your
16 deposition. And a few pages in is Exhibit C to your
17 declaration and that's the request for verification
18 of employment.

19 A. I'm going there right now.

20 Okay, I'm here.

21 Q. So your testimony was that only the address,
22 that was generated by our computer, but other than
23 that, it's all filled out by her employer.

24 Does that refresh your recollection that
25 Debby's employer filled out the information in part

1 2, verification of present employment?

2 A. That's my understanding.

3 Q. I'd like to also look at your deposition, and
4 I'll read it to you again. Keep that request for
5 verification of employment open in front of you.
6 Okay?

7 A. Okay.

8 Q. I'm now going read from your deposition page
9 147, line 19 through page 148, line 4.

10 MR. BAER: Well, I'll object for lack of
11 foundation. At least at the moment, there hasn't
12 been any testimony that he can't remember something.

13 MR. BIORN: Yeah, he did. It's on the same
14 subject that he just testified to.

15 MR. BAER: Okay.

16 BY MR. BIORN:

17 Q. So "Question: Can you turn to Exhibit C to
18 Exhibit 1, the request for verification of
19 employment?

20 Answer: Okay.

21 Question: I believe you testified earlier
22 that when you sent this document out, it was
23 effectively blank from the portion below your
24 signature to the bottom; is that correct?

25 Answer: That's correct.

1 Question: And so everything below your
2 signature was filled in after you sent it out?

3 Answer: That's correct."

4 Does that also refresh your recollection that
5 part 2, verification of present employment, was
6 filled out by someone other than a Sterling Bank
7 employee?

8 A. That's correct.

9 MR. BIORN: I have nothing further.

10 MR. BAER: Okay just a few questions,
11 Mr. Garcia.

12 RECROSS-EXAMINATION

13 BY MR. BAER:

14 Q. So first of all, with respect to the
15 testimony that you were just giving about how the
16 request for verification of employment was filled
17 out, you didn't see anybody fill out the portions
18 that had not been automatically populated, did you?

19 A. No, sir.

20 Q. And Ms. Chang never told you who filled that
21 out, did she?

22 A. No.

23 Q. You don't have any recollection of Ms. Tsai
24 telling you she filled it out, correct?

25 A. There's no recollection for me, no.

1 Q. You don't even recall communicating with
2 Ms. Tsai, correct?

3 A. No.

4 Q. Okay. You don't have any recollection of
5 anyone communicating to you who filled out this
6 request for verification of employment, correct?

7 A. I cannot recall.

8 Q. So basically your testimony that the employer
9 filled it out, that's just an assumption on your
10 part, correct?

11 A. That's correct.

12 Q. It's just what seems logical to you under the
13 circumstances, correct?

14 A. That's correct.

15 Q. Okay.

16 MR. BAER: I'm going to move to strike the
17 testimony on that subject as lacking foundation, that
18 the employer filled it out. There's no foundation to
19 say that. He just testified that it's an assumption.

20 MR. BIORN: As long as the testimony that --
21 where he said that someone other than a Sterling Bank
22 employee filled it out stays in, I'm fine with that.

23 MR. BAER: Let's explore that briefly.

24 BY MR. BAER:

25 Q. You say someone other than a Sterling Bank

1 employee filled this out. Sometimes does the
2 employer provide the information for the -- for
3 someone at Sterling Bank to put it in?

4 MR. BIORN: Objection. Overbroad.

5 BY MR. BAER:

6 Q. In your experience as a loan officer, has
7 Sterling Bank ever taken information from the
8 employer or the applicant to complete the rest of the
9 form that isn't automatically populated?

10 A. Are you referring to the employment
11 verification letter?

12 Q. Yes, sir.

13 A. No, it's not automatically populated.

14 Q. I understand it's not automatically
15 populated. What I'm asking you is whether, in your
16 experience as a loan officer for Sterling Bank,
17 whether, from time to time, some Sterling Bank
18 employee would take down the information that did not
19 automatically populate from the employer or from the
20 borrower?

21 MR. BIORN: Objection. Overbroad. Calls for
22 speculation. And I'm not sure where we're going with
23 this, Your Honor. He testified --

24 THE COURT: I don't know either. He
25 testified he doesn't know who signed the bottom of

1 this.

2 MR. BIORN: But he also testified that he did
3 send it out. He sent it out with part 2 -- with part
4 2 blank.

5 MR. BAER: Okay.

6 THE COURT: Yes. That's it.

7 MR. BAER: Okay, another topic.

8 THE COURT: No one knows who filled it out,
9 in other words.

10 MR. BAER: Another topic.

11 BY MR. BAER:

12 Q. So am I correct that when you met with
13 Ms. Chang on February 22, she told you that she was
14 going to get a gift from her husband, not that she
15 had already received a gift from her husband?

16 A. Can I refer that to the deposition transcript
17 if we have that? I cannot really recollect myself in
18 regards to that.

19 Q. Sure. So I'll read to you from page 123,
20 starting at line 16 and going down to 124, line 1.

21 Do you see that?

22 MR. BIORN: Your Honor, this is beyond the
23 scope of redirect. I don't think I asked about the
24 loan.

25 THE COURT: 123, from 16 to what?

1 THE WITNESS: I'm here.

2 MR. BAER: 16 to 21 on 124.

3 THE COURT: That's already been read.

4 MR. BAER: I didn't read that.

5 THE COURT: Somebody read it.

6 MR. BAER: 124, line 16 -- I'm sorry, 123,
7 line 16 to 124, line 1, that was read?

8 MR. BIORN: I did, yes.

9 MR. BAER: Okay. We both want it for
10 different purposes.

11 THE COURT: This might have been just to
12 refresh his recollection. So it's not received into
13 evidence.

14 MR. BAER: Right. Can I read the testimony?

15 THE COURT: Sure. Are you seeking to receive
16 this into evidence or impeachment?

17 MR. BAER: No, it's to refresh his
18 recollection.

19 THE COURT: Okay.

20 BY MR. BAER:

21 Q. So I'll read it. And the question really
22 is -- I'll explain the question first so you
23 understand why I'm reading it, but the question is:
24 Does this refresh your recollection that what
25 Ms. Chang told you was that she was going to get a

1 gift from her husband? And so I'll read.

2 "Question: At the time you wrote Exhibit A
3 to Exhibit 1, the loan summary letter, you knew the
4 source of the funds for Debby Chang's down payment,
5 correct?

6 The Witness: She told me that she is going
7 to get a gift.

8 Question: What did she tell you
9 specifically?

10 Answer: She said she is going to get a gift
11 from her husband."

12 So does that refresh your recollection that
13 that is what she told you."

14 A. Yes, sir.

15 Q. Did you go over the loan application with
16 Ms. Chang before she signed it?

17 A. I cannot recall, Your Honor.

18 Q. Okay. So I want to refresh your recollection
19 again. On page 52, lines 15 to 17, are you there?

20 A. I'm here.

21 Q. Okay.

22 A. What page?

23 Q. Page 52, lines 15 to 17.

24 A. Okay.

25 Q. "Question: Do you recall that you went over

1 the application with her?

2 Answer: Yes."

3 Does that refresh your recollection that you
4 did go over the loan application with Ms. Chang?

5 A. Yes.

6 MR. BAER: I have no further questions.

7 FURTHER REDIRECT EXAMINATION

8 BY MR. BIORN:

9 Q. Mr. Garcia, if you'll turn again to your
10 deposition, Exhibit 2, which is the first page is a
11 gift letter.

12 A. Let me go over there.

13 Q. Just let me know when you're there.

14 A. I'm here.

15 Q. If you'll turn to the third page of that
16 document, it's an account history inquiry, Sterling
17 Now account?

18 A. Okay.

19 Q. And a little way down the left column there
20 it says open date, 2-22-2017.

21 Do you see that?

22 A. You said February 22?

23 Q. Yes, open date, February 22, 2017.

24 Do you see that?

25 A. Yes, based on this document, yes.

1 Q. Does that indicate to you that that's the
2 date that Ms. Chang opened this bank account with
3 Sterling?

4 A. Based on this document, yes.

5 Q. And down below, there is a check deposit
6 posting date of February 22, 2017, transaction amount
7 \$1.1 million.

8 Do you see that?

9 A. That's correct.

10 Q. Does that indicate to you that Ms. Chang
11 deposited \$1.1 million into her new Sterling Bank
12 account on February 22, 2017?

13 A. Based on this document, yes.

14 MR. BIORN: I have nothing further.

15 MR. BAER: Nor do I. Thank you very much.
16 Mr. Garcia.

17 MR. BIORN: Thank you, Mr. Garcia. You as
18 well, Mr. Parsley.

19 MR. PARSLEY: Thank you.

20 MR. BAER: Thank you, Mr. Parsley.

21 THE COURT: Okay. I'm going to excuse
22 Mr. Garcia unless there's a need to recall him and if
23 he's excused, he cannot be recalled without Court
24 permission.

25 MR. BAER: He's excused.

1 MR. BIORN: He's excused.

2 THE COURT: Okay. Thank you very much, sir.

3 You're free to go.

4 THE WITNESS: Thank you.

5 THE COURT: Good night.

6 MR. BAER: Your Honor, I'd like to move 513
7 and 514 into evidence. I believe those are the two
8 different versions of the loan request consumer
9 information letter.

10 THE COURT: Okay. 513, 514, any problem?

11 MR. BIORN: No objection. And we'll have
12 some cleanup exhibits as well.

13 THE COURT: Those two documents will be
14 received in evidence.

15 MR. FRASER: Do you want to do that now,
16 Kris?

17 MR. BIORN: Sure.

18 THE COURT: Do you want to get the
19 interpreter?

20 MR. FRASER: Yes, let's do that.

21 THE COURT: But you can take a break.

22 513, I have already received in evidence.

23 MR. BAER: Okay.

24 THE COURT: 514 will be received.

25 (Whereupon, Exhibit 514 was admitted into

1 evidence.)

2 (Whereupon, a break was taken.)

3 THE COURT: To the interpreter, I will swear
4 you in.

5 CHEN-HAO HSU,
6 was first duly sworn by the Court Reporter to
7 translate from English to Mandarin and Mandarin to
8 English.

9 THE INTERPRETER: I do.

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

12 THE INTERPRETER: First name is Chen-Hao,
13 C-H-E-N, hyphen, H-A-O last name is Hsu, H-S-U. I'm
14 certified in the State of California in Mandarin.

15 THE COURT: Thank you.

16 I'm going swear you in. Could you raise your
17 right hand.

18 MARY Y. CHOU,
19 called as a witness by the Petitioner, and who, being
20 first duly sworn through the interpreter, was
21 thereupon examined and testified as hereinafter set
22 forth.

23 THE COURT: Could you state your first and
24 last name and spell them?

25 THE WITNESS: Mary, M-A-R-Y, last name

1 C-H-O-U. Do you need the initial, the full name?

2 THE COURT: No.

3 THE WITNESS: Okay. Mary Chou.

4 DIRECT EXAMINATION

5 BY MR. FRASER:

6 Q. Hello, Mary. My name is Scott Fraser. I
7 represent Peter Ho.

8 Today we have a translator for you so please
9 try to wait for the translator to translate for you
10 and then respond to him in kind in Mandarin.

11 A. Okay.

12 Q. What is your address?

13 A. (In English) my home address?

14 THE COURT: Could you translate?

15 THE INTERPRETER: She was asking, home
16 address?

17 BY MR. FRASER:

18 Q. Home address, yes.

19 A. 115 Flying, F-L-Y-I-N-G, Cloud, C-L-O-U-D,
20 Isle, spelled I-S-L-E, Foster City, California,
21 94404.

22 Q. And how long have you lived there?

23 A. Starting from around 1984 until the present.

24 Q. And did you know James Ho?

25 A. Yes, for a long -- it's from 2010 when I

1 retired and started attending the church that I came
2 to know Mr. Ho, James Ho.

3 Q. And what was the name of that church?

4 A. Living Water Chinese Christian Church.

5 Q. And was Mr. Ho involved with any activities
6 with the church?

7 A. He frequently attended church, not just
8 Living Water, but others as well. About once a
9 month, he would speak to an elderly group. We
10 invited others to preach, but most of the time it was
11 him.

12 Q. How long -- the lectures that he would give,
13 approximately how long were those lectures?

14 A. About an hour.

15 Q. And what would he do during these lectures?

16 A. There would be a large piece of paper, maybe
17 half the size of the wall. He would write on it. Or
18 it was already written.

19 Sorry, correction, clarification, maybe a
20 third of the size of that door and he would have
21 several pages stapled together and he would flip
22 through them.

23 And he would go by specific chapters and
24 verses in the Bible, speak to individual verses.
25 Sometimes he would hold a cane on his right hand.

1 Q. And would he read from the Bible during these
2 lectures?

3 A. He would.

4 Q. Approximately what percentage of these
5 lectures would he read from the Bible?

6 A. Eighty, ninety percent, maybe.

7 Q. And was he the only speaker during these
8 lectures?

9 A. Generally speaking, it was only one person.
10 Every month there would only be one speaker. If it
11 was him, there would not be a second person that
12 time.

13 Q. Do you recall if Mr. Ho ever moved into a
14 property that was also located on Flying Cloud Isle?

15 A. Yes, he lived next door to me.

16 Q. Do you recall approximately when he moved in
17 next door to you?

18 A. I don't recall exactly what year, but he
19 stayed a year and a half to two years. I just don't
20 recall exactly when.

21 Q. Okay. Did you ever go over to James' home on
22 Flying Cloud Isle?

23 A. I did go in. I did go inside once. I
24 participated in his daughter -- the birthday party of
25 Debby. They invited me.

1 James was not the person who invited me.

2 Debby wanted to borrow James' house to hold the
3 birthday party for the daughter. All the invitees
4 were Debby's friends. I went in once. The birthday
5 party took about four to five hours. It was pretty
6 long.

7 The other times that I saw James was in his
8 yard and I talked to him. He liked to sun bathe and
9 I saw him frequently.

10 Q. A moment ago --

11 A. That was good.

12 Q. A moment ago, you mentioned that you had gone
13 to a social gathering with James and Debby at the
14 Flying Cloud property. Did you speak with Debby at
15 that occasion?

16 A. Yeah, I need to clarify. It wasn't the
17 invitation of both individuals. Debby was borrowing
18 James' place to help host or hold the birthday party
19 of the daughter. So I want to clarify that.

20 THE INTERPRETER: The interpreter wasn't able
21 to finish interpreting the question. He was
22 interrupted.

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

25 THE WITNESS: I did speak to Debby virtually

1 all the time.

2 BY MR. FRASER:

3 Q. Do you recall anything about your
4 conversation with Debby at the birthday party?

5 A. Yes, very clearly.

6 Q. What do you recall?

7 A. The two of us were seated at the narrowest
8 part of the rectangular table. In front of us there
9 was the cake, the fork and the knife. The only two
10 of us were speaking in Chinese. The other people
11 were speaking in English.

12 Q. And what did you and Debby speak about?

13 A. Debby said that she and James became
14 acquainted with each other in the United States.
15 They were both studying at the same time at the
16 university.

17 She asked me where I was from. I said I was
18 from Taiwan. She said, oh, I'm from Taiwan as well.
19 She said, where in Taiwan are you from? I said, I'm
20 from Taipei, T-A-I-P-E-I, and she said, oh, I'm from
21 there, too.

22 She said that she was from, phonetic
23 spelling, Y-O-N-K-A-N-G Street in Taipei. She said
24 that was where she was from.

25 Q. Do you remember anything else about your

1 conversation with Debby?

2 A. There's a lot. I said, it's such a shame,
3 James being such a kind person, that he would have a
4 tumor on his head and she said, he deserves it. I
5 said, what? And Debby said, because James cut too
6 many chicken heads.

7 Q. Does that phrase have some kind of
8 significance or meaning?

9 A. In Chinese, when you say the person deserved
10 it, and the phonetic spelling is H-U-O-G-A-I, that
11 person is your enemy. You hate this person.

12 When she said this, I was shocked and at that
13 point, Debby went silent. I asked, why is that the
14 case? And she just didn't say anything.

15 Q. Was there ever a time where Mr. Ho ever
16 stopped giving the church lectures?

17 MR. BAER: Objection. Leading.

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

20 THE WITNESS: He did stop.

21 BY MR. FRASER:

22 Q. Do you recall approximately when he stopped
23 giving the lectures?

24 A. I don't remember exactly, but he moved, or
25 maybe it was after he moved into that -- what is it?

1 Condo. Maybe it was in between. But I'm not sure.

2 Q. Did you ever ask him why he stopped giving
3 the lectures?

4 A. I did.

5 Q. And what did he say?

6 A. I told him, we haven't seen you in a long
7 time. I enjoyed your lectures very well. You speak
8 very well. People miss you.

9 And what he said is that he would get dizzy
10 spells. He was unstable on his feet.

11 And I said, well, you can sit down. And he
12 said, I can't because I can't speak with my eyes
13 closed. I need to see the verse, the written
14 Scripture. If the words are too small, I can't see
15 them. I just can't see it at all. I can't read the
16 Bible. I can't study the Bible. I just can't close
17 my eyes and say anything. I need to be able to
18 recite specific chapters and verses, yes.

19 Q. Did he say anything else about why he
20 stopped?

21 A. The most important reason is that he couldn't
22 read the Bible. He couldn't sit down, and he was
23 dizzy all the time. It was vertigo. The world was
24 spinning in front of him.

25 Q. Thank you.

1 Earlier, I believe that you said that you
2 recall James moved into a condominium at Promontory
3 Point; is that correct?

4 A. I don't remember the address, but he did
5 indeed move. In the yard, he would tell me that he
6 didn't like the house because of the stairs because
7 he was dizzy.

8 There was a small room downstairs and there
9 was a larger room upstairs, but to get to the larger
10 room upstairs, he would have to take the stairs, but
11 being frequently dizzy, he might take a spill or fall
12 down. So by moving into the condo, he didn't have to
13 worry about the stairs anymore.

14 MR. BAER: I'm going to move to strike as
15 nonresponsive.

16 THE COURT: I forgot the question. What was
17 the question?

18 MR. FRASER: Could you read the question?

19 (The record was read by the Reporter.)

20 THE WITNESS: Yes, I do remember the
21 address --

22 THE COURT: Objection sustained. You can ask
23 another question.

24 BY MR. FRASER:

25 Q. Did you ever ask Mr. Ho why he moved from the

1 Flying Cloud property?

2 A. I did.

3 Q. And what did he say?

4 A. What I just said earlier.

5 Q. Could you please repeat that?

6 A. He said he didn't like the house that he
7 lived in before because there were stairs, because he
8 was dizzy, he was worried about taking a spill if he
9 were to go up the stairs given his dizziness.

10 The room downstairs was really small. He
11 didn't like it. The room upstairs was larger, but it
12 was dangerous for him to go up the stairs because of
13 his dizziness.

14 Q. Did you ever visit James at the condominium
15 located at Promontory Point?

16 A. Many times, yes. Yes, many times.

17 Q. Did you ever visit James when both and he
18 Debby were present?

19 A. Just once.

20 Q. And did you speak with Debby on that
21 occasion?

22 A. I did.

23 Q. And what did she say?

24 A. She was trying to convince James to sell the
25 house on Flying Cloud, take the proceeds and not put

1 it in the bank, but put it in buying another house.
2 That would be best for James because the return on
3 the investment in the bank will be lower than that of
4 the return when you bought another house.

5 So I, at the time, was with two other
6 friends. I brought them along with me to see James.
7 80 percent of the discussion was trying to persuade
8 Ho to buy another house and to convince us to also
9 convince James to buy another house and it was for
10 the betterment of James.

11 Q. After James moved to the condo at Promontory
12 Point, did you and him continue to attend church
13 together?

14 A. I took him to a Millbrae church two to three
15 times, I think.

16 Q. Do you ever recall if James moved to a
17 property located on Fulton in Redwood City?

18 A. Yes, I remember.

19 Q. Did you ever visit him there?

20 A. Just once.

21 Q. What do you recall about that visit?

22 A. He invited us to see his new house. All
23 together, we were three people. I was driving.

24 Q. Do you recall your impression of the house
25 when you got there?

1 MR. BAER: Objection. Irrelevant.

2 THE COURT: What's the relevancy?

3 MR. FRASER: Laying a foundation.

4 BY MR. FRASER:

5 Q. Did you discuss the house with James when you
6 visited him there?

7 A. We did not -- I did not.

8 Q. There's no question pending.

9 Did you discuss the house with anyone else
10 while you were there visiting?

11 A. What do you mean? I don't understand.

12 Q. When you visited James at the house, did
13 anyone give you a tour of the property?

14 A. Debby took us around the house.

15 Q. After you had a chance to look around the
16 house, did you talk to James about it?

17 MR. BAER: That's been asked and answered.

18 THE COURT: I don't think that exact
19 question. I'll permit her to answer.

20 THE WITNESS: What does that mean?

21 Before I left, I thanked him for the
22 invitation to see his house, but I said, you hate
23 stairs and the stairs here are so wide. If I spread
24 out my two hands, I can barely reach the two sides.

25 At Flying Cloud, at the house there, there

1 were stairs. You hated those. You would go up.
2 There would be a landing and then you would go again
3 after turning further up the stairs.

4 Here when you go down, there's only a half
5 bath, there's no shower, there's no bedroom
6 downstairs. It's really dangerous. And when I asked
7 him this, he said, I don't know.

8 BY MR. FRASER:

9 Q. Do you recall anything else --

10 MR. BAER: Hold on. I'm going to move to
11 strike as nonresponsive. I believe the question is
12 simply did she speak with James. I would exclude the
13 last sentence of her statement.

14 THE COURT: You're asking to exclude "I don't
15 know"?

16 MR. BAER: No, that's the part that I would
17 keep. The rest of it -- that James said I don't
18 know, that I would keep. The rest of it is
19 nonresponsive.

20 THE WITNESS: Why is that?

21 THE COURT: Fair enough.

22 MR. FRASER: I don't see how we can exclude
23 everything but "I don't know." If anything, we would
24 exclude everything but the first sentence and then I
25 would just ask a follow-up question.

1 MR. BAER: I think he should start again
2 myself.

3 THE COURT: Why don't we start again and go
4 piecemeal.

5 MR. FRASER: Okay.

6 BY MR. FRASER:

7 Q. So after you toured the Fulton property with
8 Debby, did you discuss it with James? And please
9 just answer yes or no.

10 A. What do you mean discuss? James, you know,
11 when he entered, he was really tired. He was lying
12 on a bench next to the kitchen and there was no
13 discussion. It was only when we were leaving that we
14 spoke to him -- that I spoke to him.

15 Q. And when you spoke to him, what did you say?

16 A. I said, these stairs look really scary. It's
17 a long flight of stairs. The span is really wide
18 when I reach out with both hands. It's dangerous.

19 When you were living at the Flying Cloud
20 residence, you hated the stairs. Those were narrow.
21 You take a few steps up, you reach a landing and you
22 take a few more steps up.

23 Here, it looks really dangerous. It's easy
24 for an accident to happen. There aren't shower
25 facilities downstairs. There isn't a bedroom

1 downstairs. Why did you choose such a house? It's
2 so dangerous.

3 I asked him. He said, I don't know. I asked
4 him, why did you buy it? His response was, I don't
5 know. I was shocked. When I entered and I saw the
6 stairs, I just couldn't believe it.

7 MR. BAER: Okay. I'm going to move to strike
8 the last two sentences.

9 THE COURT: After "I don't know"?

10 MR. BAER: Yes, after "I don't know." The
11 witness was recounting her own reaction.

12 THE COURT: Appears to. Stricken.

13 MR. FRASER: Okay.

14 BY MR. FRASER:

15 Q. A moment ago, you said that Mr. Ho was lying
16 on a bench in the kitchen; is that correct?

17 A. It wasn't in the kitchen. It was next to the
18 kitchen.

19 Q. Approximately how big was the bench?

20 A. It was small. Very small.

21 Q. Was it wider -- as wide as this table?

22 A. No.

23 Q. Was it as wide as half of this table?

24 A. About that.

25 MR. BAER: I don't think the record is going

1 to be too intelligible. All right. I'll make no
2 objection.

3 BY MR. FRASER:

4 Q. Would you say that the bench was about two
5 feet wide?

6 A. I don't know, but it was narrow, really
7 narrow. It was very narrow, very narrow.

8 MR. FRASER: That's a fair point. Thank you,
9 David.

10 BY MR. FRASER:

11 Q. Do you recall the date that you visited the
12 Fulton property?

13 A. July 3rd. It was the day before Independence
14 Day that year.

15 Q. And you remember the day because it was the
16 day before Independence Day?

17 A. Yes.

18 Q. Did you ever have any contact with James Ho
19 after July 3rd, 2017?

20 A. After I returned from travel to South
21 America, I called Mr. Ho repeatedly, but the call
22 could not go through.

23 Q. Did you make any other attempts to contact
24 him?

25 A. I did. I called Debby many times.

1 THE INTERPRETER: Interpreter needs to
2 clarify.

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

5 THE WITNESS: Debby said that Mr. Ho was
6 kidnapped by the daughter and that for this, Debby
7 called the police.

8 BY MR. FRASER:

9 Q. Did you ask Debby for any other way to
10 contact Mr. Ho?

11 A. I did.

12 Q. And what did you do?

13 A. So after Debby told me that Mr. Ho had been
14 kidnapped -- wait, wait, sorry. Missed something.

15 THE INTERPRETER: Stop. So the interpreter
16 needs direction. You want me to finish her previous
17 response or wait for a clarification?

18 THE COURT: Finish the previous response.

19 THE WITNESS: After she told me that Mr. Ho
20 had been kidnapped, I said, can you give me the phone
21 number of his daughter? His daughter is a nurse,
22 maybe he's at her house and maybe I can contact her
23 and say hello to him that way.

24 She said that she didn't know the phone
25 number of James' daughter. The daughter of Debby was

1 on social terms with the daughter of James. They
2 knew each other from church and so I asked her can
3 you ask your daughter for the contact information for
4 his daughter and maybe that way I can contact her. I
5 don't think this related to the church.

6 THE INTERPRETER: Interpreter clarification:
7 "They were not acquaintances because of church."

8 THE WITNESS: I asked because James' daughter
9 and Debby's daughter frequently attended the same
10 social functions or gatherings. And so I said, can
11 you ask your daughter for the phone number of James
12 Ho's daughter and if your daughter can tell me that
13 phone number, perhaps that way I can contact James
14 Ho. She said no.

15 MR. FRASER: No further questions.

16 CROSS-EXAMINATION

17 BY MR. BAER:

18 Q. Good afternoon, Ms. Chou. My name is David
19 Baer.

20 THE COURT: Mr. Baer, can I just consult with
21 the reporter to see if we should move around?

22 THE REPORTER: I think we're fine.

23 MR. BAER: Okay.

24 BY MR. BAER:

25 Q. You were just testifying about a conversation

1 when Ms. Chang told you that Mr. Ho had been
2 kidnapped. Prior to then, had you been trying to
3 reach Mr. Ho on his cellphone?

4 A. That did happen, but I wasn't able to reach
5 him.

6 Q. Okay. How many times did you try to call him
7 before you spoke to Debby?

8 A. Many times. I didn't count. I don't
9 remember how many times.

10 Q. Did you try just on his cellphone to call him
11 after speaking with Debby?

12 A. Can you say that again, please? I'm not sure
13 I understand it.

14 Q. Okay. So Debby told you that James had been
15 kidnapped. After she told you that, did you continue
16 to try to call James on his cellphone?

17 A. I did.

18 Q. And did you ever reach him?

19 A. I was not able to.

20 MR. BAER: I don't have any further
21 questions.

22 MR. FRASER: No further questions.

23 THE COURT: Very good. Can this witness be
24 excused?

25 THE WITNESS: Oh, just a sec.

1 THE COURT: No, there's no question.

2 MR. FRASER: Ms. Chou, you're done. No
3 problem.

4 MR. BAER: Yes, the witness may be excused,
5 from my perspective.

6 THE WITNESS: Oh, really? Something really
7 important.

8 THE COURT: Okay. If you want to take her
9 out and ask her, no problem.

10 THE INTERPRETER: Did you want to speak to
11 her?

12 MR. FRASER: Sure. Ms. Chou --

13 THE COURT: If you want.

14 (Mr. Fraser, the witness and the interpreter
15 stepped out of the room.)

16 THE COURT: Mr. Fraser, what would you like
17 to do?

18 MR. FRASER: You can be excused, Ms. Chou.

19 THE COURT: Thank you very much.

20 MR. BAER: Thank you.

21 THE WITNESS: Thank you, thank you.

22 MR. FRASER: A few cleanup items on exhibits.

23 THE COURT: Sure, if we could.

24 MR. FRASER: Thanks. Exhibit 148 the loan
25 summary.

1 MR. BAER: No objection.

2 THE COURT: Hold on. I have to get my cheat
3 sheet.

4 148, yes, this is the Sterling Bank and loan
5 trust summary. Your position?

6 MR. BAER: No objection.

7 THE COURT: Received.

8 (Whereupon, Exhibit 148 was admitted into
9 evidence.)

10 MR. FRASER: Exhibit 149, which is the letter
11 of explanation in connection with the loan.

12 MR. BAER: No objection.

13 THE COURT: Received.

14 (Whereupon, Exhibit 149 was admitted into
15 evidence.)

16 MR. FRASER: And 178 we said we were not
17 admitting. We were just introducing for refreshing
18 recollection. 178 was Garcia's declaration.

19 MR. BAER: Yes, okay.

20 THE COURT: That is something that I will
21 give you at the end if it doesn't -- it's not
22 admitted, along with the exhibit. So I'm going to
23 mark it as identified only.

24 MR. FRASER: Yes.

25 THE COURT: For refreshing recollection.

1 Now, if for some reason you think it's important for
2 appellate review, we can let it in. Okay.

3 MR. FRASER: Exhibit 179. This is the gift
4 letter with the two attachments. So a little
5 confusing, but 79 and 179 are the same.

6 MR. BIORN: Three attachments.

7 THE COURT: It has all three of them?

8 MR. BIORN: Yes.

9 THE COURT: One with Wells Fargo and one
10 without?

11 MR. BAER: No.

12 MR. BIORN: No, the Wells Fargo is the second
13 page of Exhibit 79. This exhibit is the one without
14 Wells Fargo and has three documents attached, the
15 earnest money deposit in escrow of 67,050,
16 \$1.1 million check and then the printout from
17 Sterling on the opening of this bank account, of her
18 bank account.

19 THE COURT: Okay. Any opposition?

20 MR. BAER: No.

21 THE COURT: Okay. 180?

22 MR. FRASER: 180 is the uniform residential
23 loan application.

24 MR. BAER: No objection.

25 THE COURT: Received.

1 (Whereupon, Exhibit 179 was admitted into
2 evidence.)

3 (Whereupon, Exhibit 180 was admitted into
4 evidence.)

5 MR. FRASER: I think that's it.

6 THE COURT: Okay.

7 MR. BIORN: I don't need anything on the
8 record at this point.

9 THE COURT: Yes, let's go off the record.

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

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

13 Do you want to go through your exhibits?

14 MR. BAER: Is there anything we didn't get
15 in? I thought we got them all in. I usually don't
16 like to let them accumulate.

17 THE COURT: Let's go off the record.

18 (Whereupon, there was a discussion off the
19 record.)

20 THE COURT: Back on the record. So 510 is
21 received.

22 MR. BAER: 644, the acknowledgement of intent
23 to proceed.

24 MR. FRASER: No opposition.

25 THE COURT: That has been received.

1 MR. BAER: Okay. 513 and 514, those are the
2 two different versions of the loan request consumer
3 information letter.

4 MR. FRASER: I see those as having been
5 received.

6 MR. BAER: Okay.

7 MR. FRASER: No opposition.

8 THE COURT: Hold on.

9 MR. FRASER: Take your time, please. I'm
10 glad I'm not the only one.

11 THE COURT: Yes.

12 MR. BAER: Then I had Chase statements.
13 There's 650. That's the one that begins on March 13,
14 2017.

15 MR. FRASER: No opposition.

16 MR. BAER: And 651 begins on February 13,
17 2017.

18 MR. FRASER: No opposition.

19 THE COURT: Hold on.

20 MR. FRASER: Sorry.

21 THE COURT: You said 650 and 651?

22 MR. BAER: Correct.

23 THE COURT: Okay.

24 MR. BAER: And then I had 648, the request
25 for transcript of tax return and that won't be on

1 your list.

2 MR. FRASER: No opposition.

3 THE COURT: Received.

4 MR. BAER: And then I had 518 and that was a
5 deed of trust on 229 Fulton.

6 MR. FRASER: No opposition.

7 MR. BAER: And I don't think -- oh, yeah. So
8 I didn't do 519, I don't think. And the last one is
9 649.

10 THE COURT: 518 will be received.

11 (Whereupon, Exhibit 518 was admitted into
12 evidence.)

13 MR. BAER: And 649 was the letter from
14 Ms. Cane to somebody at Sterling, can't remember who,
15 but anyway, that enclosed the deed of trust.

16 MR. FRASER: No opposition.

17 THE COURT: 649 was the introductory letter
18 to the deed of trust?

19 MR. BAER: Yes, transition letter, yes.

20 THE COURT: Okay.

21 MR. BAER: I think that's it, right?

22 MR. KUO: Did you say 645 was admitted?

23 MR. BAER: 645? I'm not sure I used that
24 one. What is 645? That's the e-mail. Yes, I left
25 that one out.

1 No, that was the first one I did. That was
2 the first one, 645. That's the e-mail sending the
3 purchase contract to Mr. Garcia.

4 MR. FRASER: Yes. I see that as having been
5 received.

6 MR. BAER: Yes. That's it. Thank you.
7 Appreciate it, Scott.

8 MR. FRASER: Yes.

9 THE COURT: I have 644 is received. Do you
10 have that, an acknowledgement of intent to proceed?

11 MR. FRASER: Yes.

12 THE COURT: Okay. I think we're all on the
13 same page. So is there anything else we need to put
14 on the record?

15 Great. We're off.

16 (WHEREUPON, the proceedings were adjourned at
17 5:40 p.m.)

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R E P O R T E R ' S C E R T I F I C A T E

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

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



Date: June 26, 2024

NINA PAVONE,
CSR No. 7802