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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 )  
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. )  
\_\_\_\_\_)

No. 17 PRO 00973

**CERTIFIED  
TRANSCRIPT**

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
TRIAL - DAY 2

Date: September 19, 2023  
Time: 10:02 a.m.  
Location: JAMS  
160 West Santa Clara Street  
Suite 1600  
San Jose, CA 95113  
Reported by: Nina Pavone  
CSR No. 7802

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

Private Judge:

JAMS  
BY: CATHERINE GALLAGHER, ESQ.  
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The Interpreter:

Ginger Wang

Also present:

Peter Ho  
Kysen Kuo  
Erik Weiss

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P R O C E E D I N G S

THE COURT: Good morning, ladies and gentlemen. I notice we have a new interpreter here, so I'm going to swear her in.

GINGER WANG,  
was first duly sworn by the Court to translate from English to Mandarin and Mandarin to English.

THE COURT: Thank you. And let the record reflect also that Ms. Wang is not here on Zoom, like we had yesterday. She's physically present next to Ms. Chang.

Could you state your name for the record, please?

THE INTERPRETER: Ginger Wang, G-I-N-G-E-R, W-A-N-G.

THE COURT: Thank you.  
I'm presuming that Ms. Chang is going to testify?

MR. BIORN: Yes.

THE COURT: Very good. I'm going to remind you you're still under oath.

MR. BAER: Do you want to translate that, please?

THE COURT: She said something. Could you

1       translate that? I think she said okay.

2               THE INTERPRETER: She was asking what and I  
3       repeat myself.

4               THE COURT: Thank you.

5               DIRECT EXAMINATION (RESUMED)

6       BY MR. BIORN:

7               Q. Good morning, Ms. Chang.

8               A. Good morning.

9               Q. We're back here for some more of your trial  
10       testimony here in this matter.

11              THE INTERPRETER: Witness is asking the  
12       interpreter to speak slower and louder.

13              MR. BIORN: Me?

14              THE INTERPRETER: The interpreter.

15       BY MR. BIORN:

16              Q. Ms. Chang, I would like to ask you some  
17       questions about a property that you and Mr. Ho  
18       purchased in 2003 at 718 Evelyn Avenue, Albany,  
19       California. Okay? Okay?

20              A. Yes.

21              Q. You must respond orally, not with shakes of  
22       the head. Okay?

23              A. Okay.

24              Q. You and Mr. Ho -- and Ms. Chang, when we  
25       refer to Mr. Ho, you understand us to be referring to

1 James Ho, correct?

2 A. Yes.

3 Q. And when we refer to Peter Ho, we're going to  
4 call him by his first name Peter so there's no  
5 confusion. Is that okay with you?

6 A. Yes.

7 Q. Ms. Chang, you and Mr. Ho bought the Albany  
8 property in September of 2003; is that right?

9 A. I did buy a house with him in Albany, but I  
10 don't recall the exact date.

11 Q. All right. Let's take a look at Exhibit 151  
12 which is in binder 2.

13 Ms. Chang, do you see this is a Grant Deed?

14 MR. BAER: It's not. It's a deed of trust.

15 MR. BIORN: Exhibit 150, excuse me.

16 BY MR. BIORN:

17 Q. Ms. Chang, do you see this is a Grant Deed?

18 A. Yes.

19 Q. And do you see where the party taking title,  
20 the buyer of the property, is in the middle there  
21 where it says "Hereby grants to James Ho, an  
22 unmarried man and Debby Chang, an unmarried woman as  
23 joint tenants."

24 Do you see that?

25 A. Yes.

1 Q. And you see the date of this document and  
2 the -- about two-thirds of the way down where it says  
3 September 26, 2003?

4 A. Yes.

5 Q. Does that refresh your recollection that you  
6 and Mr. Ho purchased the property in September 2003?

7 A. Yes.

8 Q. And Mr. Ho was a buyer along with you for  
9 this property in Albany, right?

10 A. Yes.

11 Q. And you and Mr. Ho took out a loan that was  
12 secured by a deed of trust in order to purchase the  
13 property; is that right?

14 A. I think so.

15 Q. Well, let's turn to Exhibit 151.

16 A. Yes.

17 MR. BIORN: Can we go off the record for a  
18 moment?

19 THE COURT: Of course.

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

22 MR. BIORN: Your Honor, can I summarize that  
23 conversation?

24 THE COURT: Sure.

25 MR. BIORN: We've had a discussion off the



1 record and we've agreed -- counsel have agreed and  
2 the judge has agreed that we will refer to the  
3 exhibits by way of the exhibit tab numbers in the  
4 binders and we will not re-mark them as new exhibit  
5 numbers as we go through the trial.

6 THE COURT: Mr. Baer, that's accurate?

7 MR. BAER: That's correct. If it was  
8 inaccurate, I promise you I would have spoken up.

9 THE COURT: Okay. That's how it will work  
10 from now on.

11 BY MR. BIORN:

12 Q. So both you and Mr. Ho were obligated on the  
13 loan that you took out to purchase the Albany  
14 property; is that right?

15 A. Yes.

16 Q. Ms. Chang, do you recall that it was Mr. Ho  
17 who provided the money for the down payment to  
18 purchase the Albany property?

19 A. I think so. I think he took out a down  
20 payment, but I cannot remember the specific details  
21 because I remember mentioning that I wanted to buy  
22 that house that he was willing to put out a down  
23 payment for it, but I don't recall clearly if it was  
24 down payment or other fund.

25 But I don't remember if the entire amount of

1       that money went into down payment or we kept some of  
2       it for the later reimbursing, that part I don't  
3       recall specifically.

4               Q. Ms. Chang, Mr. Ho opened a new bank account  
5       at Washington Mutual in your name and his name to --  
6       through which you managed the income and expenses  
7       for the Albany property.

8               Do you recall that?

9               A. I seem to remember that.

10              Q. And it's fair to say that you didn't make any  
11       of the deposits into that account from your own  
12       money; is that right?

13              A. No.

14              Q. Well, that's a double negative. So is it  
15       correct that you did not make any deposits into that  
16       bank account?

17              A. That's correct.

18              THE INTERPRETER: The witness answered no.

19              MR. BIORN: Did she answer that's correct or  
20       no?

21              THE INTERPRETER: She answered no, but --

22       BY MR. BIORN:

23              Q. Let me ask a better question. Ms. Chang, did  
24       you personally make any deposits into that bank  
25       account?

1           A. No.

2           Q. And by that, I mean, from your own personal  
3 funds, did you make any deposits into that bank  
4 account?

5           A. No.

6           MR. BAER: So I want to object to this. We  
7 have a motion in limine in which Mr. Biorn requested  
8 and was given permission to essentially have experts  
9 go through the financial records of these  
10 transactions from basically now about -- let's see,  
11 18 to 20 years ago with respect to at least the  
12 purchase of Evelyn of McCollum properties.

13           The premise of that motion was basically that  
14 the experts were going to sort through the available  
15 financial records so that they could essentially, as  
16 best they could with those records, trace these  
17 transactions.

18           And to be asking witnesses about these  
19 specific transactions 18 years ago or now 20 years  
20 ago, I think it is -- it unduly consumes time in  
21 light of the expert reports and I don't think it's  
22 reasonable to expect to get any kind of competent  
23 responses about transactions that occurred 18 years  
24 ago from the witnesses.

25           So I'm going to object to this line of

1 inquiry under 352 in light of the fact that we've  
2 procured these expert reports. That was the whole  
3 idea.

4 MR. BIORN: Your Honor, first of all, I  
5 object to his speaking objection which could be  
6 construed as advising his client to how to answer  
7 these questions.

8 With respect to actual objection, we do have  
9 reports tracing the funds, so I'm not going to do  
10 that. I'm asking simple, basic questions; they took  
11 title in their own names, they had a joint bank  
12 account, she didn't put her own personal money in  
13 there, and then I'm going to just trace through the  
14 closing statement that they did a 1031 exchange after  
15 McCollum.

16 I'm just going to go very quickly, as fast as  
17 I can at least, through the transactions to give an  
18 overview of them. The reports are the detail of the  
19 financial transactions.

20 THE COURT: I'll permit some of this, but it  
21 is bordering on taking too much time. Obviously, you  
22 need to ask some questions. Let's just pinpoint it  
23 to the area that you're interested in.

24 MR. BIORN: Okay.

25 BY MR. BIORN:

1 Q. Ms. Chang, the mortgage that you had on the  
2 Albany property, that was paid from the rents that  
3 you received from your tenants; is that right?

4 MR. BAER: Objection. 352.

5 THE COURT: Overruled. She can answer.

6 THE WITNESS: Well, I don't remember if it  
7 was the fund came from tenants or not and I don't  
8 remember if they pay us monthly for rent or not.

9 All I remember is it was back in that time,  
10 it was a little chaotic and the closing date of the  
11 house has been delayed for a long time and I think  
12 even we have the rent money, it wasn't enough to pay  
13 for the mortgage.

14 BY MR. BIORN:

15 Q. I'd like to read from the witness's  
16 deposition volume 3, page 258, lines 9 to 17.

17 MR. BIORN: David, in the interest of time,  
18 may I represent this is part of a discussion of the  
19 Albany property?

20 MR. BAER: Well, I would assume that. What  
21 page is it?

22 MR. BIORN: 258, 9 to 17. I can go back to  
23 read from earlier, but I'm trying to move this along.

24 MR. BAER: I object to this again under 352.

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

1 Lines 14 to what?

2 MR. BIORN: Line 9 to 17.

3 Mr. Baer, will you accept my representation  
4 this is about the loan on the Albany property or I  
5 can go back and read --

6 MR. BAER: No, no, that's fine. I understand  
7 that.

8 BY MR. BIORN:

9 Q. "Question: Uh-huh. What source of funds did  
10 you use the purportedly pay the loan?

11 Answer: What money? What source?

12 Question: That's my question. What was the  
13 source of the funds that you used to pay that loan?

14 Answer: The source of -- to pay the loan was  
15 from the rent.

16 Question: Okay.

17 Answer: That would be the money from the  
18 rent."

19 THE WITNESS: I really don't recall.

20 BY MR. BIORN:

21 Q. There's no question pending.

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

23 THE WITNESS: Oh, okay.

24 BY MR. BIORN:

25 Q. Ms. Chang, when you sold the Albany property,

1       you used some of the proceeds to do an Internal  
2       Revenue Service Code 1031 exchange to purchase this  
3       property on McCollum in Los Angeles; is that right?

4             A. Yes.

5             Q. And both you and Mr. Ho purchased that  
6       McCollum property jointly; is that right?

7             A. Yes.

8             Q. You had a loan with respect to the purchase,  
9       a new loan with respect to the purchase of that  
10      property; is that right?

11            A. Yes.

12            Q. And both you and Mr. Ho were co-borrowers on  
13      that loan, correct?

14            A. Yes.

15            Q. And you continued to use the same joint bank  
16      account that you had for the Albany property in order  
17      to manage the McCollum property income and expenses,  
18      correct?

19            A. I don't remember.

20            Q. Do you recall there was a point in time that  
21      Mr. Ho and you signed a deed transferring the  
22      property from the two of you to only you?

23            A. Is it the time that we went to see a lawyer?

24            Q. Let's look at Exhibit 145. That's in volume  
25      2.

1           Ms. Chang, you have in front of you  
2       Exhibit 145 entitled "Grant Deed." It has your  
3       signature and Mr. Ho's signature on there, right?

4           A. Yes.

5           Q. You see where it refers to an attorney in the  
6       upper left, Paul Malone?

7           A. Yes.

8           Q. Was he the attorney who prepared this deed  
9       for you?

10          A. Yes.

11          Q. The signature of Mr. Ho on this document, do  
12       you recognize that as his signature?

13          A. I think so. There were only the two of us,  
14       along with the lawyer on that day.

15          Q. Okay. That's not my question.

16                My question is: Do you recognize Mr. Ho's  
17       signature on this document?

18          A. I don't need to check the signature because  
19       I'm sure that on that date, in that room, there was  
20       only me, Mr. Ho and the lawyer.

21               MR. BIORN: Your Honor, I'll move to strike  
22       as nonresponsive.

23               THE COURT: It is. It's a repetition of the  
24       prior answer, so the evidence is already in.

25               All he's asking, Ms. Chang, is does that look



1       like James Ho's signature to you.

2               THE WITNESS:   Yes.

3               THE COURT:   I didn't want to put words in  
4       your mouth, but I think that was --

5               MR. BIORN:   Thank you.   Better question.  
6       Thank you, Your Honor.

7       BY MR. BIORN:

8               Q.   The attorney Paul Malone, who drafted this  
9       document, he only represented you, not Mr. Ho; is  
10      that right?

11              THE INTERPRETER:   Interpreter will translate  
12      the first half of the sentence.

13              (Translated.)

14              THE WITNESS:   Yes, but since it involved  
15      Mr. Ho's name, the lawyer said you will need to put  
16      his name.   Do you need to put his name in your trust?

17              And I said, this person is here present.   If  
18      not, I will have to figure out how to get his  
19      signature.

20              Okay.   So when the lawyer was preparing this  
21      document, he wants to prepare the document with my  
22      names on it, of course.   Since I didn't know the  
23      procedure well and all I asked is well, this person  
24      is present here, if you have questions, you ask him.

25              To put it simply, this is something that

1 involves me so the lawyer will have to be very clear  
2 in the details.

3 MR. BAER: Ms. Chang, please be careful to  
4 listen to the question. All he wanted to know was  
5 whether this attorney was your attorney or whether it  
6 was James' attorney, too.

7 THE WITNESS: He represented me, but this is  
8 the matter that involves me, so he has to be -- he  
9 has to know the details.

10 MR. BIORN: Your Honor, I'm just going to  
11 read from her deposition, volume 3, page 271, line 22  
12 through page 272, line 8.

13 MR. BAER: What line on 272?

14 MR. BIORN: Line 8.

15 BY MR. BIORN:

16 Q. "Question: Okay. Were you and James Ho  
17 joint clients of Paul Malone?

18 Answer: No, no.

19 Question: Okay. Did you ever meet with Paul  
20 Malone alone without James Ho being present?

21 Answer: Will you please repeat it again?

22 Question: Sure. Did you ever meet with Paul  
23 Malone alone without James Ho being present?

24 Answer: Yes."

25 A. I can answer --

1 Q. No, there's no question.

2 MR. BIORN: Your Honor, could we please  
3 advise the witness that when I read from her  
4 deposition there's no question pending unless I ask  
5 her one?

6 THE COURT: That is correct. Ms. Chang,  
7 he'll read from it. There's no question. Your  
8 attorney will ask you when he gets a chance to talk  
9 to you.

10 THE WITNESS: Sorry, this is my first time.  
11 That's why I say.

12 THE COURT: That's fine.

13 BY MR. BIORN:

14 Q. Ms. Chang, that's actually not right. You  
15 testified in a personal injury accident sometime in  
16 the year 2000; is that right?

17 MR. BAER: Objection. Vague and ambiguous.  
18 Depends on where the testimony was given.

19 THE WITNESS: Can you be a little specific  
20 about the personal injury incident?

21 THE COURT: I guess the objection is  
22 sustained then. Can you ask the question?

23 MR. BIORN: Never mind. Let's move on.

24 BY MR. BIORN:

25 Q. Ms. Chang, I want to take your attention now

1 to the fall or early winter of 2016, so after the  
2 radiation treatments but before Mr. Ho was diagnosed  
3 with blood cancer, okay?

4 THE INTERPRETER: Can I have a read-back?

5 (The record was read by the Reporter.)

6 THE INTERPRETER: The witness is asking the  
7 interpreter to repeat the question.

8 (The interpreter repeated the question in  
9 Mandarin.)

10 THE WITNESS: Okay.

11 BY MR. BIORN:

12 Q. Do you recall sending Peter a text saying  
13 that you were very upset about Mr. Ho and there was  
14 no way he can get better?

15 A. I don't remember.

16 Q. Let's turn to Exhibit 65, binder 1.

17 Ms. Chang, this is a two-page document of a printout  
18 of text messages. On the first page, do you see the  
19 date of Sun, 11-13-2016?

20 A. Yes.

21 Q. And turning to the second page, do you see  
22 the text message continues on the second page?

23 A. Okay. I see it.

24 Q. Do you recognize these two pages as text  
25 messages that you sent to Peter on November 13, 2016?

1           A. I don't remember at all.

2           MR. BIORN: Your Honor, I would like to read  
3 this into the record as a statement by party -- of  
4 the party's statement? I can authenticate it through  
5 my own witness. We can go through it again at that  
6 time.

7           MR. BAER: I'm going to object under 352.  
8 It's part of the document. Why do we need to read  
9 the document?

10          MR. BIORN: I'll move it into evidence then.

11          THE COURT: It will be received.

12          MR. BAER: That's okay.

13                 (Whereupon, Exhibit 65 was marked for  
14 identification.)

15 BY MR. BIORN:

16           Q. When we left off yesterday we were talking  
17 about some of the ways that you were helping Mr. Ho  
18 in 2017. I'd like to ask you some more questions  
19 about that. Okay?

20           A. Okay.

21           Q. In 2017, you had to take care of a lot of  
22 things for James, didn't you?

23           A. Yes.

24           Q. Such as cooking for him; is that right?

25           A. Yes.

1 Q. And grocery shopping for him?

2 A. Yes.

3 Q. And cleaning for him?

4 A. Yes.

5 Q. And tending to his medications for him?

6 MR. BAER: Objection. Vague and ambiguous.

7 THE COURT: In what way is it vague and  
8 ambiguous?

9 MR. BIORN: That's fine.

10 THE COURT: Okay.

11 MR. BIORN: I'll withdraw.

12 THE COURT: Sure.

13 BY MR. BIORN:

14 Q. And doing Mr. Ho's laundry for him?

15 A. I don't remember. I think sometimes I did  
16 it.

17 Q. And washing the dishes for him?

18 A. Yes.

19 Q. Sometimes you would do the dishes until 12:00  
20 midnight; is that right?

21 A. Yes.

22 Q. Basically, it was all you taking care of  
23 Mr. Ho in 2017; is that a fair description?

24 MR. BAER: I'm going to object as vague and  
25 ambiguous.

1 THE COURT: Overruled.

2 You can answer that.

3 THE WITNESS: Yes.

4 BY MR. BIORN:

5 Q. In Mr. Ho's last two years, you kept track of  
6 which medications he had to take; is that right?

7 A. Yes, but I just thought of something.

8 Q. There's no question pending. Is it regarding  
9 my question?

10 A. Yes.

11 Q. Okay.

12 A. So you asked me if I did this all by myself.  
13 We actually hired two part-time assistants, but from  
14 what time to what time, I don't recall specifically.  
15 For one month only.

16 Q. Okay. So my question is: In the last two  
17 years of Mr. Ho's life, you kept track of which  
18 medications he had to take; is that right?

19 A. Yes.

20 Q. And you gave the medications to him, isn't  
21 that right, for the last two years of his life?

22 A. It wasn't like that he took -- he had taken  
23 medicine for two years straight. It was during the  
24 time that he received chemo, he had to take a lot of  
25 medications. I forgot if it's chemo or radiation. I

1 don't remember about radiation, but I remember he had  
2 to take a lot of medications during his chemotherapy.

3 Q. And during that time until the end of his  
4 life or -- excuse me.

5 And during that time you just described, end  
6 of radiation or beginning of chemo until August 2017,  
7 you gave him his medications; is that right?

8 A. I did remember administrating medications  
9 during the chemo time, at the time of these  
10 chemotherapies by the instructions of the doctor.  
11 That was before Peter took him back. And if you  
12 asked me five years ago, I would remember the actual  
13 years and time, but now, I don't.

14 Q. I'd like you to turn to Exhibit 57.

15 Ms. Ho [sic], do you recall receiving this  
16 check from Mr. Ho for \$3,000 on or about February 22,  
17 2016?

18 A. I don't remember.

19 Q. Ms. Ho [sic], below the check is what appears  
20 to be your signature which -- excuse me, let me start  
21 again.

22 This is a document produced by the bank that  
23 shows a photocopy of the front and back of this  
24 check. On the bottom is the back of the check.

25 Do you recognize your signature there?



1           A. It looks like my signature, but I have to  
2 admit that sometimes I don't recognize my own  
3 handwriting.

4           Q. If you'd turn to Exhibit 58, while Mr. Ho was  
5 alive, did you ever see his check register that he  
6 maintained?

7           A. Never.

8           Q. Does this page look at all familiar to you?

9           A. I never see anything like that of him.

10          Q. I'm just going to go through a few more  
11 checks here.

12                 If you'd turn to Exhibit 59, do you recall  
13 receiving this check from Mr. Ho in around June of  
14 2016?

15          A. I don't remember.

16          Q. Move to Exhibit 63 -- I'm sorry, 61. Do you  
17 recall receiving this check from Mr. Ho in around  
18 July 2016?

19          A. I don't remember.

20          Q. On the lower left-hand part of this page, do  
21 you see your signature?

22          A. Yes.

23          Q. Could you turn to Exhibit 69. Do you recall  
24 receiving this check from Mr. Ho in around January of  
25 2017?

1 A. What date and month?

2 Q. January 2017.

3 A. I don't remember.

4 Q. Ms. Chang, do you recognize the two Chinese  
5 characters in the lower left-hand part of the check?

6 A. No, I don't. Yes, I do, sorry.

7 THE INTERPRETER: Interpreter error.

8 BY MR. BIORN:

9 Q. What do these characters say in English?

10 A. Grocery shopping.

11 Q. Do you recall yesterday when I asked you if  
12 Mr. Chang [sic] ever reimbursed you for groceries and  
13 you said no, do you recall that from your testimony  
14 yesterday?

15 THE INTERPRETER: Can I have a read-back from  
16 Ms. Reporter.

17 (The record was read by the Reporter.)

18 MR. BIORN: Let me restate the question.

19 BY MR. BIORN:

20 Q. Do you recall your testimony from yesterday  
21 when you said that Mr. Ho never reimbursed you for  
22 groceries?

23 A. Yes.

24 Q. Do you recall this check -- let me have you  
25 turn to Exhibit 75.

1 Do you recall receiving this check from  
2 Mr. Ho in around February of 2017?

3 A. I don't remember.

4 Q. It's a large check for \$10,000. Did Mr. Ho  
5 often provide you checks for \$10,000?

6 A. Not often, I think, but I don't remember.

7 Q. Do you recall him providing you checks for  
8 more than \$10,000 other than the million dollar check  
9 that's at issue in this case?

10 A. I remember just one check that has the amount  
11 of 10,000 around August -- July or August in 2017,  
12 but I don't remember others.

13 Q. Do you recall checks for more than \$10,000  
14 that Mr. Ho made payable to you?

15 A. No, I don't remember.

16 Q. Do you recognize the Chinese characters in  
17 the lower left-hand corner of this check?

18 A. I think it says two month. I can't be sure.

19 THE COURT: I'm sorry, two months?

20 THE INTERPRETER: Two months.

21 THE COURT: Thank you.

22 BY MR. BIORN:

23 Q. Let's move to check number -- I'm sorry, is  
24 that your signature there on the lower right-hand  
25 corner of this page, the middle right side of this

1 page?

2 A. I think so.

3 Q. I'd like to move to Exhibit 85. Ms. Ho --  
4 sorry, Ms. Chang, do you remember receiving a check  
5 from Mr. Ho for \$10,000 made payable to cash in or  
6 around April 2017?

7 A. Well, I don't quite remember if it's payable  
8 for cash, but back then, I did wonder why he -- why  
9 he would often give me so much money, but I didn't  
10 think much of it. I would just put them aside.

11 Q. Is that signature yours in the middle  
12 right-hand part of this page?

13 A. I think so.

14 Q. Let's go to Exhibit 119. Ms. Chang, do you  
15 recall receiving a check from Mr. Ho -- do you recall  
16 receiving this check from Mr. Ho?

17 A. I don't remember. Well, wait. I remember  
18 the amount, but I don't think that's his handwriting,  
19 I mean the rent and food.

20 Q. Ms. Chang, do you see on the typewritten  
21 portion the third line where it says posting date  
22 28-August-17?

23 A. Yes.

24 Q. So that's over a year after the date of the  
25 check which, as you can see, is April 23, 2016.

1 Does that -- does the date of August 2017  
2 refresh your recollection about receiving this check?

3 A. I really can't recall.

4 Q. Is that your handwriting in the lower  
5 left-hand portion where it says "Jun rent and food"?

6 A. Like I said, this doesn't look like his  
7 handwriting, but I'm not sure if it's mine.

8 Q. Okay. I'd like to read from the witness's  
9 deposition, volume 2, page 134, lines 4 to 24.

10 "Question: I'm showing you what's been  
11 marked as Exhibit 13 which is a check made out to you  
12 in the amount of \$5,000. The date on the check is  
13 April 23, 2016, but I want to direct your attention  
14 to the information at the top of the exhibit. Do you  
15 see where it indicates date posted August 28, 2017?

16 Answer: Yes.

17 Question: August 28, 2017 is when you cashed  
18 this check, correct?

19 Answer: Yes.

20 Question: Does your handwriting appear  
21 anywhere on this check?

22 Answer: Yes.

23 Question: Where?

24 Answer: On the bottom.

25 Question: How long had you held on to this

1 check before adding the words 'June rent and food'?

2 I don't recall. Maybe the date I deposited.  
3 At that time, I was very sad so I look at this check,  
4 I don't think too much and I just deposit it."

5 Actually it goes -- there's another  
6 translation at the time, with two translators there.  
7 The other translator says "At that time I was very  
8 sad." And continuing to the top of page 135 "When I  
9 saw this check, I didn't even look at the date and I  
10 went ahead and deposited it."

11 MR. BAER: So I have an objection, but I'm  
12 not quite sure what it is. It sort of seems to me  
13 like there ought to be one translator per --

14 MR. BIORN: Oh, they had two translators at  
15 the first two volumes of her deposition.

16 MR. BAER: Oh, okay.

17 MR. BIORN: Stipulated to by counsel at the  
18 time.

19 THE WITNESS (In English): Can I say  
20 something?

21 MR. BIORN: No. You can talk to your  
22 attorney.

23 MR. BAER: You have to answer questions.

24 THE COURT: Do you want to take a recess now?

25 MR. BAER: I would.

1 THE COURT: Okay. We'll be back in about  
2 five, ten minutes. Thanks.

3 (Whereupon, a break was taken.)

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

5 Ms. Chang, Ms. Wang, please just discuss the  
6 case and interpretation. No side comments. You just  
7 can't talk between each other. Thank you.

8 MR. BAER: Your Honor, for clarification, do  
9 you mean when they're on the record or do you mean at  
10 all?

11 THE COURT: Oh, correct, very good, Mr. Baer.  
12 When we're on the record. Off the record, you can  
13 discuss whatever you want.

14 MR. BIORN: Well, I hope they wouldn't  
15 discuss the case.

16 THE COURT: Fair enough. Yes, don't discuss  
17 the case. I'm sorry. You can discuss things other  
18 than this case. Very good. Okay.

19 MR. BIORN: Okay.

20 BY MR. BIORN:

21 Q. Let's go to Exhibit 94. Ms. Chang, do you  
22 recall receiving this check from Mr. Ho for \$3,500 in  
23 or around July 2017?

24 A. I think so, but I don't recall the details.

25 Q. Do you see the handwriting in the lower

1 left-hand corner? Is that your handwriting?

2 A. No.

3 Q. Do you recognize the handwriting?

4 A. I'm not sure if this check came from him or  
5 not.

6 Q. The handwriting in the lower left-hand corner  
7 seems to say rental, 229 Fulton. Is 229 Fulton the  
8 street address for the Redwood City property that you  
9 bought?

10 A. Yes.

11 Q. Do you recall Mr. Ho paying you rent for  
12 staying at 229 Fulton?

13 A. We never. If it did, this is something new  
14 to me. Well, back then, it was possible. I was  
15 pretty tight with mortgage and other expenses. On  
16 top of that, Peter also did a loan or something  
17 pertaining to interest charge and I think he -- what  
18 he did was to cut me a check in the name of the rent.

19 Let me repeat myself.

20 THE INTERPRETER: The interpreter needs ask a  
21 clarifying question.

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

24 THE WITNESS: Well, I received this check.

25 MR. BIORN: Wait, can you interpret your



1 questions as well and then all the way back to the  
2 beginning of her answer?

3 THE INTERPRETER: My question is what's 1.1  
4 because the witness mentioned 1.1 in her sentence  
5 without any reference, dollars amount or anything.  
6 So my question, interpreter's clarifying question is  
7 what is 1.1?

8 MR. BIORN: Can you read her entire answer  
9 even before your question?

10 THE INTERPRETER: Can I have a read-back,  
11 please?

12 THE REPORTER: Are you wanting a read-back of  
13 what you said? What am I reading back?

14 MR. BAER: I think she needs Ms. Chang to  
15 repeat what she said. So I think the question needs  
16 to be read back.

17 MR. BIORN: Is that right?

18 MR. BAER: She never translated what  
19 Ms. Chang said.

20 MR. BIORN: I know. Maybe what we need to do  
21 is have the translator, if there's a long answer,  
22 raise your hand for Debby to stop so you can  
23 translate to that point and then Debby can continue.

24 THE WITNESS: Yes.

25 THE COURT: Okay. Ms. Wang, can you tell me

1       how would be best to solve this problem?

2               THE INTERPRETER:  It will be best if  
3       everybody can break their long sentences into shorter  
4       sentences, of course.  And anything that is not known  
5       to interpreter needs to have reference, like I don't  
6       know what 1.1 is, if it's -- is it million or --  
7       right.

8               MR. BIORN:  I'm not sure why you need to know  
9       what 1.1 is.  If that's her testimony, that should be  
10      the translation.  It should be for me to ask the  
11      follow-up question.

12              THE INTERPRETER:  Yes, but in order to frame  
13      the sentence in Chinese, sometimes the syntax is  
14      different.  Sometimes I have to wait until the entire  
15      question to form my Chinese translation.

16              MR. BIORN:  Ms. Wang, my apologies.  I didn't  
17      understand that.

18              THE COURT:  So this idea to raise your hand  
19      to tell the witness to stop at that point sounds like  
20      a good one.

21              Now, this is unfair, but could you translate  
22      what we just said to her.

23              THE INTERPRETER:  Let me start with let me  
24      repeat myself.

25              THE WITNESS:  When I get the check of 1.1, it

1 was a cash gift from Mr. Ho, but Peter wanted to  
2 charge interest on that amount because he saw it as a  
3 loan.

4 THE INTERPRETER: And that's where I stopped,  
5 where the interpreter stopped interpreting.

6 The witness hasn't finished.

7 MR. BIORN: We don't even have the beginning  
8 part of her answer. We only have from your question  
9 and then Debby -- Ms. Chang's response to your  
10 questions. Are you able to recall the answer before  
11 your questions, Madam Interpreter?

12 THE INTERPRETER: Was it regarding the check  
13 and the handwriting, that --

14 MR. BIORN: No.

15 THE INTERPRETER: Then I need a read-back.

16 THE REPORTER: What am I reading back?

17 MR. BIORN: I think it was a simple question  
18 on did Mr. Ho pay you rent? Can you go back and take  
19 a look?

20 (The record was read by the Reporter.)

21 MR. BAER: So may she finish giving her  
22 answer?

23 THE COURT: Right. I think she's still  
24 going.

25 THE WITNESS: Back then I never asked him for

1 rent. As far as I remember, this is the first time.  
2 So because back then I had to pay the loan from the  
3 bank, on top of that, Peter also asked me to pay  
4 interest. So I decided to use that money to -- for  
5 the expenses.

6 BY MR. BIORN:

7 Q. Ms. Chang, can you explain to me how Peter  
8 wanting you to pay interest has anything to do with  
9 Mr. Ho paying you rent?

10 A. Like I said, I had huge expenses so since  
11 he -- since he was willing to pay rent, I thought I  
12 will use that money to help me with the expenses.

13 Q. Okay. So then if I understand your question  
14 correctly, Mr. Ho did, at some point, pay you rent  
15 for staying at 229 Fulton?

16 A. Only this time -- only that one time. I  
17 never asked him for rent. He never paid me rent  
18 because we're in a different type of relationship.  
19 We never talked about rent.

20 Well, since we lived like a married couple we  
21 don't talk about paying each other for rent. But  
22 back then, if -- he was willing to pay me rent, so I  
23 thought I would take it to help the expenses.

24 Q. I'd like to read from the witness's  
25 deposition, volume 3, page -- excuse me, volume 2,

1 page 133, lines 1 to 21.

2 "Question: I'm showing you what's been  
3 marked as Exhibit 12, which is a July 10, 2017 check  
4 in the amount of \$3,500 made out to you, Ms. Chang.  
5 In the lower left-hand corner, it says rental 229  
6 Fulton.

7 Do you see that?

8 Answer: Yes.

9 Question: Was James paying you rent to live  
10 in the Fulton Street property in July 2017?

11 Answer: He didn't pay me rent. No, he  
12 didn't pay me rent."

13 Ms. Chang, do you remember testifying  
14 numerous times at your deposition that Mr. Ho never  
15 paid you rent to stay at Fulton Street?

16 A. Well, yes, he never paid me rent and I don't  
17 know why he put rent on that check. But the way I  
18 see it, this is not really rent from him. That was  
19 just the money I used to help with the expenses and I  
20 never charged him any rent before and after, never  
21 before, never after.

22 Q. But Ms. Chang, you just testified that he  
23 wanted to pay you rent and you had lots of expenses  
24 so you took it. Now, are you changing your  
25 testimony?

1 MR. BAER: It's argumentative.

2 THE COURT: Sustained.

3 BY MR. BIORN:

4 Q. Ms. Chang, let's go back to 119, Exhibit 119.

5 MR. BAER: Sorry.

6 BY MR. BIORN:

7 Q. Ms. Chang, we just looked at this check where  
8 you wrote yourself in the lower left-hand corner  
9 "June rent and food."

10 If Mr. Ho never paid you rent, why did you  
11 write June rent in the lower left-hand corner?

12 A. Well, like I said, I put down rent sometimes  
13 because I don't know what other words to put down.  
14 You can check my records, like exactly how many times  
15 I charged him rent. We were together for 25 years.  
16 He spent a great deal of time at my place. Did I  
17 ever charge him rent?

18 Q. Ms. Chang, we've seen numerous checks from  
19 Mr. Ho to you today where there was nothing written  
20 in the left-hand corner. Why on this check number  
21 119 did you feel compelled to write something in the  
22 left-hand corner?

23 MR. BAER: Objection. Asked and answered.

24 THE COURT: Overruled. It's cross. I'm  
25 going to allow some latitude.

1 THE WITNESS: I told you because I don't know  
2 what to put down. Sometimes I did it in a rush and  
3 you can look at from our history that there was -- I  
4 never charged him any rent. But we need to put  
5 things on the check. I don't know what else to put  
6 but just rent and food.

7 MR. BIORN: Move to strike as nonresponsive,  
8 Your Honor.

9 The question is she received numerous checks  
10 that she deposited without anything written in the  
11 lower left-hand corner. Why did she feel she had to  
12 write something on this particular check?

13 MR. BAER: I don't know what to say other  
14 than I disagree. I think it is responsive.

15 THE COURT: I'm going to -- I'm going to deny  
16 your request to strike. You certainly can make those  
17 arguments.

18 BY MR. BIORN:

19 Q. Let's go to Exhibit 96. Do you see  
20 Exhibit 96?

21 MR. BAER: Not yet she doesn't. Hold on a  
22 second.

23 BY MR. BIORN:

24 Q. Ms. Chang, do you recall receiving this check  
25 from Mr. Ho in July 2017 for \$3,000?

1 A. No, I don't.

2 Q. Ms. Chang, do you see the pay to the order of  
3 where it says Debby Chang, for food and there's a  
4 Chinese character there. Do you know what that  
5 Chinese character means in English?

6 A. Where?

7 MR. BAER: I think right here.

8 MR. BIORN: Yes.

9 BY MR. BIORN:

10 Q. Right following the ampersand. Is that a  
11 Chinese character?

12 A. Yeah, I see it.

13 Q. What does that mean -- what does that Chinese  
14 character mean in English?

15 A. Food.

16 Q. Is that the Chinese character that is  
17 referred to as gong?

18 THE INTERPRETER: Can you spell it?

19 MR. BAER: Objection. Relevance.

20 THE COURT: Could you spell it for the  
21 reporter?

22 MR. BIORN: Yes. We can --

23 THE COURT: Is it G-U-N-G?

24 BY MR. BIORN:

25 Q. Let me ask a different question. Doesn't



1 that Chinese character mean in English the word  
2 "work"?

3 A. Yes.

4 Q. Maybe I misunderstood the interpreter. Do  
5 you know why Mr. Ho was writing you a check for  
6 \$3,000 in July 2017 for work?

7 MR. BAER: Objection. Lacks foundation.

8 THE COURT: That's a yes-or-no answer. You  
9 can answer it.

10 THE WITNESS: Let me tell you that we don't  
11 pay attention to details when we lived together. We  
12 would just put down anything -- since we lived like a  
13 married couple so we don't really care what each  
14 other's write. Otherwise, I would have asked him why  
15 did you put this word on the check.

16 But it's not because -- not because when he  
17 put down the word gong for once, it's not like I  
18 charged him for work all the time.

19 MR. BIORN: David, if we could move to volume  
20 2 of the exhibits.

21 MR. BAER: Volume 2, yes.

22 MR. BIORN: To Exhibit 155.

23 BY MR. BIORN:

24 Q. Ms. Chang, do you recall receiving this check  
25 from Mr. Ho for \$10,000 in or around August 2016?

1           A. I seem to remember he did it before he was  
2 taken away, but my memory is fuzzy right now.

3           Q. You testified earlier today that you thought  
4 Mr. Ho had only given you one check for \$10,000. Do  
5 you recall now receiving more than one check from  
6 Mr. Ho for \$10,000?

7           A. Well, please forgive me, I got a letter from  
8 a doctor saying that I have problem concentrating for  
9 a long time, so I hope you can forgive me. I've  
10 already given you my answer and I am very old now, so  
11 I really don't remember that much.

12           When he gave me money, I always wondered why  
13 do you give me this money. And I never asked him for  
14 money. And when he was alive nobody ever asked me  
15 about this. As soon as he passed, everybody came up  
16 with all kinds of questions. What does that mean?

17           MR. BIORN: Move to strike as nonresponsive.  
18 The question was whether this document refreshed her  
19 recollection whether she received more than one  
20 \$10,000 check from Mr. Ho.

21           MR. BAER: I think part of it was responsive.

22           THE COURT: Part of it was responsive. So  
23 the responsive part will be -- will remain.

24           Ms. Chang, do you need a five-minute break  
25 just to walk around?

1 THE WITNESS: That's okay.

2 THE COURT: Okay.

3 THE WITNESS: Thank you. It's going to be  
4 like that all the time.

5 MR. BIORN: The responsive part will be --

6 THE COURT: Remain -- the nonresponsive part  
7 will be stricken.

8 MR. BIORN: All right.

9 BY MR. BIORN:

10 Q. Let's move to the next, Exhibit 156.

11 Ms. Chang, here's a check for \$10,000 signed -- from  
12 Mr. Ho's account, payable to you in September of  
13 2016.

14 Do you recall receiving this check in or  
15 around September 2016?

16 A. No, I don't.

17 THE COURT: Could I interrupt? You said 156?

18 MR. BIORN: Yes.

19 THE COURT: And what date did you say?

20 MR. BIORN: September 2016.

21 THE COURT: Very good. Thank you.

22 MR. BIORN: Okay.

23 BY MR. BIORN:

24 Q. So now we've just seen two more checks for  
25 \$10,000. Does that refresh your recollection that

1       you received more than one check from Mr. Ho for  
2       \$10,000?

3               MR. BAER:   So I'm going to object for lack of  
4       foundation.

5               THE COURT:   Overruled.  
6       You can answer.

7               THE WITNESS:   I don't remember.

8               MR. BIORN:   Your Honor, I'd like to read from  
9       the witness's deposition, volume 2, page 113, line 6  
10      to page 115, line 23.

11              MR. BAER:   I'm sorry, can you give me that  
12      again?   I couldn't find the transcript.

13              MR. BIORN:   113, 6 -- no, 113, 6 to 115, 23.

14      BY MR. BIORN:

15              Q. "Question:   This check for \$10,000, do you  
16      remember receiving it?

17              Answer:   I remember he gave me \$10,000, but I  
18      cannot be certain whether or not this date is  
19      correct, but if he signed, yes, maybe I did receive  
20      it, but I'm not sure whether or not it was this  
21      date."

22              Further translation by the second translator,  
23      "but if he did sign I did receive one.   I can't be  
24      sure about the date though."

25              Question:   Did you receive any other \$10,000

1 checks from James?

2 Answer: Yes.

3 Question: How many?

4 Answer: I believe two.

5 Question: When did you receive the other  
6 \$10,000 check?

7 Answer: Let me -- I want to make sure of one  
8 thing: Besides this check, there is another check if  
9 this check is the correct one. Besides this check, I  
10 received another check. It was 2017.

11 Question: For \$10,000?

12 Answer: Yes."

13 And it continues down on line 12 on 114,  
14 "Anyway, I only have two checks, total two checks.  
15 Two checks of \$10,000, two checks of \$10,000 in  
16 value.

17 Question: Were those the largest checks you  
18 ever received from James Ho?

19 Answer: Yes, because the amount, the big  
20 amount, that's why I remember. In fact, he seldom  
21 gave me money.

22 Question: And why is it, if you know, that  
23 you received these big checks for the first time in  
24 2016 and 2017?

25 Answer: If the date is correct, because he

1 was about to go to Taiwan and get his pension or  
2 retirement funds or something. And then he told me  
3 why don't you take this check. When I come back from  
4 Taiwan, I'll have more money. The check at that time  
5 I was making -- I'm sorry, I'm sorry. At that time,  
6 I was doing my deck, a big deck and then he said,  
7 this money will help you build this deck because he  
8 told me that he will bring back a lot more money when  
9 he's back. Every time he gave the money, he just  
10 said take it, just take it, but I wasn't comfortable,  
11 you know, I never really said something when he was  
12 taking the money. Okay. Reject. I didn't say like  
13 this. Okay. Every time he gave me money, it was  
14 always a little uncomfortable. Then he always told  
15 me yeah, just take it. Sometimes he even got upset  
16 when I reject to take his money and he wasn't giving  
17 me that many times, give me money, but when he gave  
18 me money, I would put it in my pocket and I would put  
19 it in my pocket for several days."

20 And then the witness -- the other translator  
21 says, "I would put it in my purse for several days."  
22 Sorry, continuing on top of 116.

23 Other translator says, "He said pocket."

24 Witness says -- Ms. Chang says, "Sorry, I  
25 should have said purse. I stand by my translation.

1 It's okay, but anyway, I stow it away.

2 Okay. What do you mean stow it away?

3 Doesn't mean I stow it away."

4 So Ms. Ho, you were pretty certain at your  
5 deposition that you had received two \$10,000 checks  
6 from Mr. Ho, and yet today, we've seen four \$10,000  
7 checks from Mr. Ho.

8 Do the exhibits you looked at today refresh  
9 your recollection that you actually received four  
10 checks from Mr. Ho for \$10,000?

11 A. I can't recall specifically if there were  
12 four checks, but I remember about his trip back to  
13 Taiwan.

14 Q. Ms. Chang, I want to move to a different  
15 subject matter. I want to talk to you about your  
16 purchase of the house at 229 Fulton in Redwood City.

17 Do you recall buying that house?

18 A. Yes.

19 Q. And you recall that you bought that house in  
20 early 2017, February, March 2017?

21 A. Yes.

22 Q. And so this is about six months or so after  
23 Mr. Ho's radiation treatments in the middle of 2016,  
24 right?

25 A. What six months?

1 Q. Your purchase of the Fulton property occurred  
2 about six months or so after Mr. Ho's radiation  
3 treatments in the summer of 2016; is that right?

4 A. Yes.

5 Q. And your purchase of the Redwood City  
6 property occurred about two months or so after his  
7 blood cancer diagnosis at the end of 2017; is that  
8 right?

9 A. Do you mean the end of 2017?

10 Q. Well, Mr. Ho died in September of 2017. Do  
11 you recall that? Do you recall that?

12 A. Yes.

13 Q. So back to my question, your purchase of the  
14 Fulton property occurred about two months or so after  
15 his blood cancer diagnosis at the end of 2016, right?

16 A. I think so.

17 Q. And at the time you purchased the Redwood  
18 City property, Mr. Ho was going under ongoing  
19 chemotherapy; is that right?

20 A. I think so, but I didn't know a whole lot  
21 until -- even when I bought the house I still think  
22 that or hoped that he would get better.

23 Q. Okay.

24 MR. BIORN: Your Honor, again, move to strike  
25 as nonresponsive.



1 THE COURT: It appears to be. Stricken. I  
2 will strike it.

3 Mrs. Chang, could you listen close to the  
4 question and try just to answer Mr. Biorn's  
5 questions.

6 THE WITNESS: Okay.

7 BY MR. BIORN:

8 Q. Let me ask the question again. Your purchase  
9 of the -- sorry, the Redwood City property occurred  
10 during Mr. Ho's ongoing chemotherapy for blood  
11 cancer; is that right?

12 MR. BAER: I think it was asked and answered,  
13 but it doesn't -- I'll withdraw the objection.

14 THE COURT: Thank you.

15 THE WITNESS: The answer to all these  
16 questions I remember clearly six years ago. Now  
17 everything is a little blurry to me. But even if  
18 it's yes, I would have -- I might have bought the  
19 property already. But I was still hoping he would  
20 get better.

21 I know the meaning of this question, but my  
22 memory is very fuzzy right now, but back then, I  
23 remembered clearly.

24 BY MR. BIORN:

25 Q. All right. Ms. Chang, as of February 2017,

1       you knew that Mr. Ho was weak and fatigued, didn't  
2       you?

3             A. Is it February 2017?

4             Q. Yes.

5             A. Yes, but I thought it was chemo that made him  
6       weak.

7             Q. Ms. Ho [sic], as of the point in time that  
8       you were buying the Redwood City property, you had  
9       already purchased at least three other properties,  
10      the ones in Albany, in Los Angeles and in El Cerrito,  
11      correct?

12            A. Yes.

13            Q. And Ms. Ho [sic], had you also already  
14      purchased in the past a property on Zara Street in  
15      Richmond?

16            A. That was my first house. I didn't live there  
17      for long.

18            Q. So with respect to each of these four other  
19      properties that you had purchased, did you obtain a  
20      loan for each of them?

21            A. Yes.

22            Q. And you had to fill out a loan application  
23      each time; is that right?

24            A. Yes.

25            Q. And you signed the loan application each

1 time, correct?

2 A. I signed it with my husband.

3 Q. For each loan, you made monthly payments; is  
4 that right?

5 A. Yes, I have excellent credit.

6 Q. And before you bought each of those  
7 properties, did you calculate if you could afford to  
8 make the monthly loan payments?

9 A. Well, I thought that if I couldn't make the  
10 payment, my bank would notify me.

11 Q. Ms. Chang, for the purchase of the Redwood  
12 City property, you received a pre-approval letter  
13 from a company called General Mortgage; is that  
14 right?

15 A. I remember applying for a loan from Sterling  
16 Bank, but I don't remember applying elsewhere.

17 Q. Can I have you turn to Exhibit 73?

18 MR. BIORN: Volume 1, David.

19 MR. BAER: Sure.

20 BY MR. BIORN:

21 Q. All right. Ms. Chang, do you recognize this  
22 document? It's from General Mortgage Capital  
23 Corporation addressed to you and Mr. Ho dated  
24 February 15, 2017 regarding a pre-approval for a  
25 loan.

1 Do you recognize this document?

2 A. I have no recollection at all.

3 Q. Did you and Mr. Ho enter into a contract to  
4 purchase a Redwood City property in around February  
5 15, 2017?

6 A. I remember the closings happened in around  
7 February, like you said.

8 Q. Well, let's get a few dates straight by  
9 looking at some of these documents. You -- I'll move  
10 on.

11 When you first entered into a contract to  
12 purchase the Redwood City property, it was both you  
13 and Mr. Ho were going to be the buyers of the  
14 property, correct?

15 A. Yes.

16 Q. And Mr. Ho made the initial deposit to  
17 purchase the Redwood City property, correct?

18 A. Yes.

19 Q. In fact, if you look at Exhibit 77, that's a  
20 document entitled "Escrow trust receipt," and at the  
21 bottom, it has a copy of a check from Mr. Ho to Old  
22 Republic Title Company for \$67,050 dated -- the check  
23 is dated February 19, 2017.

24 Is that the initial deposit for the purchase  
25 of the Redwood City property?

1           A. This is required by the purchase contract  
2           that we had to pay a certain percentage with a check.  
3           That was the check for them.

4           Q. How were you referred to Sterling Bank for  
5           your loan to purchase the Redwood City property?

6           A. What do you mean by referring to?

7           Q. How did you decide to use Sterling Bank for  
8           your mortgage to purchase the Redwood City property?

9           A. Okay. I was first referred to a private  
10          mortgage -- private mortgage and they told me they  
11          couldn't do that, so I was given a number. When I  
12          called, it was the Sterling Bank.

13          Q. Do you recall how long -- do you recall your  
14          first meeting with the bank officer at Sterling Bank?

15          A. It wasn't a manager.

16          Q. How many days prior to that first meeting at  
17          Sterling Bank were you given the phone number to call  
18          Sterling Bank?

19          MR. BAER: Objection. Lacks foundation that  
20          that was the first meeting.

21          MR. BIORN: Well, that's what I asked.

22          MR. BAER: She didn't tell you it was,  
23          though.

24          MR. BIORN: Well, she responded to my  
25          question.

1 THE COURT: Well, she obviously saw Sterling  
2 Bank. So let's get going.

3 MR. BAER: Okay.

4 MR. BIORN: Well, the timing is important,  
5 Your Honor.

6 THE COURT: Oh, okay.

7 MR. BIORN: I've got to be able to assume  
8 that if she answers the question, it sounds like it's  
9 responsive, it is.

10 THE COURT: Well, no colloquy.

11 MR. BIORN: Excuse me.

12 THE COURT: Can you answer that question?

13 THE INTERPRETER: Can I have a read-back,  
14 please.

15 (The record was read by the Reporter.)

16 MR. BAER: And objection. Lacks foundation.

17 THE COURT: Technically, that's correct.  
18 Rephrase.

19 MR. BIORN: Lacks foundation as to given the  
20 phone number or the first meeting at Sterling Bank?

21 MR. BAER: The first meeting.

22 BY MR. BIORN:

23 Q. Do you recall in your mind having the  
24 first -- your first meeting at Sterling Bank  
25 regarding your loan?

1           A. When I got the number from the referral, I  
2           called immediately.

3           Q. Do you recall your first personal visit to  
4           the Sterling Bank regarding your loan?

5           A. I did not make an appointment with the bank.  
6           I only went in to make a deposit, deposit the cash  
7           gift from James with the amount of 1.1 million and we  
8           made that trip together.

9           As soon as he got the money from Wells Fargo,  
10          he told me that -- to deposit it immediately. So as  
11          soon as Mr. Ho obtained that money from Wells Fargo,  
12          he told me to deposit it immediately. So we went  
13          together.

14          After we deposited the money, we did not make  
15          an appointment with a loan officer, but he saw me.  
16          He or she told his clerk to push me to his seat, to  
17          his office, to the loan office, to the desk. And he  
18          said, you have to fill this form.

19          At that time, James and I applied for this  
20          loan together, but the loan officer did not get James  
21          into his office. He did it to me.

22          Q. Did James go into the bank with you to  
23          deposit the \$1.1 million check?

24          A. I've already told you, we went in together.  
25          As soon as he got the money from Wells Fargo he

1 insisted that we went together. When I told him we  
2 could do this tomorrow, he said no, it has to be  
3 today.

4 Q. Ms. Chang, that first visit when you made  
5 the -- that -- let me start again.

6 That first visit to Sterling Bank when you  
7 made the deposit, you had to open up a new bank  
8 account at Sterling Bank, correct?

9 A. Yes.

10 Q. And in whose name did you open that bank  
11 account?

12 A. At that time, it was in my name because I  
13 knew that when he made that -- the money for the  
14 purchase contract, he used my name because, according  
15 to the loan officer, that my check and the payments,  
16 subsequent payments would have to go into that bank.

17 Well, since he said that, yeah, you have to  
18 open an account at this bank for your expenses  
19 regarding the house, so I didn't say much. So I  
20 opened the account -- he opened the account for me.

21 Q. Ms. Chang, at this point in time when you're  
22 in Sterling Bank for the first time, Mr. Ho was still  
23 listed on the contract as a buyer of the Redwood City  
24 property, correct?

25 A. Yes.



1 MR. BIORN: David, volume 2, Exhibit 146.

2 MR. BAER: Volume 2 you said? Okay, volume  
3 2. I'll get it, I'll get it.

4 BY MR. BIORN:

5 Q. Ms. Ho [sic], this is a document entitled  
6 "Uniform residential loan application."

7 Do you see that?

8 A. I see it now.

9 Q. And will you turn to page 4, please?

10 MR. BAER: Page 4, am I correct, this starts  
11 at the top, details of transaction?

12 MR. BIORN: It says at the bottom page 4 of  
13 6.

14 MR. BAER: Okay. I can't really read that.

15 MR. BIORN: Yes, it does start with details  
16 of transaction.

17 MR. BAER: Okay. That's good.

18 BY MR. BIORN:

19 Q. Do you see in the middle of page there, do  
20 you see your signature?

21 A. Yes.

22 Q. And you mentioned a form that the bank  
23 officer brought out when you went into his office on  
24 that first visit. Is this the form that he brought  
25 out during that visit?

1           A. Well, I don't remember because I was not  
2           pleased at that because I did not make an appointment  
3           with them and I was, why do you make me fill out the  
4           forms. So and on top of that, Mr. Ho was with me  
5           that day and he was in a hurry to get back in the  
6           car.

7           Q. Did Mr. Ho stay with you while you met with  
8           the bank officer that day?

9           A. We went in to deposit the money together.

10          Q. And when you met with the bank officer, did  
11          Mr. Ho stay in the bank or go in the car?

12          A. Because they didn't call him, so he went to  
13          the car.

14          Q. And do you see on -- go back to page 4 of  
15          Exhibit 146. Next to your signature, do you see the  
16          date of February 22, 2017?

17          A. Yes.

18          Q. Did you sign this form that day, that first  
19          day that you met the bank officer at Sterling Bank?

20          A. On that day -- on that day, I signed many  
21          things. I'm not sure if this is one of them because  
22          I was in a hurry to get into the car.

23                 Also when I went into his office to his seat,  
24          to his cubicle or seat, he said, this is for you to  
25          fill out. No, that's not what he said.

1           Before I even sat down, he said, you're going  
2           to fill out the application form, but your loan has  
3           been pre-approved so I was relaxed and he wanted me  
4           to say -- sign anything, I sign anything. So since I  
5           was already approved and there's no significance in  
6           me signing, so I just signed.

7           On top of that, he had his back to me. He  
8           was facing his computer and I sat opposite to him.  
9           He told me to sign and I did it because I was in a  
10          hurry to get back in the car.

11          Q. Ms. Chang, was the name of the bank officer  
12          Geofrey Garcia?

13          THE INTERPRETER: Okay. Witness is  
14          correcting interpreter's translation for the bank  
15          officer and witness had said that this person is not  
16          an officer. But the standard translation of bank  
17          officer in Chinese is manager, the equivalent of the  
18          officer in Chinese.

19          MR. BIORN: Okay.

20          THE INTERPRETER: That's the word that the  
21          interpreter had used.

22          MR. BIORN: Let's use -- okay.

23          BY MR. BIORN:

24          Q. Was Geofrey Garcia the bank employee you  
25          spoke with regarding this form, Exhibit 146?

1 A. He's the loan officer of the bank.

2 Q. Okay. And that's the person you met with  
3 when you worked on this form, correct?

4 A. Yes. His name is Garcia.

5 Q. So let's take a look at the first page on  
6 this loan application, Exhibit 146.

7 Do you see in the middle of or -- do you see  
8 in the middle -- just below the middle where it says  
9 Roman numeral number III borrower information and it  
10 lists your present address as 1319 Brewster Court, El  
11 Cerrito?

12 A. I knew this is the address, but back then I  
13 did not.

14 Q. I don't understand. This --

15 A. No, I see it. It is address is 1319. Back  
16 then, I didn't look.

17 Q. But is that an accurate statement on the day  
18 you and Mr. Garcia filled out this form, that your  
19 present address as of that day was the Brewster  
20 Court, El Cerrito property?

21 A. Yes, because that house wasn't sold yet, that  
22 we have our stuff there.

23 Q. Now, on the day that you and Mr. Garcia  
24 filled out this form -- strike that.

25 Do you see to the right of the words borrower

1 information, it says co-borrower and there's nothing  
2 filled out in that section.

3 Why was Mr. Ho not listed as a co-borrower  
4 for the purchase of this property?

5 A. Well, this is what I've said about he didn't  
6 call him over to sign, to fill out this form. But  
7 knowing that, he was clearly the co-borrower.

8 Q. Let's move down to the next section where it  
9 says Roman numeral IV, employment information.

10 Do you see that section on the first page?

11 MR. BAER: We're still on -- oh, we're on  
12 page 1, okay.

13 BY MR. BIORN:

14 Q. Do you see the information on that page?

15 A. Okay.

16 Q. It lists your employer as Evergreen Life  
17 Company at 660 Clayton Avenue in El Cerrito. Was  
18 that an accurate statement on the day that you filled  
19 out this form with Mr. Garcia?

20 A. I don't know the accuracy of this address,  
21 but that's how he wrote, because on that day when we  
22 filled out the form, he asked me where do you work.  
23 I said I'm retired already. Then he asked for my  
24 income. I told him I had rent income, retirement and  
25 Social Security. So I have three sources of rent

1 income, in addition to Social Security. So it was  
2 much more than 10,000.

3 He also asked me could you get a friend of  
4 yours who owns a business and put your name in it.  
5 And it was strange to me because I'd already told him  
6 that I had so many sources of income and you also  
7 told me that my loan has been approved already. You  
8 want my name appear under other people's company?

9 And later I thought -- I thought that was  
10 since you are the expert, you are my agency, I will  
11 do whatever you ask me to do. More importantly, my  
12 loan has been approved. So I was like he's my agency  
13 so I will go along. So it says my loan has been  
14 approved and whatever information you need from me, I  
15 will tell you. I thought that was the formality.

16 So he asked me if I have such a friend and I  
17 said yes, and I will go back and ask for his number,  
18 his or her number. That was it.

19 Q. So it's a true statement that you were not  
20 employed by Evergreen Life Company as of February  
21 2017?

22 A. No, I wasn't. It was a mistake. I shouldn't  
23 have given him that information.

24 Q. And in fact, you were never employed by  
25 Evergreen Life Company, correct?

1           A. No, because he wanted to come up with fake  
2           information.

3           Q. Where it says years on job, 5Y, do you see  
4           that, right underneath the word "employment"?

5           MR. BAER: Just for the record, knowing it's  
6           going to be overruled, I'm objecting to this question  
7           in line as collateral impeachment.

8           THE COURT: You're right, it's overruled. I  
9           believe we had a motion pre-trial on this. Okay.

10          You can answer the question. We're talking  
11          about the five years.

12          BY MR. BIORN:

13          Q. Do you see where it says five years on job?

14          A. I don't know what's on that, but let me tell  
15          you, I never worked there.

16          Q. Okay.

17          A. I've already told them that I no longer  
18          worked.

19          Q. And then right below at the last couple lines  
20          on the page it says position, title type of business  
21          it says sales executive and accounting.

22          That was not a true statement, correct?

23          A. Correct. That's all his own write-up.

24          Q. In fact, you retired from your employment in  
25          2001? I believe you told us that yesterday, correct?

1 A. Yes.

2 Q. Ms. Ho -- Ms. Chang, if you move to the next  
3 page, about a third of the way down it says Roman V,  
4 monthly income and combined housing expense  
5 information.

6 Do you see that area?

7 A. Yes.

8 Q. And do you see where it says base income,  
9 base EMPL, which I believe stands for employment,  
10 base employment income, you see there?

11 A. Yes.

12 Q. And it says \$18,500.

13 Do you see that?

14 A. Yes.

15 Q. You were not making that much money in  
16 February of 2017, correct?

17 A. I've already made plenty of money. So like I  
18 had mentioned, it was over 10,000. But I don't know  
19 who came up with that number. The number I gave them  
20 was a gross income. He didn't put it there, but now  
21 we see that number there.

22 Q. Well, if you look on the next page, about  
23 two-thirds of the way down, do you see where it lists  
24 out on the left-hand side the McCollum Street  
25 property and the Brewster Court, El Cerrito property?



1 Do you see that?

2 A. Yes.

3 Q. And you move over to the right and you see  
4 the column where it lists the gross rental income for  
5 each property.

6 Do you see that?

7 A. Yes.

8 Q. And then it has a column for mortgage  
9 payments and other expenses and then the last column  
10 is your net rental income.

11 Do you see that?

12 A. Yes.

13 Q. Did you provide all that information to  
14 Mr. Garcia?

15 A. No. I only told him that -- what I received  
16 on rents. The number I provided, he said, it's okay,  
17 we won't verify it. So he basically come up with the  
18 numbers himself.

19 Q. Now, do you remember your deposition being  
20 taken in this matter? Yes? Do you remember that?

21 A. What matter, regarding this loan?

22 Q. Do you recall your deposition being taken in  
23 this case?

24 A. Yes.

25 Q. And your deposition was taken on three days,

1 correct?

2 A. Two days, I think.

3 Q. Well, let me show you the first volume of  
4 your deposition, so day 1. If you'll look at the  
5 cover sheet, do you see where it says the date of  
6 your first deposition was July 12, 2018?

7 A. Yes.

8 Q. So this deposition was taken a little more  
9 than a year after you bought the Redwood City  
10 property; is that right?

11 A. Yes.

12 Q. And your memory about the circumstances of  
13 your loan to purchase the Redwood City, your memory  
14 was better at your first deposition than it is today;  
15 is that right?

16 A. Please repeat.

17 THE INTERPRETER: The witness is asking  
18 interpreter to repeat.

19 MR. BIORN: You know, I'll rephrase the  
20 question.

21 BY MR. BIORN:

22 Q. Ms. Chang, would you say that your memory of  
23 the circumstances around your loan to purchase the  
24 Fulton Street, Redwood City property was better at  
25 your first deposition, which occurred about a year

1 after that loan, or is it better today?

2 A. It depends.

3 THE INTERPRETER: The witness is asking  
4 interpreter the Chinese word for the English word  
5 depend.

6 THE WITNESS: Depends, it depends.

7 BY MR. BIORN:

8 Q. In what way does it depend?

9 A. Some things I remember better back then.  
10 Some things I remember today.

11 Q. I'm going to read from the witness's  
12 deposition, volume 1, page 29, lines 11 to 16.  
13 Actually, the question starts at 5, 5 to 16.

14 "Question: So Ms. Chang, for this next  
15 question -- and I have been trying to direct you to  
16 this part of the question previously, I'm not  
17 interested in what he asked you. I'm interested in  
18 what you told Mr. Garcia. So with that preface, the  
19 bottom of page 1 indicates five years on this job  
20 under employment information. Did you tell  
21 Mr. Garcia you have worked for Evergreen Life for the  
22 last five years?

23 Answer: I really don't remember because  
24 about this time, at that time, I completely trusted  
25 him. I really don't remember."

1 MR. BAER: It's kind of a technicality, but  
2 it was "about this," not about this time.

3 MR. BIORN: Excuse me.

4 MR. BAER: It's okay.

5 BY MR. BIORN:

6 Q. And then I would like to read page 28, line  
7 20 to page 29, line 3.

8 MR. BAER: Sorry, page 20?

9 MR. BIORN: Yes. No, sorry, 28, line 20 to  
10 29, line 3.

11 BY MR. BIORN:

12 Q. "Question: Did you tell Mr. Garcia that you  
13 worked in the position of sales executive and  
14 accounting with Evergreen Life Company?

15 Answer: I don't think I did, but I don't  
16 really remember because when I was putting out this  
17 form, it was all very rushed. He asked questions  
18 quickly. There were a lot of documents. I was not  
19 very clear when I answered questions."

20 Then I'd like to read the same volume, page  
21 34, line 14 to page 37, line 23.

22 "Question: Ms. Chang, in February 2017 when  
23 you signed this document, were you making \$18,500 a  
24 month working for Evergreen Life?

25 Answer: No, I don't know about this number.

1           Question: Are you denying that you gave that  
2           number to Mr. Garcia?

3           Answer: I don't think I gave that to him.

4           Question: Well, you signed a document that  
5           said you were making \$18,500 a month as of February  
6           2017, didn't you?

7           Answer: Like I was telling you, there were a  
8           lot of documents and he didn't explain anything to  
9           me. I depended on him. I was there for him to give  
10          me a loan. My purpose was for him to take the  
11          responsibility or whatever. If I have to go through  
12          every single thing, I would not have finished this  
13          within an hour plus. In addition, I myself did not  
14          fill this information here. I did not fill this  
15          information in here."

16          THE COURT: We're getting close to 1:00,  
17          which is the bewitching hour, I believe. You can  
18          keep going to finish the thought.

19          BY MR. BIORN:

20          Q. Ms. Chang, it's fair to say that at your  
21          deposition, you didn't tell the attorney for  
22          Mr. Ho -- sorry, for Peter anything about Mr. Garcia  
23          asking you to lie about your employment at Evergreen  
24          Life; is that right?

25          MR. BAER: Objection. He read part of the

1 testimony, but he didn't read all of it. I think  
2 it's just argumentative. I mean all of the  
3 deposition.

4 THE COURT: Well, it's her recollection. I'm  
5 going to overrule it.

6 You can answer that.

7 THE WITNESS: Back then, he didn't mention or  
8 didn't say?

9 BY MR. BIORN:

10 Q. I asked if you told him that Mr. Garcia asked  
11 you -- if you told the attorney at your deposition  
12 that Mr. Garcia asked you to lie about your  
13 employment at Evergreen Life.

14 MR. BAER: Objection. The deposition  
15 transcript speaks for itself.

16 THE COURT: It does speak for itself. I know  
17 we're trying to shortcut this --

18 MR. BIORN: It's a simple yes or no.

19 THE COURT: I think it's overbroad under the  
20 circumstances.

21 MR. BIORN: Okay.

22 BY MR. BIORN:

23 Q. You can answer.

24 THE COURT: No, the objection is sustained.

25 MR. BIORN: I'll move on.

1 BY MR. BIORN:

2 Q. Just a couple more questions and we can  
3 finish for the day.

4 THE COURT: This witness.

5 MR. BIORN: Yes, yes.

6 BY MR. BIORN:

7 Q. Ms. Chang, can you turn to page 4 of -- 4 of  
8 6 again -- 4 of 5. Sorry.

9 THE COURT: Could we correct that because you  
10 said 4 of 6 before. It is 4 of 5?

11 MR. BIORN: It is 4 of 5. It still looks  
12 like a 6 to me, but, correct, it is 4 of 5.

13 MR. BAER: It doesn't look like anything to  
14 me.

15 BY MR. BIORN:

16 Q. So if you will, look down towards the bottom  
17 of the page. Do you see where Geoffrey D. Garcia's  
18 name is typewritten?

19 A. Yes.

20 Q. And there's a signature above his name.

21 Do you see that?

22 A. I don't know if that was his signature.

23 Q. And then above that are about four boxes. Do  
24 you see where it says this information was provided  
25 and do you see where the box is checked in a

1 face-to-face interview? Do you see that?

2 A. What do you mean by face-to-face?

3 Q. Well, I'm asking if you see the boxes checked  
4 that the information was provided in a face-to-face  
5 interview.

6 A. Yes.

7 Q. And that interview occurred on that first day  
8 you met Mr. Garcia; is that right?

9 MR. BAER: Objection. Lacks foundation that  
10 it was the first day she met Mr. Garcia.

11 MR. BIORN: I'm asking her.

12 THE COURT: I'm going to permit this.

13 Was this the first day you met Mr. Garcia?

14 THE WITNESS: No.

15 BY MR. BIORN:

16 Q. So you see the date is February 22, 2017.  
17 Are you saying that you first met Mr. Garcia before  
18 that date?

19 A. Um-hmm.

20 Q. You are?

21 A. Yes.

22 Q. Okay. But you did say that you filled out  
23 this form -- or you and Mr. Garcia filled out this  
24 form when you deposited the \$1.1 million check from  
25 Mr. Ho, correct?



1 A. Yes.

2 Q. And in fact, when you deposited the  
3 \$1.1 million, that was the first time you went to  
4 Sterling Bank? I think you told us that earlier,  
5 right?

6 A. It wasn't my first time meeting him. When  
7 the deposit was made, we -- I filled out the form on  
8 that day.

9 Q. Let me show you Exhibit 78. Is that the  
10 purchaser copy for the \$1.1 million check that Mr. Ho  
11 obtained to transfer the money to you?

12 A. Is this to another question? Is this about  
13 another question?

14 Q. I'm asking you: Is that the purchaser copy  
15 of the cashier's check for \$1.1 million that Mr. Ho  
16 obtained to transfer that money to you?

17 A. Yes.

18 Q. And what's the date of that check?

19 A. February 22nd.

20 Q. February 22nd, right?

21 A. Yes.

22 Q. All right.

23 MR. BIORN: All right. Now's a good point to  
24 stop.

25 THE COURT: All right.

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We will take the recess now.  
  
(Lunch recess taken.)

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AFTERNOON SESSION:

THE COURT: Are we going to return to  
Mr. Ho's testimony?

MR. BIORN: Yes.

THE COURT: Okay. Sir, I remind you you're  
still under oath.

THE WITNESS: Yes.

MR. BAER: Before the examination starts, I  
want to request Mr. Biorn's stipulation to something.

So Ms. Wang was a non-certified interpreter.  
I looked at the rule of court. I didn't thoroughly  
analyze it, but I found that it is permissible to use  
a non-certified interpreter under certain  
circumstances. One of them is if you've exercised  
reasonable diligence to find an interpreter who is  
certified and haven't been able to find one. There's  
some others.

In any event, without knowing whether those  
requirements are satisfied or not, can we both  
stipulate to waive any objection to the use of a  
non-certified interpreter this morning?

MR. BIORN: So stipulated.

THE COURT: Thank you.

MR. BIORN: Okay.

DIRECT EXAMINATION (RESUMED)

1 BY MR. BIORN:

2 Q. Good afternoon, Peter.

3 A. Good afternoon.

4 Q. We're back with your direct examination in  
5 this trial.

6 THE COURT: Excuse me, could you just take a  
7 moment.

8 I think this goes without saying, you're  
9 stipulating to use a non-certified interpreter?

10 MR. BAER: For this morning, yes.

11 THE COURT: For this morning, yes.

12 MR. BIORN: I heard the same thing.

13 THE COURT: You proposed it, but you  
14 didn't --

15 MR. BAER: My proposal was that we both waive  
16 objections, I believe.

17 THE COURT: So technically, do you waive  
18 objection?

19 MR. BAER: I do, I do.

20 THE COURT: That's perfect. Thanks.

21 BY MR. BIORN:

22 Q. Peter, were you close to your father?

23 A. Yes, we were very, very close.

24 Q. How would you describe your relationship with  
25 him?

1 MR. BAER: Objection. Calls for a narrative.

2 THE COURT: Sustained. I think this is

3 preliminary and he's just trying to move it along,

4 but if there's an objection --

5 BY MR. BIORN:

6 Q. Did you and your dad have common interests?

7 A. Absolutely, we did. We --

8 Q. What were those?

9 A. We were both engineers and we did things

10 together. He showed me how to do things around the

11 house and we loved war movies because he was from the

12 Naval Academy in Taiwan. So we both loved the

13 uniform. We both respect the uniform.

14 We were very close.

15 Q. I want to focus on the year 2016. How often

16 did you see him in the year 2016?

17 A. In 2016, I probably saw him every two to

18 three weeks, I would drive up to go visit him.

19 Q. And how often would you speak with him on the

20 phone?

21 A. I would probably speak to him every two to

22 three days.

23 Q. And did that change at any point in time in

24 2016?

25 A. In 2016, yes, it did, after Thanksgiving,

1 after he was brought to the emergency room.

2 Q. Okay. Did your consistency of how often you  
3 saw your dad in 2016 stay the same during his  
4 radiation treatments?

5 A. No. Also during his radiation treatments in  
6 July and August of 2016, I saw him almost all the  
7 time because I brought him to all of his radiation  
8 treatments.

9 Q. So I want to go back to your initial  
10 testimony on how often you saw and spoke with your  
11 dad on the phone in 2016, before the radiation  
12 treatments.

13 A. Um-hmm.

14 Q. Would you say that was consistent in the few  
15 years prior to 2016?

16 A. Yes, it was.

17 Q. After the radiation began, how did the  
18 consistency of your seeing your father change?

19 A. Well, after his radiation, I would probably  
20 call him more often, okay, and just to make sure that  
21 he was okay, that there were no side effects from the  
22 radiation.

23 Q. In 2017, did you see your father about as  
24 often as you did in 2016 after the radiation  
25 treatments?

1 A. In 2017, I actually saw him more often.

2 Q. Why was that?

3 A. That was because he was diagnosed with  
4 multiple myeloma and was undergoing chemotherapy.

5 Q. And how often did you see him in 2017?

6 A. In 2017, I probably saw him every two to  
7 three days, I would drive up.

8 Q. Did his chemotherapy stop at any point in  
9 time in 2017?

10 MR. BAER: Objection. Vague and ambiguous.

11 BY MR. BIORN:

12 Q. Did your dad stop receiving chemotherapy at  
13 any point in 2017?

14 A. Yes, he did.

15 Q. When?

16 A. It was approximately August 30th.

17 Q. How often would you speak with your father on  
18 the phone in 2017?

19 A. I would say that we spoke probably pretty  
20 much every day.

21 Q. Was that consistent throughout the entire  
22 year that he was alive?

23 A. Pretty much, yes.

24 Q. Did you attend doctor appointments with your  
25 dad?

1           A. I attended just about every doctor's  
2           appointment with him.

3           Q. Let's talk about before 2016. How often did  
4           you attend your father's doctor appointments with  
5           him?

6           A. I attended every one with Dr. Peak, which was  
7           his neuro-oncologist for his meningioma.

8           The ones where he visited his PCP, those I  
9           did not attend, or very few of those I attended.

10          Q. PCP being his primary care doctor?

11          A. That's correct.

12          Q. Primary care physician, I guess.

13          A. Yes.

14          Q. Hence, the PCP.

15          When he was receiving chemotherapy, how often  
16          would he go in for treatments?

17          A. If I remember correctly, it started -- the  
18          initial treatment, it was a phase treatment, but I  
19          guess you could say on average it was once per week.

20          Q. When he went in for chemotherapy, you were  
21          the one to take him home afterwards?

22          A. Most of his 27 chemo treatments, it was me.  
23          I maybe missed about two or three where somebody else  
24          brought him to his chemo.

25          Q. In your observation, did the chemotherapy



1       affect his memory at all?

2               MR. BAER:  Objection.  Calls for an expert  
3       opinion and the question of causation.

4               THE COURT:  I'm going to permit that.  This  
5       is not being received as an expert's diagnosis.  It's  
6       being received as a percipient witness and testifying  
7       about somebody's memory.

8       BY MR. BIORN:

9               Q.  You can answer.

10              A.  Okay.  I think that it did contribute to his  
11       memory loss and cognition loss.

12              And the other part was due to his conditions,  
13       his two cancers.

14              Q.  Physically, did your dad have any physical  
15       issues after -- did he appear to you to have any  
16       physical issues after his chemotherapy appointments?

17              A.  Yes, he did.

18              Q.  What were those?

19              A.  A general feeling of weakness and discomfort,  
20       like gastrointestinal and -- did I say dizziness?  
21       That's what he would say, dizziness and  
22       lightheadedness.

23              Q.  Let's go back to his radiation treatments.  
24       When was that?

25              A.  It was in July and August of 2016.

1 Q. How often did he go?

2 A. It was -- if I remember correctly, it was  
3 twice a week.

4 Q. Did you take him to every one of those  
5 appointments?

6 A. I took him to 25 of the 27.

7 Q. And during the time he was receiving  
8 radiation treatments, did you notice any changes in  
9 his cognition?

10 MR. BAER: Same objection.

11 THE COURT: And will be not received as  
12 expert testimony, just as a percipient witness's  
13 observation.

14 MR. BIORN: I'll stipulate that all my  
15 questions about his father's health are not as an  
16 expert, but based on his percipient observations.

17 THE COURT: Okay. And that doesn't mean  
18 you're not going to get an objection.

19 MR. BIORN: I'm hoping.

20 BY MR. BIORN:

21 Q. Go ahead. Did you see any changes in his  
22 cognition while he was undergoing radiation  
23 treatments?

24 A. During that time, yes.

25 Q. What did you see?

1           A. What I observed was -- well, he would often  
2 call me up for help like with his printer or his  
3 computer, and I would either tell him over the phone  
4 or if I saw him, I would explain this is how you do  
5 something.

6           And then he would actually write that down,  
7 either on a Post-It note or elsewhere, and I do  
8 remember when he took a Post-It note and stuck it on  
9 his computer.

10           And the following week, you know, when I  
11 would pick him up to bring him to radiation, he would  
12 ask me the same question. I said well, dad, you  
13 wrote it down. He goes, I did? And I would point to  
14 his Post-It note. And then he goes, oh.

15           And then when he tried to follow his own  
16 instructions which he wrote to himself, he couldn't  
17 get through it.

18           So it was -- he was confused through -- I  
19 mean, he could not do what he had written down, the  
20 steps.

21           Q. Had you assisted your father in prior years  
22 with his computer issues?

23           A. Yes.

24           Q. And was his -- did you notice any of these  
25 same cognition issues that you just described?

1           A. Not to this extent where would he forget the  
2           Post-It note, that he actually wrote it down and that  
3           he could not follow his own instructions.

4           So prior to that, he was able to remember  
5           that he had written it and he was able to follow his  
6           own instructions.

7           Q. Following his -- he was diagnosed with blood  
8           cancer when?

9           A. In December of 2016.

10          Q. And do you recall how he ended up, the  
11          process by which he ended up being diagnosed with  
12          blood cancer?

13          A. Yes, I do remember it.

14          Q. Can you describe that for me?

15          A. Yes. Right after Thanksgiving in 2016, he  
16          was brought to the emergency room at Kaiser at  
17          Redwood City. He had chest pain and between  
18          Thanksgiving and Christmas, he was brought to the ER  
19          four times for various complaints.

20          And the doctors recommended that he have a  
21          bone marrow biopsy and he kept on delaying it, but  
22          until finally the doctors and myself convinced him to  
23          get a bone marrow biopsy. He had it done in December  
24          of 2016 and he was diagnosed with multiple myeloma.

25          Q. And that's what he received the chemotherapy

1 for?

2 A. Yes, he received the chemotherapy immediately  
3 after.

4 Q. After he was diagnosed with multiple myeloma  
5 did you see a change in his cognition or his memory?

6 A. Yes, because one of the problems that we had  
7 noticed was that his hemoglobin was dropping and  
8 because it dropped, then he became symptomatic and  
9 became very confused and he required blood  
10 transfusions. So he eventually got two blood  
11 transfusions and two platelet transfusions.

12 Q. You say he lost his memory and was confused.  
13 Can you provide me any examples?

14 A. Yes.

15 MR. BAER: Objection. Lacks foundation.

16 THE COURT: Sustained.

17 Rephrase.

18 BY MR. BIORN:

19 Q. What examples did you see of that?

20 A. So dad started slurring his speech during one  
21 of the chemo treatments and I insisted he get a blood  
22 transfusion.

23 And the requirements at that time was that  
24 his hemoglobin had to be under seven for symptomatic.  
25 His hemoglobin was just barely above seven, but I had

1 to convince the doctor. I said, please come in and  
2 take a look at my dad because I believe he is  
3 symptomatic.

4 So Dr. So-Rosillo, name is spelled S-O,  
5 hyphen, R-O-S-I-L-L-O, Dr. So-Rosillo came in and  
6 asked my dad, oh, what year is it? And dad just  
7 slurred it and he couldn't even come up with two  
8 numbers for the year. And then Dr. So-Rosillo  
9 ordered the blood transfusion for him.

10 Q. After he started this chemotherapy, what  
11 other instances of confusion or memory loss did you  
12 observe in your father?

13 A. So in February of 2017, he could no longer  
14 balance his checkbook and I had to take over that  
15 responsibility for him.

16 Q. Had you assisted him with his financials  
17 prior to this time?

18 A. The only assistance I gave him was doing --  
19 running TurboTax, essentially, for his tax returns.

20 Q. When you took over balancing his checkbook in  
21 February of 2017, did he assist you at all?

22 A. No, he didn't, other than if I asked him a  
23 question, what was this about or what was that about,  
24 he might give me an answer. Otherwise, I would have  
25 to go and do the research and look at his statements

1 to try to figure it out.

2 Q. Did you continue to balance your father's  
3 checkbook for him until he passed away?

4 A. Yes, I did.

5 Q. Did you help your dad with his taxes over the  
6 years?

7 A. I did.

8 Q. Say from the years 2010 to 2015, how did you  
9 help your dad with his taxes?

10 A. So dad would basically collect all of his  
11 statements. So, for instance, if he had an IRA  
12 statement or distribution from that and he would take  
13 an envelope, write the year, actually write 1099-R,  
14 or whatever the respective thing, on the envelope so  
15 we wouldn't have to open it up to take a look and he  
16 would write the amount on the outside.

17 So this was the way that he would organize  
18 things and he would put them in order. For instance,  
19 retirement accounts versus his W-2s or whatever, the  
20 income, and then deductions.

21 Q. That's what he did. How did you assist him?

22 A. So he gave that to me and he asked me to  
23 enter it into TurboTax for him.

24 Q. At any point in time, was he unable to work  
25 with you -- together with you on preparing his tax

1 returns?

2 A. Yes.

3 MR. BAER: Objection. Vague and ambiguous.

4 BY MR. BIORN:

5 Q. When was that?

6 MR. BIORN: Oh, I'm sorry.

7 THE COURT: Sustained.

8 Rephrase.

9 BY MR. BIORN:

10 Q. At --

11 THE COURT: This is direct. I'm going to be  
12 a little more strict.

13 BY MR. BIORN:

14 Q. At any point in time was your father -- did  
15 it seem to you your dad was unable to assist with you  
16 the tax returns?

17 A. Yes.

18 Q. When?

19 A. In the year 2017 for tax year 2016.

20 Q. And what did you observe in your dad that  
21 made you -- was the impetus for you to take over  
22 handling his checkbook and his taxes in February of  
23 2017?

24 MR. BAER: Objection. Leading.

25 THE COURT: What was the impetus? I think



1 he's established foundation for that question.

2 So I'll permit you to answer.

3 THE WITNESS: When he's unable to do it  
4 himself, I needed to step in and help him.

5 BY MR. BIORN:

6 Q. Did you also assist your dad with the tax  
7 return for the tax year 2015?

8 A. Yes, I did.

9 Q. What point -- what year were you assisting  
10 him with his 2015 return?

11 A. I assisted him with his 2015 return in April  
12 of 2016.

13 Q. And with his 26 [sic] return, were there any  
14 changes to his tax reporting from prior years?

15 MR. BAER: Objection. I think you misspoke  
16 yourself. You were talking about the 2015?

17 MR. BIORN: That's right.

18 MR. BAER: And now you're talking about 2016?

19 MR. BIORN: No. Your 2015 return you  
20 prepared in the year 2016, the year after.

21 MR. BAER: Okay.

22 BY MR. BIORN:

23 Q. So we're in spring of -- early 2016.

24 And at that time, was there a change in his  
25 tax reporting from prior years?

1 A. Yes, there was.

2 Q. What was that?

3 A. That was on the McCollum property.

4 Q. What was the change?

5 A. The change was he stopped reporting the  
6 income and expenses, his 50 percent of the income and  
7 expenses for the McCollum property.

8 Q. Had he reported 50 percent of the income and  
9 expenses on the McCollum property on his own personal  
10 return in every year prior?

11 A. Yes, he did.

12 Q. Why was there a change in 2016, or for tax  
13 year 2015?

14 MR. BAER: Objection. Vague and ambiguous.  
15 BY MR. BIORN:

16 Q. Did your dad tell you why he wanted to make  
17 that change for tax year 2015?

18 A. Yes.

19 Q. What did he tell you?

20 A. So Debby, dad and I had a discussion. Dad  
21 asked me -- it's like he said, Debby wants to claim  
22 the 50 percent -- my 50 percent of the income and  
23 expenses on her tax return, and he asked me if he  
24 should do this. I told him it's up to you. This  
25 is -- you know, this is whatever you want to do.

1 But I asked him, why does she want to do  
2 that? And then he said, oh, ask her.

3 So I turned to Debby and I asked her --

4 MR. BAER: He's answered the question.

5 THE COURT: Yes.

6 MR. BIORN: Okay.

7 THE COURT: Ask your next question.

8 BY MR. BIORN:

9 Q. Did you discuss this change with Debby as  
10 well?

11 A. Yes, I did.

12 Q. What did you discuss with Debby?

13 A. So I asked Debby, you know, why she wanted to  
14 claim my dad's 50 percent in addition to her own 50  
15 percent which means she would claim 100 percent of  
16 the income and expenses to McCollum. She said that  
17 she wanted to refinance and needed to show additional  
18 income.

19 Q. Did you ever learn which property she wanted  
20 to refinance?

21 A. No, I did not.

22 Q. This resulted in higher taxes for your dad?

23 A. Yes, and I told him so.

24 Q. How much higher, approximately?

25 A. Approximately, he would have gotten a

1 deduction of about 7,000. It varied per year. And  
2 so that would be 15 or 20 percent of that.

3 Q. Would be his --

4 A. Would be his -- the money that -- extra money  
5 that he would have to pay if he did not claim.

6 Q. So somewhere around 700 to \$1,000?

7 A. That's correct.

8 Q. Did you ever talk to Debby about your dad  
9 later reporting his 50 percent of the income and  
10 expenses for McCollum again on his tax return?

11 A. We discussed -- that was -- from what I  
12 remember, that was the only day that we discussed it.

13 Q. So you described a conversation with your dad  
14 in early 2016 about his tax returns. Based upon your  
15 observations, could he have had that same  
16 conversation with you in early 2017?

17 MR. BAER: Objection. Calls for an expert  
18 opinion. Speculation.

19 THE COURT: It is speculation. Could he have  
20 had it? You can rephrase.

21 BY MR. BIORN:

22 Q. In early 2017, did your dad have any  
23 conversations with you about financial matters  
24 similar to the one he had with you in early 2016?

25 MR. BAER: Objection. Vague and ambiguous.

1 THE COURT: That's a yes or no. Just answer  
2 yes or no.

3 THE WITNESS: Yes.

4 THE COURT: Okay.

5 BY MR. BIORN:

6 Q. What was that conversation?

7 A. The conversation was regarding a loan of  
8 1.1 million that Debby wanted to take from my dad.

9 Q. And what did your dad say during this  
10 conversation? First let me ask you: When was this  
11 conversation?

12 A. This was in February of 2017.

13 Q. What did your dad say during this  
14 conversation?

15 A. Well, it was initially a conversation between  
16 Debby and me and then I went to ask my dad about it.  
17 So I'm trying to distinguish between the two  
18 conversations right now which is why I need a pause.

19 Q. So when you first had the initial  
20 conversation with Debby, was that before or after she  
21 had bought the Redwood City?

22 A. It was before.

23 Q. And what did she say during that  
24 conversation?

25 A. She told me she wanted to borrow \$1 million

1 from my dad to buy a house and she did not want  
2 people to think she was taking advantage of him.

3 Q. Did she say anything else to you?

4 A. Yes.

5 Q. What?

6 A. She said that she wasn't sure where she was  
7 going to live after my father died. That's why she  
8 wanted to buy a house.

9 Q. Did she say anything else to you during this  
10 conversation?

11 A. Yes.

12 Q. What?

13 A. She said that she wanted to buy a house in  
14 Redwood City because her daughter Rita had just  
15 bought a house in Redwood City so she would be closer  
16 to her and it would also be closer to Kaiser.

17 Q. Tell me everything else that she said during  
18 this conversation, if anything.

19 A. Well, there were things that I said to her  
20 and then we had a conversation. Are you asking about  
21 that?

22 Q. Yes, tell us about your conversation.

23 A. I said, okay, how are you going to pay him  
24 back? Then she said that she had enough equity in  
25 her Brewster and McCollum properties to pay him back.

1 I said, how soon would you pay him back? And  
2 at what interest rate? And she didn't know what that  
3 would be.

4 And then so I told her then you can either  
5 sell your properties within two years because I know  
6 that the market fluctuates so you decide what time,  
7 you know, you want to sell the houses in order to pay  
8 him back. And until then, you should have a lien on  
9 your property or a promissory note.

10 Actually, correction on that one. She was  
11 the one who said that she could put a lien on her  
12 property. I was the one who said or you can have a  
13 promissory note.

14 Q. Do you recall what -- how close in time this  
15 was to the close of escrow on the purchase of the  
16 Redwood City property?

17 A. Close of escrow, I believe, was March 28th  
18 and this conversation was probably around -- between  
19 the first and second week of February.

20 Q. Have you told me everything about that  
21 conversation?

22 A. That I can think of right now.

23 Q. Okay. Did you ask your dad about what Debby  
24 had told you about this being a loan?

25 A. Yes, and then I asked my dad about it.

1 Q. When did you talk to your dad about it?

2 A. It was either the next day -- either that day  
3 or the next day. I don't remember why he wasn't  
4 there in the initial conversation.

5 Q. What did you and your dad discuss about this?

6 A. Okay. So I said, did Debby tell you that she  
7 wanted to loan money from you? And he said, yes. I  
8 said, are you going to loan her that money? And he  
9 said, yes. And I said, what interest rate? He said,  
10 maybe two or three percent.

11 And then he also said that she has enough  
12 equity in her Brewster and McCollum properties to pay  
13 me back.

14 Q. Do you recall anything else from that  
15 conversation?

16 A. I asked him, is she going to put a lien on  
17 her properties? And he goes, I don't know, but -- I  
18 said, how are you going to secure the loan? And he  
19 said that he'll just write a note and have her sign  
20 it.

21 Q. Did you ever find out if your dad had Debby  
22 write a note?

23 A. I don't know if he had Debby write a note,  
24 but he certainly wrote a note.

25 Q. Do you have that note? Well, let me ask you:



1 Did you see that note while your dad was alive?

2 A. I did not.

3 Q. When did you first see the note?

4 A. I saw the note after he died when I was going  
5 through his things. It was in a 6-by-9 spiral  
6 notebook.

7 Q. Can I have you take a look at Exhibit 82.  
8 Have you ever seen this document before?

9 A. Yes, I have.

10 Q. What is it?

11 A. It's the loan note that we were previously  
12 talking about.

13 Q. Do you recognize your dad's handwriting?

14 A. Yes, I do.

15 Q. Is that your dad's handwriting?

16 A. Yes, it is.

17 Q. Had you discussed this note with your dad  
18 prior to him dying? Excuse me.

19 That reminds me of an e-mail about the worst  
20 questions lawyers ever asked in court, so I'm up  
21 there now. Please don't tell anyone.

22 THE COURT: Mark that, please.

23 THE WITNESS: And that the witness objected.

24 BY MR. BIORN:

25 Q. Did you ever discuss this note with your dad?

1 A. Yes.

2 Q. When?

3 A. Multiple times.

4 Q. Do you recall any of the dates approximately  
5 or exactly?

6 A. At least one of the dates on May 3rd, 2017.

7 Q. Why do you remember May 3rd?

8 A. Because that was the day that he was going to  
9 talk to Debby about signing this note.

10 Q. When did your dad -- how many times prior to  
11 May 3rd had your dad mentioned this note to you?

12 A. We probably talked about it a handful of  
13 times, maybe four or five.

14 Q. Can you break out what you recall as to  
15 specific conversations or just generally as to all of  
16 these conversations?

17 A. They were general conversations when I would  
18 ask him, did you get Debby to sign your note yet and  
19 he said, no.

20 Q. And these are the ones prior to May 3rd?

21 A. That's correct.

22 Q. Do you recall anything else about those  
23 conversations prior to May 3rd?

24 A. Yes. I told him that I've been asking her if  
25 she had found a lawyer. Debby had promised to find a

1 lawyer to find out about promissory notes because she  
2 told me that she didn't know anything about them.

3 So I told my father that I asked Debby just  
4 about every other week if she had found a lawyer yet  
5 and she said, oh, she didn't have time to.

6 Q. Do you recall anything else about those  
7 conversations with your dad about the note prior to  
8 May 3rd?

9 A. Nothing else other than that May 3rd was, you  
10 know, the date where he said, I'm going to have a  
11 conversation with her and we're going to get it  
12 signed.

13 Q. After that conversation, when did you next  
14 speak with him about the note?

15 A. I don't think we ever did. If we did, it was  
16 probably just a passing mention in July or August.

17 Q. Did you ever speak about this note with  
18 Debby?

19 A. Yes.

20 Q. And by "this note," I mean Exhibit 82.

21 A. Yes.

22 Q. When?

23 A. We made mention of it. So on May 3rd, after  
24 work, I went over to the penthouse and Debby's door  
25 was closed at 8:00 o'clock in the evening, which was

1 very unusual for me.

2 I said, dad, did Debby sign the note, your  
3 note? He said, I showed it to her, but she did not  
4 sign it. I said, what happened? He said, well, we  
5 got into an argument.

6 So I went over to her door. I said, is she  
7 in there right now? He said, yes. So I went over to  
8 her door and I knocked on it and she didn't answer.  
9 So I knocked again and finally the door slowly opens.

10 And then I said, what happened? You were  
11 going to have a discussion with my father regarding  
12 the loan.

13 MR. BAER: I'm going to object and move to  
14 strike. This has nothing to do with his conversation  
15 with his father.

16 MR. BIORN: No, the question was about Debby,  
17 the conversation with Debby.

18 MR. BAER: Oh, I thought it was -- I'm sorry  
19 if I'm mistaken. Proceed.

20 THE WITNESS: Okay.

21 BY MR. BIORN:

22 Q. You can continue.

23 A. Okay. So Debby told me, said, I'm done  
24 talking about it, okay, it's over, and she closed the  
25 door.

1 I went back -- well, that was the end of the  
2 conversation with Debby.

3 Q. After that conversation did you ever speak  
4 with Debby again about the \$1.1 million loan?

5 A. Yes.

6 Q. When?

7 A. On July 11th.

8 Q. Why do you remember the date July 11th?  
9 Anything in particular about that date?

10 A. Nothing about the date other than it's ten  
11 days before my dad's birthday. That's why I remember  
12 the 11th, but I remember the -- what exactly happened  
13 on that day.

14 Q. Tell me about your discussion with Debby on  
15 that day.

16 A. Why I remember that day is because I went to  
17 take my dad out to lunch, which is something that we  
18 normally do. And Debby wanted to come along, which  
19 was very unusual.

20 So we went to a Thai restaurant in Redwood  
21 City. And then when we sat down, she told me  
22 excitedly, your dad gave me the money. I said, oh,  
23 did he?

24 And then so I turned to dad. I said, did you  
25 give her the money? And his head was down and he

1 mumbled something like -- maybe he said yes, but  
2 whatever he said, I was going to ask him a few more  
3 questions anyways.

4 So I said, well -- sorry, that answers your  
5 question on the discussion with Debby.

6 Q. Did you discuss this loan further with your  
7 dad on July 11th?

8 A. Yes, I did.

9 Q. Tell me about that discussion.

10 A. So I asked dad, did you actually give her  
11 this money, like she's saying? He said, yeah, I did.  
12 And I said, well, I thought it was going to be a loan  
13 to her because, at some point, we had discussed that  
14 he said it was going to be a zero percent loan. So I  
15 reminded him of that.

16 I said, didn't you say it was zero percent?  
17 He goes, yeah. So zero percent is the same as giving  
18 it to her. I said, no, dad, what about the  
19 principal? He said, oh, she has the two house in the  
20 East Bay which she will -- which she can pay me back.

21 And Debby turned to me and said, that's not  
22 what he said earlier.

23 Q. Was there any further conversation between  
24 the three of you on this subject?

25 A. On that day, there was not.

1 Q. Did you discuss this subject again with  
2 Debby?

3 A. Yes, we did.

4 Q. When?

5 A. We had a discussion on August 20th.

6 Q. Why do you remember that date?

7 A. That was the day where, after we had a family  
8 dinner with my sisters, my father and I, I brought  
9 him home back to the Fulton property.

10 And at 10:00 p.m., Debby informed us that she  
11 had made an appointment with a lawyer for my dad to  
12 see the next day.

13 Q. Did you further discuss that with Debby at  
14 that time?

15 A. I asked what was this lawyer about, why is he  
16 having -- why did you arrange for an appointment with  
17 him?

18 Q. And what did she say?

19 A. She said so my father could tell him whether  
20 it was a gift or not to her.

21 Q. Did you discuss this further with Debby at  
22 this time?

23 A. Not on that date that I can remember.

24 Q. All right. Did you discuss it with your dad  
25 at this time?

1 A. No, I didn't.

2 Q. Did you leave the house after this  
3 discussion?

4 A. Yes, I did.

5 Q. When did you next discuss the \$1.1 million  
6 loan with Debby?

7 A. The following day.

8 Q. Tell us, who was there during that  
9 conversation?

10 A. In the conversation, I went over around 1:00  
11 p.m. I was there to take my father out to lunch so  
12 we can -- I wanted to see whether he was confused or  
13 not. And apparently the lawyer's appointment was at  
14 3:00 p.m. The people who were there when I arrived  
15 was Debby, dad and a house -- I think a housekeeper,  
16 somebody who was cleaning the house.

17 Q. So you discussed the \$1.1 million loan at  
18 this time with both Debby and your dad or just Debby?

19 A. I discussed it with both of them.

20 Q. Okay. Tell me about that discussion.

21 A. It went pretty much the same way as at the  
22 Thai restaurant where I asked dad, did you give her  
23 money, he said, yes. I said, what about the zero  
24 percent loan, and he said he thought that was the  
25 same thing as giving it to her.



1 I said what about the principal? And then he  
2 paused and thought, he goes, oh, didn't she have like  
3 those two houses that she would sell and repay me.

4 And I knew at that point that he was not, you  
5 know -- any lawyer -- sorry -- that he was not in the  
6 right state of mind to talk to a lawyer to express  
7 his true intentions and wishes.

8 MR. BAER: I'm going to object to the last  
9 sentence and move to strike it as opinion.

10 THE COURT: It will be stricken.

11 MR. BIORN: Well, it is his opinion and he  
12 took action based on that opinion.

13 THE COURT: A lay opinion is only admissible  
14 in certain instances. Whether or not his dad was in  
15 his right state of mind, I don't think you can render  
16 an opinion, but you can prove me wrong. I'm going to  
17 strike it and I'll put it back in if you can show me.

18 BY MR. BIORN:

19 Q. Did you do anything in response to this  
20 conversation?

21 A. Yes, I did.

22 Q. What did you do?

23 A. I cancelled the lawyer's meeting.

24 Q. Why?

25 A. Because my dad -- I feared that my dad would

1 not be able to express his true intentions.

2 Q. And that was based on what?

3 A. It was based on his inability to  
4 differentiate a zero percent loan and a gift.

5 Q. So we've been talking about your discussions  
6 with Debby and your dad about the \$1.1 million loan.

7 After this discussion on the 21st, this is  
8 somewhere between 1:00 and 3:00 p.m. on the 21st, did  
9 you discuss the \$1.1 million loan again with either  
10 your dad or Debby?

11 A. The topic did come up about the 1.1 million,  
12 yes.

13 Q. When?

14 A. In text messages and voicemails.

15 Q. With whom?

16 A. From Debby and with Debby.

17 Q. We'll talk about those.

18 A. Um-hmm.

19 Q. Other than text messages with Debby, did you  
20 discuss the \$1.1 million loan with her again?

21 A. Yes. I actually now remembered that we did  
22 have a discussion with her back in July about the  
23 \$1.1 million loan and it wasn't just me. This was  
24 between Della, my sister, myself and Debby.

25 Q. What did Debby say during that conversation?

1           A. This was a conversation at her house on July  
2           21st, which was my dad's birthday.

3           Q. When you say "her house" --

4           A. I'm sorry, Debby's house.

5           Q. What did Debby say during this conversation?

6           A. What she said was that the 1.1 million --  
7           well, Della asked her where the 1.1 million went.  
8           She said that the 1.1 million went into the Fulton  
9           house. There are a lot of other things that were  
10          said, too, at that time that related to dad's care,  
11          but I'm trying to pull out the parts where -- to  
12          answer your question on the \$1.1 million.

13          Q. Anything else discussed on the 1.1 during  
14          this conversation with you, Della and Debby?

15          A. Yes. She -- give me one moment, please.

16          Q. You can't use the word "she." You've got to  
17          tell me who.

18          A. Yes, I know.

19          Q. Because Della was there as well.

20          A. Yes, the pronouns.

21                 Regarding the 1.1 million and when Debby said  
22                 that this was all in the house, I recall Della asking  
23                 her if my father's name was on title to the house.  
24                 And when Debby said that it wasn't, Della asked why  
25                 not, and Debby responded that because he wasn't on

1 the loan. That's why he couldn't be on title.

2 Q. You mentioned that, during this conversation,  
3 you, Debby and Della discussed your dad's care. Tell  
4 me what Debby said during that conversation.

5 A. Well, Della said that this house was  
6 inappropriate for two elderly people with the hard  
7 surfaces and the spiral staircase. And Debby  
8 responded, oh, it's okay, that we can make it up the  
9 stairs. Sometimes, you know, I push his butt in  
10 order to get him upstairs.

11 And then also Debby says that -- so for now,  
12 though, we're going to have him sleep on the first  
13 floor, so he was not going to sleep upstairs anymore.

14 And then Della said, well, there's not even a  
15 full bathroom downstairs, how is he going to take a  
16 bath? And Debby responded, oh, we'll have an  
17 elevator put in.

18 Q. Do you recall anything else about that  
19 conversation concerning your dad's care?

20 A. Yes.

21 Q. What?

22 A. We were trying to find a solution because  
23 Debby was complaining about taking care of him, that  
24 she was not receiving compensation for it, that she  
25 felt that it was like an unrequited feeling in her

1 heart that she -- she didn't feel good that she was  
2 not receiving enough compensation.

3 And then we discussed the options. So there  
4 were four options that we discussed about. The first  
5 one was that dad would come and live with me. The  
6 second one, he would go and live with Della. The  
7 third one would be at a skilled nursing facility or  
8 assisted living. And the fourth one would be a  
9 nursing home.

10 Q. Was that the end of the discussion?

11 A. There was more concerning about like Debby  
12 had gone to search up nursing homes and figured out  
13 what the costs were like in Burlingame, that I just  
14 remember her saying that it costs, you know, so much  
15 money, I don't remember what it was, and yet, you  
16 know, your dad is only paying me this much. It was  
17 like he was getting a deal.

18 Q. Was --

19 MR. BAER: I'm going to object to the last  
20 sentence. Move to strike it.

21 THE COURT: Like he was getting a deal?

22 MR. BAER: Just the witness's impression.  
23 Sounds like it, anyway.

24 THE COURT: It does. You can ask a question.

25 MR. BIORN: That's okay.

1 BY MR. BIORN:

2 Q. Was your dad at home during this  
3 conversation?

4 A. He was, but he was upstairs sleeping because  
5 he was so tired. I'm sorry, he wasn't. He was  
6 downstairs next to the kitchen.

7 Q. I take it you didn't talk to your dad about  
8 these conversations you had with Debby that day?

9 A. No.

10 MR. BAER: Objection. Leading.

11 THE WITNESS: Sorry, no, I did not --

12 BY MR. BIORN:

13 Q. There was a --

14 A. Sorry.

15 THE COURT: Sustained.

16 MR. BIORN: Okay.

17 MR. BAER: So I'll move to strike the answer  
18 then.

19 BY MR. BIORN:

20 Q. Did you discuss this with your dad on this  
21 day?

22 A. Sure --

23 Q. Let me ask a better question. Did you  
24 discuss these conversations that you had with Debby  
25 that you just described for us with your dad that

1 day?

2 A. I'm sorry, you asked that day?

3 Q. Yes.

4 A. No.

5 Q. Why?

6 A. He was sleeping.

7 Q. Did you later discuss these issues that Debby  
8 brought up with your dad?

9 A. Yes.

10 Q. And --

11 A. And before you ask your next question, can we  
12 take a break?

13 THE COURT: Sure. Try to keep it to five,  
14 ten minutes.

15 (Whereupon, a break was taken.)

16 THE COURT: Let's go back on the record.  
17 Mr. Ho, you're still under oath.

18 BY MR. BIORN:

19 Q. Mr. Ho, we were talking before the break  
20 about the day that Debby had set up an appointment  
21 for your dad with an attorney.

22 Do you remember that day that was?

23 A. The day with the attorney was August 21st,  
24 2017.

25 Q. And after that day, did you ever ask your dad

1 about the attorney appointment?

2 A. Yes, the following day, I picked him up to  
3 take him to his acupuncture appointment and I asked  
4 him, did you meet with an attorney the previous day  
5 and my dad said he didn't remember. I said, did you  
6 talk to anyone? And he said oh, I think I talked to  
7 a man, very nice man. I said, did you sign anything  
8 with the very nice man? And he couldn't remember if  
9 he signed anything.

10 Q. Did Debby ever discuss with you anything  
11 about sharing the \$1.1 million with you?

12 A. Yes, she did.

13 Q. How many times?

14 A. Twice.

15 Q. When was the first time?

16 A. In May of 2017.

17 Q. Who else was there or was anyone else there?

18 A. Dad was in the house, but he was not part of  
19 the conversation, nor could he hear the conversation.

20 Q. Tell me what Debby said during this  
21 conversation.

22 A. Debby said, if you help me get this  
23 1.1 million, I will split some with you.

24 Q. What did you say in response?

25 A. I said to her, well, if you're going to split



1 anything to me, I would be sharing it with my sisters  
2 one-third each according to what my parents wanted in  
3 their will.

4 Q. Did Debby say anything else during this call?

5 A. During the conversation --

6 Q. Sorry, during this conversation.

7 A. No, she did not.

8 Q. How long did this conversation last?

9 A. It was very short.

10 Q. When was the next time you discussed or Debby  
11 mentioned sharing some of the \$1.1 million with you?

12 MR. BAER: Objection. Leading.

13 THE COURT: I'm going to overrule that. He  
14 said he talked twice to him.

15 MR. BAER: Sorry, I didn't understand.

16 THE COURT: That's fine.

17 THE WITNESS: The second time was on August  
18 21st, before the John Martin appointment.

19 BY MR. BIORN:

20 Q. What did she say to you?

21 A. She said that if she gets this 1.1 million,  
22 she would split some with me.

23 Q. Did you talk about it further with her?

24 A. No, I did not.

25 Q. Do you remember when your dad and Debby moved

1 into the Redwood City property?

2 A. Yes, I do.

3 Q. Did you assist them?

4 A. Yes, I did.

5 Q. How did you assist them?

6 A. I packed up most of my father's things and  
7 there were movers and I directed them which boxes to  
8 move of his.

9 Q. Did your dad help out at all?

10 A. No, he did not.

11 Q. Why not?

12 A. He was either too tired or incapable, but  
13 what I remember was him just sitting on the bed.

14 MR. BAER: Okay -- go ahead.

15 THE WITNESS: Sitting on the bed while we  
16 were -- like Debby's friend and I were packing up.

17 MR. BAER: I'm going to move to strike  
18 everything other than sitting on the bed parts  
19 because it's speculation and opinion.

20 MR. BIORN: I didn't listen very well. I  
21 don't recall the response.

22 MR. BAER: You can read it back.

23 THE COURT: I'm sorry, could you read it  
24 back?

25 MR. BAER: Everything before -- I think there

1 was a sentence he was sitting on the bed. The part  
2 of the testimony before that, I move to strike.

3 THE COURT: Oh, before sitting on the bed?

4 MR. BAER: Before, yes, the testimony he  
5 gave --

6 THE COURT: Let's go through the whole thing.

7 (The record was read by the Reporter.)

8 MR. BAER: So everything up to "incapable."

9 THE COURT: Too tired or incapable is  
10 stricken.

11 BY MR. BIORN:

12 Q. Were any of Debby's friends there that day?

13 A. Yes.

14 Q. Who?

15 A. Su Cheng, S-U, last name C-H-E-N-G.

16 Q. What did you observe her doing that day?

17 A. She was packing up Debby's stuff.

18 Q. Was Debby tending to your dad?

19 A. No.

20 Q. Was anyone else helping your dad that day?

21 A. Other than me and the movers and Su, no one.

22 Q. How many days did the move take?

23 A. One day.

24 Q. Peter, I'd like you to turn to Exhibit 2.

25 MR. BIORN: Before you turn, Judge, I would

1       like to move that note that Peter found into  
2       evidence. That was Exhibit 82.

3               THE COURT: 82.

4               MR. BAER: No objection.

5               THE COURT: Received.

6               (Whereupon, Exhibit 82 was admitted into  
7       evidence.)

8       BY MR. BIORN:

9               Q. Let's go to Exhibit 2. You're looking at  
10      Exhibit 2.

11              Do you recognize these four pages?

12              MR. BAER: So I'm going to object to  
13      references to this exhibit. It doesn't have any  
14      Bates stamp pages -- numbers on it, sorry. I don't  
15      have any recollection of receiving it.

16              MR. BIORN: It's my understanding that it was  
17      not produced, but it's also my understanding that  
18      they only asked for financial information from 2006  
19      forward. This is from 1995.

20              MR. BAER: So may I propose something? I  
21      would propose that it be -- well, I'll propose that  
22      it be admitted but subject to a motion to strike if  
23      we go back through our discovery and find that it  
24      was -- it would have been within the scope of our  
25      discovery requests.

1 MR. BIORN: That's fair enough. I'll so  
2 stipulate.

3 THE COURT: If it's going to be admitted,  
4 that means you can argue from it. It looks like  
5 there was something between 175 and almost 19. I  
6 don't know if this is a reconciliation of what was in  
7 the survivor's as opposed to the decedent's estate.

8 MR. BIORN: He's also the trustee.

9 MR. BAER: You need to lay a foundation,  
10 authenticate it. I'm not stipulating to its  
11 admissibility.

12 MR. BIORN: Okay.

13 MR. BAER: But for now, I'm withdrawing the  
14 objection, subject to renewing it later.

15 MR. BIORN: Okay.

16 THE COURT: Okay.

17 BY MR. BIORN:

18 Q. Peter, do you recognize these four pages?

19 A. Yes, I do.

20 Q. What are they?

21 A. They are my parents' assets in 1995 that my  
22 dad listed.

23 Q. Do you recognize your dad's handwriting?

24 A. Yes.

25 Q. Where did you find these?

1 A. These were among his things.

2 Q. When did you find them?

3 A. After he died.

4 Q. And you are the trustee of the survivor's  
5 trust, right?

6 A. That's correct.

7 Q. As trustee of the survivor's trust on your  
8 parents' trust, what do you understand these  
9 documents to be?

10 A. That this was -- when my mom passed away, he  
11 needed to split out 600,000 into the deceased's  
12 trust, into Trust B.

13 Q. And you understand these to be a listing of  
14 your parents' assets as of your mom's date of death?

15 A. Yes.

16 Q. Is there a difference between the four pages?

17 A. There are minor differences.

18 Q. What are those, other than the dollar  
19 amounts?

20 A. Well, for instance, his IRAs on the fourth  
21 page, he lists all the account numbers, plus how much  
22 was in each of those accounts. That's what I'm  
23 assuming because that's what the numbers next to the  
24 account numbers are. And in the previous two pages,  
25 they are not listed out.

1 THE WITNESS: I apologize, Your Honor, that's  
2 my glucose monitor.

3 THE COURT: Oh. If we need a break, tell me.

4 THE WITNESS: Thank you. I appreciate that.

5 MR. BIORN: Your Honor, we'll move to put  
6 this document into evidence.

7 MR. BAER: No objection at this time, subject  
8 to a motion to strike.

9 THE COURT: All right. Can you just help me  
10 out? What was put on the 706? It says for 706. Do  
11 you know?

12 MR. BIORN: Correct. I'm not aware of a 706,  
13 Your Honor.

14 THE COURT: Okay. Very good. So the assets  
15 in the trust, it was a marital exemption trust?

16 MR. BIORN: Correct.

17 THE COURT: And then the remaining assets  
18 were in the survivor's trust?

19 MR. BIORN: Correct.

20 THE COURT: Okay. So the total amount?

21 MR. BIORN: Correct. I'll ask him.

22 MR. FRASER: Your Honor, just to clarify, I  
23 believe it was a bypass trust, not a marital  
24 exemption trust.

25 THE COURT: Okay.

1 MR. BIORN: Thank you.

2 THE COURT: I kind of think of them very  
3 similar.

4 MR. BIORN: I do, too.

5 Thanks, Scott.

6 BY MR. BIORN:

7 Q. Peter, as trustee, do you know which assets  
8 were funded into the bypass trust?

9 A. Yes, I do.

10 Q. Which ones?

11 A. They were the two rental houses at 272  
12 Boothbay Avenue and 757 Third Avenue in San Bruno,  
13 and also the land lot that he writes is in L.A.,  
14 which was in Lancaster, so that's in the L.A. County.

15 Q. So if we look at the first page, that would  
16 be referring to, under number 1, real estate sub A,  
17 that would be the three items listed as "rental,  
18 rental, land"?

19 A. That's correct.

20 Q. And if we look at the third page under item  
21 1, that would be items B, C and D?

22 A. Correct.

23 Q. And under the last page, again, under 1,  
24 "real estate," that would be the items listed as 272,  
25 757 and land?



1           A. Are you talking about the second page, the  
2           green page? Yes, because that's the second page for  
3           me in this.

4           Q. The light green page?

5           A. Light green page, correct.

6           MR. BAER: That's page 4.

7           THE WITNESS: I have it as page 2. But  
8           that's fine.

9           BY MR. BIORN:

10          Q. Can you please move that to page 4.

11          A. Um-hmm.

12          Q. That's a formal exhibit. The judge's exhibit  
13          has that as the fourth page.

14          A. Okay.

15          Q. So, again, looking at the fourth page, you  
16          would be referring, for the assets funded in the  
17          bypass trust, to be the items listed as 272, 757 and  
18          land?

19          A. That's correct.

20          Q. Okay. Everything else was funded into the  
21          survivor's trust, correct?

22          A. That's correct.

23          THE COURT: I'm sorry, Mr. Biorn, could you  
24          just basically give me some round figures for -- was  
25          it 600 or 650 that was from the bypass?

1 MR. FRASER: I believe the exemption amount  
2 was 600,000 in that year, so that's the amount that  
3 would have been funded into the bypass trust.

4 THE COURT: And it never went up to 650?

5 MR. FRASER: No. It was always a round  
6 number.

7 THE COURT: Okay. And how much would have  
8 been left in the other trust?

9 BY MR. BIORN:

10 Q. Well, Peter, do you know how much was --  
11 approximately was funded into -- or the value of the  
12 assets funded into the survivor's trust?

13 A. Yes, it was approximately 1.2 million.

14 Q. And are you looking at the total on page 4  
15 that says 1,889,000?

16 A. I was actually looking on page 2 at the  
17 bottom where it says 1,825,672.

18 Q. Okay. That's page 3 in the formal exhibit.

19 THE COURT: It's about the same.

20 THE WITNESS: Yes, it's about the same.

21 MR. BIORN: Okay. These are estimates.

22 MR. BAER: So just for the record, the sum  
23 of -- at least I'm looking at page 4, 272, 757 and  
24 land is \$613,000?

25 MR. BIORN: Yes, and the other pages have

1 different values.

2 THE COURT: Can you help me out? A little  
3 bit far afield, but there is an EIN number. Why  
4 would you have one if you didn't file a 706?

5 MR. BIORN: We just don't know, Your Honor.

6 MR. FRASER: Generally speaking, right, the  
7 bypass would have its own EIN number because you  
8 would -- just for tax reporting purposes and things  
9 like that, or if you needed to open up a bank account  
10 to receive any of the rental income.

11 THE COURT: Fair enough.

12 MR. BAER: Or you might be planning on filing  
13 one.

14 THE COURT: Okay.

15 MR. BIORN: And they may have. We just don't  
16 have it. It was 1995.

17 BY MR. BIORN:

18 Q. Do you know if your parents -- or your father  
19 filed a 706, a state tax return, for your mom's  
20 estate?

21 A. I believe he did, and I believe this EIN  
22 number refers to her trust.

23 Q. Okay.

24 A. Trust B.

25 Q. Okay. Have you ever seen that 706?

1 A. I can't recall.

2 Q. Fair enough. If I could have you turn to  
3 Exhibit 88 --

4 THE COURT: Exhibit 2 was moved into  
5 evidence? You have no objection; is that right?

6 MR. BAER: Subject to a later motion to  
7 strike, but yes.

8 THE COURT: To have it withdrawn?

9 MR. BAER: Yes.

10 THE COURT: Okay. Admitted.

11 (Whereupon, Exhibit 2 was admitted into  
12 evidence.)

13 THE COURT: I'm sorry, what's the next --

14 MR. BIORN: We're moving to 88.

15 BY MR. BIORN:

16 Q. It's a two-page document, Peter. Do you  
17 recognize this document?

18 A. Yes, I do.

19 Q. What is it?

20 A. These are screenshots of text messages that  
21 Debby sent to me.

22 Q. To whom?

23 A. To me.

24 Q. And do you know the date on which both of  
25 them were sent or either of them were sent?

1           A. There are many text messages. I see three  
2 pages, actually.

3           Q. On 88?

4           A. Yes, 88.

5           MR. BAER: That's what I have, too.

6           MR. BIORN: You have three?

7           MR. BAER: I do.

8           THE WITNESS: Could it be stuck on the  
9 bottom? At first I thought there were two pages as  
10 well.

11           MR. BIORN: Could I see that? Thank you.

12 BY MR. BIORN:

13           Q. The text messages on the first two pages, do  
14 you understand those to be from the same day?

15           A. Yes, I do.

16           Q. What day?

17           A. May 3rd, 2017.

18           Q. And is that based on the date stamp that's  
19 about a third of the way down on page 1?

20           A. That's correct.

21           Q. And each of the text messages has a  
22 timestamp?

23           A. Yes.

24           Q. And do you understand that to be accurate?

25           A. Yes.

1           Q. Can you show us which messages are from you  
2           and which messages are from Debby on the first two  
3           pages?

4           A. Yes. The one where it says "We're going out  
5           to run a few errands now," that's from me.

6           The next one, "Okay, you can have dinner  
7           before hitting home," that's from her.

8           The next one is "I see, since one of the  
9           reasons I came up today is to discuss the issues you  
10          wanted to talk about last Sunday," that's from me.

11          And the next one "I told him I'm not going to  
12          talk anymore, it's over," is from Debby.

13          Q. So referring to page 2, your text says "Since  
14          one of the reasons I came up today is to discuss the  
15          issues you wanted to talk about last Sunday," what  
16          issues were those?

17          A. These were regarding the 1.1 million loan and  
18          her either finding a lawyer to sign the -- I'm sorry,  
19          to sign a promissory note or to sign dad's loan note.

20          Q. You indicate that this was an issue that  
21          Debby wanted to talk about last Sunday. Is it fair  
22          to assume that you didn't speak with her about this  
23          last Sunday?

24          A. That's --

25          MR. BAER: Objection. Leading.

1 THE COURT: It's pretty preliminary, so I'm  
2 going to permit it.

3 MR. BIORN: I'm just trying to move this  
4 along. I can rephrase very easily.

5 MR. BAER: Go ahead.

6 THE WITNESS: Yes.

7 BY MR. BIORN:

8 Q. You mentioned about Debby having your dad --  
9 or Debby having a promissory note drafted by a  
10 lawyer.

11 Did you discuss that with her at any time?

12 A. I discussed that with her when she first told  
13 me she wanted to borrow a million dollars from my  
14 dad, and I followed up with her about every other  
15 week to find out if she found a lawyer yet.

16 Q. Did she ever tell you she found a lawyer?

17 A. Not for the promissory note.

18 Q. And you said the other issue that she wanted  
19 to talk to you about last Sunday was maybe signing  
20 the note your dad had drafted?

21 A. Yes. So to me, it was all related regarding  
22 this loan.

23 MR. BAER: I'm going to move to strike.  
24 There wasn't a question pending.

25 MR. BIORN: He's probably right.

1 BY MR. BIORN:

2 Q. What did she tell you that she wanted to talk  
3 to you about on the issue of signing your dad's  
4 promissory note?

5 A. We were just going to discuss what she was  
6 going to sign or, you know, the issues, whatever  
7 issues she had.

8 Q. And her response to you was "I told him I'm  
9 not going to talk anymore, it's over."

10 Did you ever discuss that response with  
11 Debby?

12 A. Other than her saying it to me and closing  
13 her door, after that, not that day or that month.

14 Q. All right.

15 A. Um-hmm.

16 Q. And her saying it to you and closing the  
17 door, that's a conversation you told us about earlier  
18 today?

19 A. That's correct.

20 Q. And then on the third page -- so Debby, in  
21 the first message, she says "I don't know how to say.  
22 I think my job is getting harder and harder. I think  
23 we need to have an open agreement on this and not  
24 wait until he comes in emergency."

25 Did you ever discuss those -- I'm sorry, she



1       said, then you said. She said "I think my your job  
2       is getting harder and harder."

3               Did you ever discuss with her what she meant  
4       by that?

5               A. I didn't discuss with her because I think it  
6       was understood between us.

7               Q. Based on your prior conversation, what was  
8       your understanding?

9               A. That she was taking care of my dad and she  
10       called it a job.

11              Q. In 2017, did she complain to you about taking  
12       care of your dad?

13              A. Yes, she did.

14              Q. How often?

15              A. It increased in frequency, but it was pretty  
16       often.

17              Q. Do you recall any specific discussions?

18              A. The one on July 21st.

19              Q. Tell me what she said. Is that the one you  
20       already told us about today?

21              A. Yes.

22              Q. Yes. Any other specific discussions  
23       regarding complaining about taking care of your dad?

24              A. Yes. I don't remember the exact date, but my  
25       dad had missed the toilet and urinated on the floor.

1 So I was cleaning it up and she saw me cleaning it up  
2 and she said oh, don't clean it up, I'll get the  
3 housekeeper to clean that.

4 Q. Did --

5 A. And he's messy, too, yeah, and has accidents.

6 Q. She also said "my job is getting harder and  
7 harder."

8 Did you ever discuss that with her in 2017?

9 MR. BAER: Asked and answered.

10 MR. BIORN: I guess yes, I'll withdraw.

11 BY MR. BIORN:

12 Q. You say back to her "I think we need to have  
13 an open agreement on this and not wait until it  
14 becomes an emergency."

15 What were you referring to when you said  
16 "this" and "it"?

17 A. I was referring to her signing the loan note.

18 Q. And did she ever respond to that text by  
19 another text?

20 A. She may have. I don't see it here on that  
21 date, so meaning that she might have said it later  
22 on. I don't see it on these pages.

23 MR. BIORN: And David, as I understand it,  
24 we're going to end up stipulating that all texts  
25 involving any of the parties will come into evidence?

1 MR. BAER: I'm not stipulating to that now.  
2 Probably.

3 MR. BIORN: Okay.

4 THE WITNESS: Mr. Biorn, I remembered  
5 something else.

6 BY MR. BIORN:

7 Q. Regarding what?

8 A. Regarding Debby complaining about my father.

9 Q. What else do you recall about --

10 MR. BAER: Wait a second. I'm objecting to  
11 this. That's just talk.

12 MR. BIORN: That's fine. He can ask me at  
13 the break. I'll come in and ask him do you recall  
14 anything else.

15 THE COURT: Yes, and you can do that now.

16 BY MR. BIORN:

17 Q. Do you recall anything else --

18 THE COURT: Peter, you can't --

19 THE WITNESS: Yeah, I apologize, Your Honor.  
20 I did not know.

21 THE COURT: If you want to add something, you  
22 can ask -- feel free to ask him, to Kris, or  
23 Mr. Biorn.

24 THE WITNESS: I understand.

25 BY MR. BIORN:

1 Q. Peter, do you recall anything else about  
2 Debby complaining about taking care of your dad in  
3 2017?

4 A. Yes, I do.

5 Q. What do you recall?

6 A. So she was complaining that the job was  
7 harder, that she couldn't do it by herself, that she  
8 needed helpers to help her out.

9 Q. Did she hire helpers?

10 A. She found two additional helpers, which my  
11 father paid for.

12 Q. How long did those helpers work?

13 A. One of them lasted longer than the other, but  
14 it was approximately from either January or February  
15 until April, all of 2017.

16 Q. Do you remember the names of either of those  
17 helpers?

18 A. I do. I remember both of them.

19 Q. What are their names?

20 A. Christine Wong.

21 Q. Yes.

22 A. And Vivian Zhou.

23 Q. How long did Christine Wong work at your  
24 dad's house?

25 A. Whenever she started, it was either January

1 or February of 2017, and I believe she ended in May  
2 or June of 2017.

3 Q. And how long did Vivian Zhou work at the  
4 Fulton house?

5 A. She came a little bit later than Christine  
6 and she ended --

7 MR. BAER: Wait a second. I object to the  
8 question as lacking foundation.

9 BY MR. BIORN:

10 Q. You were taking care of your dad's finances  
11 at this time?

12 A. That's correct.

13 Q. You were balancing his checkbook?

14 A. Yes.

15 Q. And he was paying for this?

16 A. Yes.

17 Q. So you were writing the checks to pay the  
18 caregivers?

19 A. Actually, dad wrote the checks --

20 Q. Okay.

21 A. -- for that.

22 Q. And did you see those checks?

23 A. I did.

24 Q. Based on those checks, were you aware how  
25 long each of the caregivers worked at your dad's

1 house or at the Redwood City house?

2 MR. BAER: Same objection. There's no  
3 foundation that that's where these people worked. So  
4 that's the problem with the question.

5 MR. BIORN: Foundation that --

6 THE COURT: Okay. Debby testified she had  
7 two people help her.

8 MR. BAER: I understand. But in 2017, they  
9 moved.

10 MR. BIORN: No, they didn't. Oh, yes, they  
11 did. They did.

12 MR. BAER: To the Fulton house.

13 MR. BIORN: You're right, Peter -- David.  
14 Sorry.

15 THE COURT: So you're asking where -- how he  
16 knows where they were, in essence?

17 MR. BAER: Basically, yes. I don't mind him  
18 answering like when they worked. That's fine. I  
19 just don't want either of these witnesses to be  
20 impeached based on the testimony about where they  
21 worked.

22 BY MR. BIORN:

23 Q. Peter, the first caregiver, which properties  
24 did she work at?

25 A. She worked at the Promontory Point.

1 Q. Only Promontory Point?

2 A. That's correct.

3 Q. And you told us already how long she worked  
4 for your dad?

5 A. Yes, this is Christine Wong.

6 Q. Ms. Zhou, where did she work?

7 A. She also was at Promontory Point.

8 Q. And how long did she work at Promontory  
9 Point?

10 A. She started after Christine and up to the end  
11 of April.

12 Q. About how long was that?

13 A. Either two to three months.

14 Q. I thought you said that Christine worked  
15 until May.

16 MR. BAER: Wait a second. Yes, he did. But  
17 that's not really a question.

18 MR. BIORN: True.

19 BY MR. BIORN:

20 Q. Are you sure that -- I'll ask him after the  
21 break. Let's go.

22 Next question: Exhibit 65, do you recognize  
23 this document?

24 A. Yes, I do.

25 Q. And what is it?

1           A. Again, these are screenshots of text messages  
2 between Debby and myself.

3           Q. What day were these sent on?

4           A. Multiple, but the majority of them were sent  
5 on November 13, 2016.

6           Q. The large one in the second half of page 1  
7 and the -- looks like all the ones on page 2 were  
8 sent on that day; is that correct?

9           A. That's correct.

10          Q. On the second page Debby says "I don't know  
11 what to do" -- I'm sorry, on the first page Debby  
12 says "Sorry I had to call you last time. I have been  
13 very upset since then, but there's no way he can get  
14 better."

15               Did you discuss that text message with Debby  
16 after she sent it to you?

17          A. I don't recall -- yes, I discussed this with  
18 her. I just don't recall the specifics.

19          Q. Top of the second page Debby texted you, "I  
20 don't know what to do. These days his headache is  
21 getting better but he seems more like a three years  
22 kid."

23               Did Debby ever tell you what she meant by "He  
24 seems more like a three years kid"?

25          A. Yes.



1 Q. What did she say?

2 A. She said that he doesn't behave, that he  
3 treats her like she's his mommy and that the way that  
4 she has to treat him is like a three-year-old kid in  
5 order to make him conform for what she wants him to  
6 do.

7 Q. Prior to 2016, did Debby ever make similar  
8 comments about Mr. Ho to you?

9 MR. BAER: Objection. Leading.

10 BY MR. BIORN:

11 Q. Did you ever -- prior to this date, did you  
12 ever hear Debby describe your father in the same way?

13 A. Not that I recall.

14 Q. Based on your observations of your father in  
15 around November 2016, would you have the same  
16 conclusion as Debby?

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

18 MR. BIORN: I'll withdraw.

19 BY MR. BIORN:

20 Q. Were your observations of your dad consistent  
21 with how Debby described him in November of 2016?

22 A. I have to say I can't disagree with her, that  
23 sometimes he did act out, yeah.

24 Q. Did that continue into 2017 based on your  
25 observations?

1 A. Yes.

2 Q. Did it get worse or lessen in 2017?

3 A. No, we actually -- sorry. It got worse.

4 Q. How would you describe that?

5 A. He became very needy.

6 Q. What did you observe that made you use that  
7 word?

8 A. In August of 2017, he wanted to go back to  
9 Fulton and Debby did not want him back and he was  
10 very unhappy and depressed and needy.

11 MR. BAER: I'm going to move to strike the  
12 part that Debby did not want as speculation and  
13 lacking foundation.

14 MR. BIORN: That's fine.

15 THE COURT: Stricken.

16 BY MR. BIORN:

17 Q. In 2017, do you recall any instances in which  
18 your dad fell?

19 A. Yes.

20 Q. Prior to 2017, do you recall any instances in  
21 which he fell?

22 A. I was told that he fell.

23 Q. Prior to 2017?

24 A. Prior to 2017, yes.

25 Q. What year?

1 A. It was 2016.

2 Q. Prior to 2016, were you aware of any  
3 instances in which your dad fell?

4 A. No.

5 Q. In 2016, how did you become aware of an  
6 instance in which your dad fell?

7 A. If I recall, he told me that he tripped and  
8 fell.

9 Q. When was this?

10 A. It was some time in the middle of 2016.

11 Q. Was he having his radiation treatments during  
12 this time?

13 A. I'm not sure.

14 Q. Did he tell you anything else about this  
15 incident?

16 A. Not that I can recall.

17 Q. Did you discuss this incident at any time  
18 with Debby?

19 A. I don't believe so.

20 Q. Did you observe any of his falls in 2017?

21 A. Yes.

22 Q. First of all, how many were there that you're  
23 aware of?

24 A. I believe there were four.

25 Q. And how many did you observe?

1 A. One.

2 Q. When was that?

3 A. This was on June 12th.

4 Q. Why do you remember that date?

5 A. That was the day we moved to Fulton.

6 Q. Tell me what you observed of your dad falling  
7 that day.

8 A. So during the move, we were at Fulton and he  
9 had finished taking his shower and I had him sit on a  
10 stool outside the shower while -- I had dried him and  
11 I was ready to put on his clothes.

12 But then the movers called, they needed some  
13 help or direction. I told dad, just sit here, do not  
14 move, do not try to stand up, I will be right back.  
15 I went downstairs to tend to the movers and I heard a  
16 loud crash upstairs and my heart sank.

17 Dropped everything, I ran upstairs and I  
18 found dad sprawled on the bathroom floor. He had  
19 tried to get up and he fell.

20 Q. How did you become aware of the other three  
21 instances of your dad falling?

22 A. Debby told me.

23 Q. For each of them?

24 A. Yes.

25 Q. Do you remember any of the dates?

1 A. I do not.

2 Q. Do you remember any of the specific instances  
3 what Debby said about your dad falling?

4 A. One of them, dad had fallen and she could  
5 not get -- she told me she couldn't lift him up. So  
6 she had either a neighbor or a gardener or a worker,  
7 somebody from outside the house come in and help lift  
8 him up and put him back into bed.

9 Q. Do you recall what Debby said about the other  
10 two falls in 2017?

11 A. Vaguely.

12 Q. What --

13 A. Vaguely that she -- that he had fallen, but  
14 it wasn't severe on one of them and then on both of  
15 them, she was able to help him up.

16 Q. Did your dad use a walker in 2017?

17 A. Yes, he did.

18 Q. How often?

19 A. Quite a lot.

20 Q. Did he use a cane in 2017?

21 A. He did as well.

22 Q. Would you be able to quantify how often he  
23 used a walker or cane in 2017?

24 A. Maybe it would be best if I said starting in  
25 2017 when he had multiple -- he was getting

1 treated -- sorry. When he was being first treated  
2 for his multiple myeloma, he was actually even  
3 wheelchair bound, and then he improved when he  
4 responded to chemo.

5 And then as he improved, he went from  
6 wheelchair to walker to cane, but then he stopped  
7 responding to chemo and it went the other direction.

8 Q. Did he go back to using a wheelchair?

9 A. Eventually, yes.

10 Q. Okay. So are you able to describe any  
11 frequency with how often he used a walker or cane in  
12 2017?

13 A. Yes, over -- almost 100 percent of the time  
14 in 2017, walker or cane.

15 Q. Or wheelchair?

16 A. Or wheelchair.

17 Q. The second time he started using a  
18 wheelchair, how long did that last?

19 A. My recollection is about a month.

20 Q. Did that last until he passed away?

21 A. Yes, it did.

22 MR. BIORN: Give me a moment, Your Honor.  
23 I'm catching up on my notes.

24 THE COURT: Sure. And if you need a recess,  
25 tell me.

1 BY MR. BIORN:

2 Q. Let's move to Exhibit 111. It's a six-page  
3 exhibit. Do you have the same number of pages?

4 When you're done looking at it, my question  
5 is: Do you recognize this document?

6 A. Yes, I do recognize it.

7 Q. What is it?

8 A. These are screenshots of text messages  
9 between Debby and myself.

10 Q. And this is two days after that August 21st,  
11 2017 meeting we talked about; is that right?

12 MR. BAER: Objection. Vague and ambiguous as  
13 to what "this" is.

14 MR. BIORN: Okay.

15 BY MR. BIORN:

16 Q. These text messages were -- do you know when  
17 they were sent?

18 A. Yes, I can see the dates.

19 Q. When?

20 A. At least the ones on the first page at the  
21 bottom started on August 23rd, 2017.

22 Q. Are you able to determine, looking at the  
23 dates or the timestamps, how many of the other text  
24 messages were also sent on August 23, 2017?

25 A. Yes, most of them are, all the way until the

1 sixth and final page where I can see the date stamp  
2 August 25th.

3 Q. Okay. But everything prior to that and  
4 starting with the last text on the first page, those  
5 were all sent on August 23rd, 2017?

6 A. That's correct.

7 Q. Where was your dad staying at this point in  
8 time?

9 A. At this point in time, he was either at my  
10 house or Della's house.

11 Q. How did it come about that he was staying at  
12 either your house or Della's house and not at Redwood  
13 City?

14 A. The day after the John Martin meeting, I  
15 picked him up to take him to his acupuncture  
16 appointment in Cupertino. At that time, I had  
17 already discussed it with Debby, I said dad may be  
18 staying with me that night.

19 So in fact, he did stay with me that night  
20 and the following day, which is August 23rd, I texted  
21 Debby saying that he'll stay with me again basically  
22 for a second night.

23 Q. And that is the last full text on the second  
24 page of this exhibit?

25 A. That's correct.



1 Q. How did Debby respond to you?

2 A. She said okay, you can keep him as much as  
3 you want.

4 Q. What else did she respond? That text message  
5 continues with Debby stating "My back started hurting  
6 two weeks ago and then the last few days have been  
7 bad."

8 A. Yes.

9 Q. "Until the time you were here was the worst,  
10 yesterday, when I walked to the beauty shop from the  
11 car, I barely made it. So today I slept many hours  
12 this afternoon. It seemed a little better."

13 MR. BAER: I'm going to object. That's not a  
14 question.

15 MR. BIORN: Okay.

16 THE COURT: Fair enough.

17 MR. BIORN: Fine.

18 MR. BAER: I mean --

19 MR. BIORN: I'll withdraw it.

20 MR. BAER: I don't really have an objection  
21 to these. They say what they say.

22 MR. BIORN: Let's move this into evidence,  
23 then.

24 MR. BAER: I don't have any objection to  
25 that.

1 THE COURT: Received.

2 (Whereupon, Exhibit 111 was admitted into  
3 evidence.)

4 MR. BIORN: I'm being reminded that I did not  
5 move Exhibit 88 into evidence, the text message  
6 between Debby and Peter.

7 MR. BAER: No objection.

8 THE COURT: Received.

9 (Whereupon, Exhibit 88 was admitted into  
10 evidence.)

11 MR. BIORN: Move to Exhibit 116. Your Honor,  
12 there were numerous voicemails that were produced in  
13 this litigation. The first page of the exhibits  
14 refers to the name of the audio file, electronic  
15 audio file which have been produced to counsel, along  
16 with the official translation of that. So many of  
17 the messages were in Mandarin, so those have been  
18 produced.

19 MR. BAER: What exhibit number?

20 MR. BIORN: 116.

21 MR. BAER: Okay.

22 MR. BIORN: So I would propose, David, that  
23 we not play the audio in Mandarin unless you --  
24 either of us otherwise request, but that we just look  
25 at the text messages -- or the translation.

1 MR. BAER: This one was translated? They  
2 sent it to us?

3 MR. KUO: I think so, yes.

4 MR. BAER: Okay.

5 I agree. Regardless, I don't want to play a  
6 Mandarin tape regardless.

7 MR. BIORN: There may be one that we do, but  
8 I agree with you.

9 THE COURT: So you have no opposition to 116  
10 being received?

11 MR. BAER: I don't know. It hasn't been  
12 authenticated. I know it's a translation.

13 BY MR. BIORN:

14 Q. Peter, what is Exhibit 116?

15 A. It was a voicemail that Debby left for me on  
16 August 24th, 2017 at 3:35 p.m.

17 Q. And did you retrieve that voicemail from your  
18 phone?

19 A. I did.

20 MR. BIORN: So I'll move this into evidence.

21 MR. BAER: No objection.

22 THE COURT: Received.

23 (Whereupon, Exhibit 116 was admitted into  
24 evidence.)

25 BY MR. BIORN:

1 Q. In the voicemail Debby says to you "I already  
2 told you in the text message that I can no longer  
3 take care of your dad."

4 Did you discuss that with Debby after she  
5 left that voicemail?

6 A. No, I did not.

7 Q. Then Debby says to you in the voicemail "If  
8 he wants to meet me, I can come to see him."

9 Did she ever come to see your dad?

10 A. Yes, she did.

11 Q. After -- after this voicemail?

12 A. After this voicemail.

13 Q. When?

14 A. She saw him once on the day he died for 15  
15 minutes.

16 Q. Where was he at this time?

17 A. He was at Della's house.

18 Q. Was your dad able to converse with Debby?

19 A. No. He was comatose.

20 Q. Did you ever ask Debby why she didn't come to  
21 see your dad prior to him being comatose?

22 A. I don't recall who asked her, but it was  
23 either one of my sisters or myself.

24 Q. Where does Della live?

25 MR. BAER: I'm going to move to strike in

1 terms of what one of his sisters did. Lacks  
2 foundation.

3 MR. BIORN: That's fine.

4 THE COURT: It appears to. Stricken.

5 MR. BIORN: That's fine.

6 BY MR. BIORN:

7 Q. Where does Della live?

8 A. She lives in Fremont.

9 Q. Have you ever driven from Della's house to  
10 the Redwood City house?

11 A. I probably have. Can you -- during this  
12 time? I'm not --

13 Q. How long have you lived in this area?

14 A. Well, I lived in Milpitas for 25 years.  
15 Della lived here for over 20 years.

16 Q. Based on living here for over 25 years, do  
17 you have an idea of how long it would take to drive  
18 from Della's house to the Redwood City house?

19 A. Yes.

20 Q. About how long?

21 A. About half an hour.

22 Q. So she says to you next in this voicemail "It  
23 was quite a distance for me to drive there last time  
24 so please figure out some way."

25 Did she ever call you and offer any ways that

1 she could meet with your dad other than driving over  
2 there?

3 A. No, she didn't speak about that with me.

4 Q. When she refers to drive there last time, do  
5 you know when that would have been?

6 A. No, I do not.

7 Q. In the next paragraph she says "Anyway,  
8 everything is secondary currently. If you guys want  
9 money, you can take it, but I hope you can make it  
10 smooth instead of us fighting about it, okay?"

11 Did you discuss that with her after receiving  
12 this voicemail?

13 A. No.

14 Q. What did you understand her to mean when she  
15 left you that voicemail?

16 MR. BAER: Objection. Calls for speculation.

17 MR. BIORN: I'm asking what his understanding  
18 is.

19 MR. BAER: About what she thought?

20 THE COURT: Hold on. I don't know if that's  
21 relevant.

22 MR. BIORN: I'll withdraw it. And we already  
23 moved this into evidence, correct? Yes. So if we  
24 could move to Exhibit 118.

25 THE COURT: No objection?

1 MR. BAER: No.

2 MR. BIORN: Again, 118 is a four-page  
3 document -- four-page exhibit, I should say.

4 BY MR. BIORN:

5 Q. Do you recognize it?

6 A. Yes, I do.

7 Q. What is it?

8 A. They are screenshots of text messages between  
9 Debby and myself.

10 Q. And the text messages that are on page 2,  
11 page 3 and page 4, are you able to tell what day they  
12 were sent?

13 A. Yes, they were sent on August 25th, 2017.

14 MR. BIORN: So I will move this document into  
15 evidence.

16 THE COURT: I think it was just received.  
17 118?

18 MR. BAER: I don't think I -- anyway, I have  
19 no objection.

20 THE COURT: Very good.

21 (Whereupon, Exhibit 118 was admitted into  
22 evidence.)

23 MR. BIORN: Your Honor, we've been going  
24 almost another hour. Is now a good time to break so  
25 I can organize?

1 THE COURT: That's fine with me.

2 (Whereupon, a break was taken.)

3 THE COURT: Back on the record. I'll remind  
4 you you're still under oath.

5 THE WITNESS: Okay.

6 BY MR. BIORN:

7 Q. Peter, in 2017, did you ever discuss with  
8 Debby the option of your dad going to a nursing home?

9 A. Yes, we did.

10 Q. Do you recall when that was?

11 A. That was on July 21st, 2017.

12 Q. Is that the only time you discussed it with  
13 her?

14 A. No, it was not.

15 Q. How many times did you discuss that option  
16 with her?

17 A. Probably for several days.

18 Q. Several different days?

19 A. Sorry, several different days, yes.

20 Q. On -- is the only -- yeah, on July 21, 2017,  
21 what did she say about the option of your dad going  
22 to a nursing home?

23 A. Well, the first thing that she said about the  
24 nursing home was that in order to make my dad behave,  
25 she would threaten him to take him to a nursing home



1       because that's something that he didn't want and he  
2       was afraid of.

3               Afterwards, that's when we had the discussion  
4       on how to care for him, that was one of the options.  
5       It was the very last option of what to do for dad and  
6       to me it was never an option. He was going to come  
7       stay with me, which was number one, unless he didn't  
8       want to and then we would go on to number two or  
9       three.

10              MR. BAER: Okay. I'm going to move to strike  
11       the last two or three sentences as nonresponsive.

12              THE COURT: Never an option with me?

13              MR. BAER: Yes.

14              THE COURT: Got it. Stricken.

15              MR. BIORN: Okay.

16       BY MR. BIORN:

17              Q. Peter, you took your dad to just about all of  
18       his doctor appointments in 2017?

19              A. Yes, that's correct.

20              Q. And you discussed his care and condition with  
21       your dad's doctors?

22              A. Yes, I did.

23              Q. Did you discuss with the doctors at all the  
24       option of taking your dad to a nursing home?

25              A. No, I did not.

1 Q. Why not?

2 A. To me, it was not an option.

3 Q. Why not?

4 A. My wife's father passed away in a nursing  
5 home. When my mom passed away, she did not want to  
6 be in a nursing home or a hospital so we took her  
7 home. And it was going to be the same way for my  
8 dad.

9 Q. Sorry, do you want to take a break?

10 In 2017, did your dad ever tell you whether  
11 or not he wanted to go to a nursing home?

12 A. He told me -- never told me that he wanted to  
13 go to a nursing home, but quite the opposite, he did  
14 not want to go to a nursing home.

15 Q. Did he tell you that before 2017?

16 A. Yes, he did.

17 Q. Did he tell you that around the time your mom  
18 died?

19 MR. BAER: Leading.

20 THE WITNESS: I don't recall.

21 THE COURT: Sustained.

22 MR. BIORN: Fine.

23 BY MR. BIORN:

24 Q. When did your dad tell you that he did not  
25 want to go to a nursing home?

1 A. I don't recall exactly.

2 Q. How many times over the years?

3 A. Maybe two or three times.

4 Q. Did he tell you why?

5 A. We didn't converse quite like that on the  
6 nursing home, so it was more he would --

7 MR. BAER: Object. The question has been  
8 answered.

9 BY MR. BIORN:

10 Q. Peter, different subject.

11 Did you ever -- were you present when your  
12 dad signed any of the documents relating to the  
13 purchase of Redwood City?

14 A. Yes, I was.

15 Q. Which ones?

16 A. I believe it was the one for accepting the  
17 counteroffer from the sellers of Fulton.

18 Q. Were you present for him signing any other  
19 documents related to the sale -- or the purchase of  
20 Redwood City?

21 A. No, I was not.

22 Q. Are you aware that there was an addendum to  
23 the contract taking your dad off as a co-purchaser?

24 A. Not at the time it was signed.

25 Q. But have you since become aware of that

1 document?

2 A. Yes.

3 Q. Were you present when that document was  
4 signed?

5 A. No.

6 Q. Did you ever tell Debby that you didn't want  
7 your dad to be on title for the property?

8 A. No.

9 Q. Did you have family dinners with dad and your  
10 sisters?

11 A. We did.

12 Q. Did you have any in 2017?

13 A. Yes, we did.

14 Q. When?

15 A. Both of the times in August.

16 Q. Why in August?

17 A. That was when Shan-Yuan was here and we were  
18 able to get dad to join us.

19 Q. Do you recall the dates of those family  
20 dinners?

21 A. One was around August 9th and the other one  
22 was August 20th.

23 Q. At either of the meetings, did you discuss  
24 Debby with your dad?

25 A. Yes, I did.

1 Q. Which one, or both?

2 A. Both.

3 Q. The first one, what did your dad say about  
4 Debby?

5 A. He -- I started the conversation because I  
6 noticed that he was antsy.

7 Q. What did you say to him?

8 A. I said, dad, when we go to this dinner, we  
9 don't have to tell Debby that you're coming to dinner  
10 with us.

11 Q. Did he respond?

12 A. He said oh, okay. And then he was a lot more  
13 relaxed.

14 Q. Did you discuss Debby any further at this  
15 first family dinner?

16 A. Not that I recall.

17 Q. Did you discuss Debby at the second family  
18 dinner in August?

19 A. Yes.

20 Q. What do you recall your dad discussing about  
21 Debby?

22 A. He kept on wanting to go home because he was  
23 worried that it was getting late. And I said, are  
24 you worried because Debby will get mad? And he  
25 didn't answer and I gave him -- I said, it's okay,

1       you're just with me and we won't tell them that, you  
2       know, you saw your daughters or we had a family  
3       dinner. And then he perked up again and he was okay.

4             Q. Did your dad go into hospice?

5             A. Yes.

6             Q. When?

7             A. I need a minute.

8             Q. Okay.

9             (Whereupon, the witness left the room.)

10       BY MR. BIORN:

11             Q. I'm going to switch to a different subject.  
12       We can come back to that at the end. I'm going to  
13       have you turn to Exhibit 58.

14             THE COURT: Did you say 58?

15             MR. BIORN: 58, five, eight.

16       BY MR. BIORN:

17             Q. Peter, before I ask you about this exhibit  
18       when you took over balancing your dad's checkbook for  
19       him, did you continue -- did he have a check  
20       register?

21             A. Yes.

22             Q. And did you continue to use that same check  
23       register?

24             A. Yes.

25             Q. And in your helping of your dad with his

1 financing over the years, are you aware of whether or  
2 not he consistently used a check register?

3 A. Yes.

4 Q. And did he consistently use a check register?

5 A. Yes.

6 Q. And this Exhibit 58, what is that?

7 A. It is one of his check registers.

8 Q. And when you took over his -- do you know  
9 what year this is from?

10 A. This is for 2016.

11 Q. And where do you know that by this page?

12 A. I can see it at the top left.

13 Q. Okay. And there's a highlighted entry where  
14 it says check number 222 and 223, then Debby Chang  
15 and some Chinese characters and then 3,000 is  
16 written. You've highlighted that.

17 We saw a check earlier today, Exhibit 57,  
18 which is actually check 222 to Debby Chang for  
19 \$3,000.

20 Is this check register referring to  
21 Exhibit 57 where you've highlighted the 222?

22 MR. BAER: So I'm going to object to this  
23 question. I've kind of waited for a little while  
24 here, but there's -- these don't have Bates stamps on  
25 them. We don't have a record of them being produced

1 in -- up until the discovery cutoff. So I object to  
2 questions about the document or its admissibility.

3 MR. BIORN: Let me confer with my client,  
4 even though I wasn't part of the discovery process.

5 MR. BAER: Okay.

6 MR. BIORN: We may have to put off asking  
7 questions. Can we take a short break? Is that okay,  
8 Your Honor?

9 THE COURT: Yes.

10 (Whereupon, a break was taken.)

11 THE COURT: Back on.

12 MR. BAER: So I withdraw the objection.

13 MR. BIORN: Okay.

14 THE COURT: Thank you.

15 MR. BIORN: Off the record?

16 THE COURT: Off the record.

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

19 THE COURT: Back on.

20 MR. BIORN: Back on the record. I understand  
21 that Mr. Baer has withdrawn his objection.

22 MR. BAER: I did on the record, yes.

23 MR. BIORN: Okay. Thank you.

24 BY MR. BIORN:

25 Q. Peter, Exhibit 58 refers to check number 222



1 and Exhibit 57 is the picture of check 222. Does the  
2 check register entry that you've highlighted refer to  
3 Exhibit 57?

4 MR. BAER: Objection. The documents speak  
5 for themselves.

6 THE COURT: Sustained. They're the same.  
7 Just ask your next question.

8 MR. BIORN: Okay. Well, I would just move  
9 all these into evidence, then, all the registers.  
10 And the ones that have Chinese characters have a  
11 translation. All of the translations were produced.  
12 We didn't make a copy of that Kasie Cheung  
13 certificate of translation for each of the check  
14 registers, but they're all in there and were  
15 produced.

16 THE COURT: So if I see this correctly, the  
17 second page of this exhibit is that the Chinese  
18 letters in the check register after Debby Chang's  
19 name is loan and rent?

20 MR. BIORN: Correct.

21 MR. BAER: I thought there was a  
22 certification for these.

23 MR. BIORN: There is.

24 MR. BAER: Okay.

25 MR. BIORN: It's the same certification for

1 each and for some reason, they aren't in the exhibit  
2 binder.

3 MR. BAER: I remember looking at it.

4 MR. BIORN: Let's go through them then  
5 quickly. So that's 58.

6 MR. BAER: No objection to that one going in.

7 THE COURT: Hold on.

8 MR. BIORN: There is 55.

9 THE COURT: Are you saying you have no  
10 objection to --

11 MR. BAER: I said I have no objection to 58.

12 MR. BIORN: Sorry, 55 is not.

13 THE COURT: Received.

14 (Whereupon, Exhibit 58 was admitted into  
15 evidence.)

16 MR. BIORN: The next one is 60 and 60  
17 references the copy of the check that's 59.

18 BY MR. BIORN:

19 Q. Is that right, Peter?

20 MR. BAER: Again, the documents speak for  
21 themselves.

22 MR. BIORN: Okay, fine.

23 THE COURT: I'm sorry, any opposition to 60  
24 or you're looking at it?

25 MR. BAER: No. Can we just have a

1 stipulation that all the highlighting on this  
2 document was added by Peter Ho? I thought that's  
3 what you were saying.

4 BY MR. BIORN:

5 Q. Peter, did you add all the highlighting on  
6 the registers?

7 A. Yes.

8 MR. BIORN: Then so stipulated.

9 THE COURT: 60 will be received.

10 MR. BAER: No objection.

11 (Whereupon, Exhibit 60 was admitted into  
12 evidence.)

13 MR. BIORN: The next one is 62.

14 The next one is 64.

15 THE COURT: I need to hear "no objection" to  
16 62.

17 MR. BAER: Sorry. No objection.

18 (Whereupon, Exhibit 62 was admitted into  
19 evidence.)

20 THE COURT: I think we're looking at 64 next?

21 MR. BIORN: 64 is next. Any objection?

22 Oops.

23 MR. BAER: I'm sorry, no objection. I'm kind  
24 of zoning out here.

25 THE COURT: Received.

1 (Whereupon, Exhibit 64 was admitted into  
2 evidence.)

3 MR. BIORN: 67.

4 MR. BAER: No objection.

5 THE COURT: Can you help me out on this? Oh,  
6 67?

7 MR. BIORN: 67. Next one, I think.

8 THE COURT: This is the check to Peter Ho?

9 MR. BIORN: Correct.

10 THE WITNESS: Huh-uh.

11 MR. BIORN: 67 was --

12 MR. FRASER: 67 was the register.

13 MR. BIORN: With an entry to Peter.

14 THE WITNESS: It's not to me.

15 MR. BIORN: It's your payment.

16 THE WITNESS: Yes.

17 MR. BIORN: Well, you'll tell them.

18 THE WITNESS: Okay.

19 THE COURT: So 67 is going to be received; is  
20 that correct?

21 MR. BAER: Yes.

22 THE COURT: Thank you.

23 (Whereupon, Exhibit 67 was admitted into  
24 evidence.)

25 MR. BIORN: 70.

1 MR. BAER: No objection.

2 THE COURT: Received.

3 (Whereupon, Exhibit 70 was admitted into  
4 evidence.)

5 MR. BIORN: 76.

6 MR. BAER: So what are we on here? 76? No  
7 objection.

8 THE COURT: Received.

9 (Whereupon, Exhibit 76 was admitted into  
10 evidence.)

11 MR. BIORN: 97.

12 MR. BAER: So this one, it's just not clear  
13 to me that this is all James' writing, Mr. Ho's  
14 writing.

15 MR. BIORN: That was 97?

16 MR. BAER: 97, yes.

17 THE WITNESS: Not all of it is James'  
18 writing.

19 MR. BIORN: I'll ask him.

20 BY MR. BIORN:

21 Q. Peter, will you take a look at Exhibit 97?

22 A. Yes.

23 Q. Is the highlighted handwriting your father's  
24 handwriting?

25 A. Yes, it is.

1 MR. BAER: I'd just like to establish what's  
2 his writing and what isn't.

3 BY MR. BIORN:

4 Q. Is that your dad's hand printing on the  
5 entire document?

6 A. No, it's not.

7 Q. Which areas are not your father's hand  
8 printing?

9 A. Everything above the last two lines to Debby  
10 Chang are not his printing.

11 Q. Whose handwriting is that?

12 A. It's mine.

13 Q. So the entry for "Debby Chang, rent" and  
14 "Debby Chang, food and work," I think that was  
15 learned earlier today, those were printed by your  
16 dad?

17 A. That's correct.

18 Q. Thank you.

19 MR. BAER: No objection.

20 THE COURT: Can you just do me a favor? I  
21 can't read the second date. I don't know if it's  
22 important, but I can't read it.

23 MR. BIORN: Go ahead.

24 THE WITNESS: The one that's highlighted,  
25 7-10-17 to Debby Chang?

1 THE COURT: And what's the one above that?

2 THE WITNESS: It would be a 7-11 -- sorry, it  
3 might be -- it might be 7-10 as well, but it could be  
4 7-11.

5 You know what, Your Honor, both of them are  
6 7-10 because I can see the checks.

7 THE COURT: Okay.

8 THE WITNESS: They're both 7-10.

9 THE COURT: Received.

10 (Whereupon, Exhibit 97 was admitted into  
11 evidence.)

12 MR. BIORN: Okay. Sorry. 120.

13 MR. BAER: No objection.

14 THE COURT: Received.

15 (Whereupon, Exhibit 120 was admitted into  
16 evidence.)

17 MR. BAER: I would like it clarified whose  
18 writing is who, though.

19 BY MR. BIORN:

20 Q. Peter, on that exhibit, whose writing is who?

21 A. So everything above the highlighted DC is my  
22 father's. The next few from the United States  
23 Treasury, all the way down to "Transfer to 7120" is  
24 mine. And then Christine Wong after that is my  
25 father's and then the last three are mine.

1 THE COURT: Wong is W-O-N-G according to  
2 this.

3 THE REPORTER: Thank you.

4 MR. FRASER: I think we're good on 120.

5 MR. BIORN: Okay.

6 THE COURT: 120 has been received.

7 MR. BIORN: Okay.

8 BY MR. BIORN:

9 Q. Peter, all right, I would like to ask you  
10 some more questions.

11 I want to go back to a question I asked  
12 before our break. Did your dad go into hospice?

13 A. Yes, he did.

14 Q. When?

15 A. Dr. So-Rosillo gave me a call on around  
16 August 29th and he said, we need to discuss hospice  
17 for your dad.

18 MR. BAER: I'm going to object as hearsay.

19 THE COURT: As to the call, I'm going to  
20 permit it, but "we have to discuss your dad," you  
21 want that stricken?

22 MR. BAER: Yes.

23 THE COURT: Stricken.

24 BY MR. BIORN:

25 Q. What day did your dad go into hospice?



1 A. He went into hospice the next day.

2 Q. That would be the 30th of August?

3 A. That's correct.

4 Q. Where was he put into hospice?

5 A. So we checked him into the ER, so he was  
6 admitted to the hospital. And then from there, he  
7 was admitted into hospice.

8 Q. Which hospital?

9 A. Oh, sorry. Kaiser Hospital in Redwood City.

10 Q. And where was the hospice?

11 A. The hospice eventually was -- he spent the  
12 rest of his life at Della's house.

13 Q. Did you bring in hospice nurses?

14 A. Yes. They came in, as I know, to my  
15 knowledge, because I never saw them.

16 Q. You never saw the hospice nurses?

17 A. No.

18 Q. Did you tell Debby that your dad was going  
19 into hospice?

20 A. No.

21 Q. Why not?

22 A. I felt she had already abandoned my dad.

23 Q. Thank you.

24 MR. BIORN: I don't have anything further.

25 THE COURT: Cross?

1 MR. BIORN: And because we're taking Peter  
2 out of order, I'd like a little leeway if possible on  
3 my redirect.

4 MR. BAER: Well, I'm not going to finish  
5 this.

6 MR. BIORN: No, I meant down the road because  
7 I don't know everything Debby's going to say.

8 MR. FRASER: Before we start cross, can we  
9 also admit the checks that are referenced in the  
10 register? That's fine, if you -- just a suggestion.

11 MR. BAER: I don't have a problem with that.  
12 Just need to have them identified for the record.

13 MR. BIORN: Okay. Let's do that.

14 MR. FRASER: Sorry. Just seemed like a good  
15 time to do it.

16 THE COURT: And I'm not sure, while you were  
17 out, we talked about a procedural matter.

18 Mr. Baer would like to take your seat for  
19 your client and you move over one.

20 MR. BIORN: That's fine.

21 THE COURT: Starting with what number, the  
22 checks?

23 MR. BIORN: Starting with -- excuse me, check  
24 57 -- or Exhibit 57.

25 MR. BAER: Sorry, I'm trying to do two

1 different things here.

2 No objection.

3 THE COURT: Received.

4 (Whereupon, Exhibit 57 was admitted into  
5 evidence.)

6 MR. BIORN: Exhibit 59.

7 Exhibit 61.

8 THE COURT: Hold on. You have no objection?

9 MR. BAER: I have no objection.

10 THE COURT: Great.

11 (Whereupon, Exhibit 59 was admitted into  
12 evidence.)

13 THE COURT: 61 you said?

14 MR. BIORN: Yes.

15 THE COURT: Thanks.

16 MR. BAER: No objection to 61.

17 THE COURT: Received.

18 (Whereupon, Exhibit 61 was admitted into  
19 evidence.)

20 MR. BAER: Frankly, I'm having a little  
21 trouble remembering what -- which of these checks  
22 there was testimony about, but anyway, were you  
23 tracking that this was identified?

24 MR. FRASER: Yes.

25 MR. BAER: Okay. And you have this as

1 identified?

2 MR. KUO: Yes.

3 MR. BAER: Okay. We don't have a record that  
4 it was identified either.

5 MR. BIORN: Okay. Next one is 69.

6 THE COURT: Wait. Why don't we just identify  
7 it. Oh, 63 is a check --

8 MR. BIORN: I'm going to have to ask Debby  
9 about that check tomorrow.

10 THE COURT: The next one is what?

11 MR. BIORN: 69.

12 THE COURT: Okay.

13 MR. BAER: Okay. No objection.

14 THE COURT: Received.

15 (Whereupon, Exhibit 69 was admitted into  
16 evidence.)

17 MR. BIORN: 75. As long as we're doing  
18 housekeeping, let's do them all. 73 which is the  
19 general mortgage letter.

20 MR. BAER: No objection.

21 THE COURT: Received.

22 (Whereupon, Exhibit 73 was admitted into  
23 evidence.)

24 MR. BIORN: 75.

25 MR. BAER: No objection.

1 THE COURT: Received.

2 (Whereupon, Exhibit 75 was admitted into  
3 evidence.)

4 MR. BIORN: 77.

5 MR. BAER: No objection.

6 THE COURT: Received.

7 (Whereupon, Exhibit 77 was admitted into  
8 evidence.)

9 MR. BIORN: 78.

10 THE COURT: Received. Oh, any objection to  
11 78?

12 MR. BAER: No objection.

13 THE COURT: Received.

14 (Whereupon, Exhibit 78 was admitted into  
15 evidence.)

16 MR. BIORN: 85.

17 MR. BAER: No objection.

18 THE COURT: Received.

19 (Whereupon, Exhibit 85 was admitted into  
20 evidence.)

21 MR. BIORN: 94.

22 MR. BAER: No objection.

23 THE COURT: Received.

24 (Whereupon, Exhibit 94 was admitted into  
25 evidence.)

1 MR. BIORN: 96.

2 MR. BAER: No objection.

3 THE COURT: Received.

4 (Whereupon, Exhibit 96 was admitted into  
5 evidence.)

6 MR. BAER: You don't have it as identified?  
7 It was identified, I'm almost sure. This is the one  
8 with the symbol for work, chunk -- gong.

9 MR. BIORN: Did we admit that one?

10 MR. BAER: I have no objection.

11 THE COURT: Admitted.

12 MR. BIORN: 119.

13 MR. BAER: No objection.

14 THE COURT: Received.

15 (Whereupon, Exhibit 119 was admitted into  
16 evidence.)

17 MR. BIORN: 145.

18 MR. BAER: No objection.

19 THE COURT: Received.

20 (Whereupon, Exhibit 145 was admitted into  
21 evidence.)

22 MR. BIORN: 146.

23 MR. BAER: No objection.

24 THE COURT: Received.

25 (Whereupon, Exhibit 146 was admitted into

1 evidence.)

2 MR. BIORN: 150.

3 MR. BAER: No objection.

4 THE COURT: Received.

5 (Whereupon, Exhibit 150 was admitted into  
6 evidence.)

7 MR. BIORN: 151.

8 MR. BAER: No objection.

9 THE COURT: Received.

10 (Whereupon, Exhibit 151 was admitted into  
11 evidence.)

12 MR. BIORN: 155.

13 MR. BAER: No objection.

14 THE COURT: Received.

15 (Whereupon, Exhibit 155 was admitted into  
16 evidence.)

17 MR. BIORN: 156.

18 MR. BAER: No objection.

19 THE COURT: Received.

20 (Whereupon, Exhibit 156 was admitted into  
21 evidence.)

22 MR. BIORN: That is all for now.

23 THE COURT: Very good. If you could just --

24 MR. BAER: I need a little time to set up.

25 We've got to get our exhibit binders and stuff like

1       that.

2               THE COURT:   Sure.

3               (Whereupon, a break was taken.)

4               THE COURT:   Back on.   Mr. Ho, you're still  
5       under oath.

6                       CROSS-EXAMINATION

7       BY MR. BAER:

8               Q. Good afternoon, Mr. Ho.   I'm going to ask you  
9       some questions.   Let's start out with questions  
10      concerning some of the exhibits that your counsel has  
11      already referenced.

12              So first, let me turn your attention to  
13      Exhibit 150 in -- I'm not positive -- volume 1,  
14      volume 2.   Volume 2.   And that is a Grant Deed.

15              And so am I correct that you never saw that  
16      Grant Deed until after this lawsuit was commenced?

17              A. That is correct.

18              Q. And your father didn't tell you that he  
19      transferred -- or that he essentially acquired the  
20      Evelyn property with Debby, correct?

21              A. That's incorrect.

22              Q. When did he tell you that?

23              A. He told me before he sold the property in  
24      2005.

25              Q. Okay.   And do you remember signing a



1 declaration in connection with this case?

2 A. I remember signing at least one.

3 Q. Okay. So let me turn your attention  
4 specifically to Exhibit 634. That's in our binder.

5 A. Which binder?

6 Q. 634.

7 MR. BAER: Why don't you show him which  
8 binder it is, please.

9 MR. BIORN: Why don't you just show us.

10 MR. KUO: Volume 7.

11 MR. FRASER: It's the last one.

12 THE COURT: Got it.

13 MR. BAER: Okay.

14 BY MR. BAER:

15 Q. Are you on the exhibit?

16 A. Yes.

17 Q. Let me specifically turn your attention to  
18 page 4 of the declaration. That's the numbered page  
19 4 and paragraph 23 which begins on the preceding  
20 page.

21 A. Um-hmm.

22 Q. Okay. So you recall that you signed this  
23 declaration under penalty of perjury?

24 A. Yes.

25 Q. Okay. And on the third line here, you stated

1 "My father and Debby took title as tenants in  
2 common." And that sentence related to the Albany  
3 property, correct?

4 A. Yes.

5 Q. So did you review the deed by which your  
6 father and Debby took title before signing this  
7 declaration?

8 A. Yes, I did.

9 Q. Is that a true statement that your dad and  
10 Debby took title as tenants in common?

11 A. It is not.

12 Q. In fact, they took title as joint tenants,  
13 correct?

14 A. That is correct.

15 Q. And you signed this declaration anyway?

16 A. I, at the time, I believed it was tenants in  
17 common.

18 Q. And you understand that a joint tenancy is a  
19 different form of title than tenants in common,  
20 correct?

21 A. Yes, I do.

22 Q. The deed itself, Exhibit Number 150, it says  
23 that they took -- it says that the property is  
24 granted to Debby and your father as joint tenants,  
25 correct?

1 A. That's correct.

2 Q. Okay. And you understand that when they  
3 acquire title as joint tenants, that means that if  
4 one of them dies, the other one inherits the  
5 decedent's interest in the property?

6 A. Yes.

7 Q. So let me turn your attention to Exhibit 97.  
8 That is in the first binder of your exhibits.

9 A. I got it.

10 MR. BIORN: Are we coming back to volume 7 of  
11 your binders any time soon?

12 MR. BAER: I don't think so.

13 THE COURT: And I'm sorry, what's the exhibit  
14 number?

15 MR. BAER: Number 96.

16 BY MR. BAER:

17 Q. You never had any discussion with your father  
18 about this check, did you?

19 A. I might have. I'm trying to recall the  
20 conversation.

21 Yes, I did have a conversation with him.

22 Q. When did you say you took over responsibility  
23 for his check register?

24 A. February of 2017.

25 Q. Okay. And did you take a look at the checks

1       that he had been writing up to then, at least in the  
2       current check register?

3             A. Yes.

4             Q. And through July 10, 2017, you did not see  
5       any checks that would indicate to you that your  
6       father was compensating Ms. Chang for any work or  
7       labor that she was performing, did you?

8             A. Counsel, that was a really long question. I  
9       missed the first part or I lost the first part.  
10      Please repeat.

11            Q. Sure. Okay. Maybe I'll try to simplify.

12            So Exhibit 96 is the only check that you know  
13      of that indicates that your father ever compensated  
14      Debby Chang for any work or labor, correct?

15            A. At that time.

16            Q. So do you or do you not know of other checks  
17      that indicate that your father compensated Debby for  
18      any services or labor that she might have provided or  
19      performed?

20            A. I do know.

21            Q. Is there any notation on any check to  
22      indicate that?

23            A. I don't recall if it's on the check.

24            Q. Do you know of a document that indicates that  
25      he was writing -- that he had written a check to her

1 that was intended to compensate her besides  
2 Exhibit 96?

3 A. Yes.

4 Q. What is the document?

5 A. It is another register.

6 Q. When you took over the responsibility for  
7 your father's check register, you never wrote any  
8 checks to compensate Debby Chang for doing anything,  
9 did you?

10 A. Not that I can recall.

11 Q. When you took over the responsibility for the  
12 check register, your father didn't give you any  
13 instructions to make payments to Debby for any work  
14 that she might be doing, did he?

15 A. That's correct.

16 Q. Did he -- at that time, he did not explain to  
17 you that he had any arrangement with Debby to  
18 compensate her for anything that she was doing,  
19 correct?

20 A. Counselor, at which time?

21 Q. At the time you took over the responsibility  
22 for the check register.

23 A. That's correct.

24 Q. And your father never instructed you to write  
25 any checks to Debby to compensate her, correct?

1 A. Not that I recall.

2 Q. Did you ever ask your father should I write  
3 any checks to Debby to compensate her for anything  
4 she's doing?

5 A. No.

6 Q. And your state of mind then in not asking  
7 your father was that she was not a compensated  
8 caregiver, correct?

9 A. No.

10 Q. So I take it, then, your testimony is you  
11 thought she was a compensated caregiver, but you just  
12 never asked your dad about it; is that fair?

13 A. No.

14 Q. Did your dad tell you at some point that  
15 Debby is a compensated caregiver?

16 A. Yes.

17 Q. You don't have any writing at all in this  
18 case to that effect, do you?

19 A. I have --

20 Q. To the effect that your dad made a statement  
21 to you that Debby is a compensated caregiver.

22 A. Well, I asked him about these checks which is  
23 written.

24 Q. That's not the question.

25 A. Okay.

1 MR. BAER: Could you please read the question  
2 back?

3 (The record was read by the Reporter.)

4 MR. BIORN: I thought your question  
5 included --

6 MR. BAER: I don't think that's the entire  
7 question.

8 (The record was read by the Reporter.)

9 THE WITNESS: No.

10 BY MR. BAER:

11 Q. All right. And when you took over the  
12 responsibility for your father's checkbook, he  
13 continued to write checks in that checkbook from time  
14 to time, correct?

15 A. That's correct.

16 Q. And when you looked back at the register, you  
17 noticed, as you were working on his register, that he  
18 was writing some checks, correct?

19 A. That's correct.

20 Q. So you didn't take his checkbook away from  
21 him ever, did you?

22 A. I did not take this checkbook away from him  
23 ever.

24 Q. Okay. So he could freely write checks --  
25 strike that.

1           And you did not -- this is, what, Wells Fargo  
2           account number?

3           MR. BAER:   What's the number?   Doesn't show  
4           on this book, one of the checks.

5           BY MR. BAER:

6           Q.   Anyway, passing on that.

7           So for this checking account that's shown by,  
8           for example, Exhibit 120, why don't you take a look  
9           at that one.

10          A.   Exhibit 120, is that what you said,  
11          Counselor?

12          Q.   Yes.

13          A.   Okay.

14          Q.   Okay.   And this is for -- this check register  
15          is for the Wells Fargo account ending in 2248,  
16          correct?

17          A.   I believe so.

18          Q.   And all of the pages from the check register  
19          that have been identified, those are all from that  
20          account, correct?

21          A.   Sorry, could you repeat the question?

22          Q.   Okay.   So you identified --

23          THE COURT:   Can we go off the record just for  
24          a minute?

25          MR. BAER:   Sure.



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

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

4 THE WITNESS: So I need to correct my  
5 statement.

6 MR. BIORN: What?

7 THE WITNESS: He asked me if this was 2248.  
8 I said I believe so. Now, I know it's not.

9 MR. BIORN: Okay.

10 BY MR. BAER:

11 Q. So for this account, for the account that  
12 corresponds to the register that's in 120, you did  
13 not take his checkbook away from him, did you?

14 A. At what time?

15 Q. Ever.

16 A. Yes, I did.

17 Q. When did you do that?

18 A. I took it away in -- it was either in July or  
19 August of 2017.

20 Q. Let me turn your attention to Exhibit 94.  
21 Okay. Are you there?

22 A. Yes, I am.

23 Q. Okay, great. So this is a check that your  
24 father wrote on July 10, 2017, correct?

25 A. Correct.

1 Q. And you saw this in his register, correct?

2 A. Correct.

3 Q. And your dad made an entry for this check in  
4 his register, correct?

5 A. Correct.

6 Q. So as of July 10, 2017, you had not taken his  
7 checkbook for this account away from him, correct?

8 A. Correct.

9 Q. And as of July 10, 2017, you had not taken  
10 access to his register away from him either, correct?

11 A. Correct.

12 Q. So he was essentially physically able,  
13 anyway, to make entries when he wrote checks in his  
14 register?

15 A. Yes.

16 Q. He had access to it --

17 A. Yes.

18 Q. -- to do that?

19 And you, in fact, saw that he did, in fact,  
20 make entries in his register when he wrote checks  
21 because you were also managing the account?

22 A. That's correct.

23 Q. Okay. And so when you looked at the checks  
24 that he made notations of or that he recorded there,  
25 I should say, he also wrote the amounts of the

1 checks, correct?

2 A. Yes.

3 Q. All right. When your father sold the CSM  
4 property, he told you that he had researched the  
5 property tax rules, correct?

6 A. That's correct.

7 Q. And that was in the beginning of 2014 or --  
8 I'm sorry, the beginning of 2015 or the end of 2014  
9 that he told you that, correct?

10 A. Incorrect.

11 Q. When did he tell you that?

12 A. The beginning of 2014.

13 Q. So he knew that essentially before he started  
14 marketing the property; is that right?

15 A. I would assume so.

16 Q. And he explained those rules to you, correct?

17 A. Yes, he did.

18 Q. And you didn't know anything about those  
19 rules at the time, correct?

20 A. That's correct.

21 Q. You knew that -- you had no knowledge about  
22 what rules might govern the transfer of a base year  
23 value from one residence to another, right?

24 A. Right.

25 Q. So he was the one educating you about that,

1 correct?

2 A. That's correct.

3 Q. All right. And then, as things proceeded, as  
4 far as you know, nothing he told you back then about  
5 the rules turned out to be mistaken, correct?

6 A. Correct.

7 Q. All right. And before your father sold the  
8 CSM property, he took out a loan on that property,  
9 correct?

10 A. Correct.

11 Q. And you were a co-signer on the loan,  
12 correct?

13 A. Correct.

14 Q. Do you remember how large the loan was?

15 A. My recollection was \$280,000.

16 Q. Okay. And you didn't do anything then to  
17 prevent your father from borrowing that money, did  
18 you?

19 A. No.

20 Q. You facilitated it by being a co-signer on  
21 the loan, correct?

22 A. Correct.

23 Q. And you facilitated it by lending your credit  
24 to the transaction, essentially, right?

25 A. That's right.

1 Q. And you understood then that, if your father  
2 didn't repay the loan, the lender could foreclose and  
3 he could lose the property, correct?

4 A. Yes, that's one of the consequences.

5 Q. And there were other consequences that were  
6 potentially adverse to him, correct?

7 A. Adverse to him and adverse to me.

8 Q. Right. And did your father say anything to  
9 you to essentially confirm that he understood the  
10 risks, the adverse consequences of the transaction?

11 A. Can you rephrase, please?

12 Q. Sure. You understand there were certain  
13 risks associated with this transaction, correct?

14 A. Which is the mortgage -- sorry. Please  
15 rephrase by "him" and --

16 Q. Okay. You understood when you and your  
17 father borrowed money secured by the CSM property,  
18 that there were risks in that transaction to your  
19 father, correct?

20 A. Yes.

21 Q. Okay. And your father, did he say anything  
22 to you to explain that he understood the risks of the  
23 transaction?

24 A. I didn't think he needed to.

25 Q. So in light of the fact that you didn't feel

1 he needed to, you didn't try to explain the risks of  
2 the transaction to him, did you?

3 A. No.

4 Q. You thought he understood them, correct?

5 A. That's correct.

6 Q. You thought he understood the risk that he  
7 could lose the property if he did not repay the loan,  
8 correct?

9 A. That's correct.

10 Q. Okay. And in the process of that loan  
11 transaction, you went on title to the CSM property,  
12 correct?

13 A. Correct.

14 Q. You obtained a one percent interest in that  
15 property, correct?

16 A. That's correct.

17 Q. And that was necessary so that essentially  
18 you could be a co-signer on the loan, correct?

19 A. Correct.

20 Q. So the sale -- strike that.

21 So am I correct also that it's your testimony  
22 that you didn't know until after the fact that your  
23 father had sold the CSM property?

24 A. Okay. We need to define when he sold. Do  
25 you mean after escrow closed or when he was under

1 contract?

2 Q. Well, let's start first with after escrow  
3 closed. I believe that was on January 10, 2014?

4 A. Approximately, that what I --

5 Q. I think that's what the deed shows.

6 A. Okay.

7 Q. So as of then, had he told you that he had  
8 sold the property?

9 A. Yes.

10 Q. As of the time he went into contract, did he  
11 tell you that he was -- that he was in contract to  
12 sell the home?

13 A. It was at that time that he told me.

14 Q. Okay. And at that point in time, you didn't  
15 ask your father, do you understand the consequences  
16 of this transaction, did you?

17 A. No.

18 Q. You didn't do anything to try to prevent him  
19 from proceeding with the transaction, did you?

20 A. Yes, I did, but it's not exactly that I said  
21 don't sell it. I asked him, it's like, why did you  
22 sell it at such a low price? You should have sold it  
23 at a higher price.

24 And I said, can you -- if you want to sell  
25 it, then you need to sell it at a higher price.

1 Q. Okay. And you took no action -- well, strike  
2 that.

3 You never suggested to your father that he  
4 try to rescind the transaction because he didn't  
5 understand that he was not selling the property for  
6 its fair market value, did you?

7 A. Can you repeat the question?

8 MR. BAER: Can you read it back?

9 (The record was read by the Reporter.)

10 BY MR. BAER:

11 Q. For less than its fair market value.

12 A. First off, I did suggest to him.

13 Second, I don't -- I'm not sure that he  
14 thought that it was undervalued.

15 Q. Did you ask him what he had done to confirm  
16 the value of the property?

17 A. Yes.

18 Q. What did he tell you?

19 A. He told me he checked with the real estate  
20 agent and also Debby.

21 Q. Okay. And so based on -- and so your father  
22 told you that he thought that he was selling the  
23 property for its fair market value based on their  
24 advice, right?

25 A. No. He thought he was selling it higher than



1 fair market value.

2 Q. And you disagreed with that, right?

3 A. That's correct.

4 Q. Okay. You yourself didn't take any action to  
5 prevent the transaction from going forward when you  
6 learned your father was in contract, correct?

7 A. Please define like inaction or what type of  
8 actions, because I testified already that I suggested  
9 to him that he shouldn't.

10 Q. Okay. That was suggestion. So now I'm  
11 talking about action.

12 Did you do anything to try to prevent this  
13 transaction from going forward?

14 A. No, other than telling him that you're  
15 selling it at a lower price, that you should not sell  
16 it.

17 Q. So basically you left it up to your dad to  
18 decide whether he wanted to do anything to get out of  
19 the deal; is that fair?

20 A. Yes, that's correct.

21 Q. And then before the escrow closed, your  
22 father basically -- well, let me put the question  
23 differently. Okay.

24 Before escrow closed on the sale of the CSM  
25 property, you conveyed your one percent interest in

1 that property back to your father, correct?

2 A. Correct.

3 Q. So when he initially gave you a one percent  
4 interest in that property -- well, not initially.

5 When he gave you a one percent interest in  
6 the property, that was a gift, correct?

7 A. I would not characterize it as a gift.

8 Q. Well, you didn't pay anything for the one  
9 percent interest in the property?

10 A. That's correct.

11 Q. Okay. And you thought that was reasonable  
12 because essentially, you were taking a credit risk,  
13 correct?

14 A. No, that's not what I thought.

15 Q. Okay. Am I correct that at least one reason  
16 that you -- that your father did not pay you any  
17 money for his one percent interest was that you were  
18 anticipating transferring the one percent interest  
19 back to him?

20 A. Yes.

21 Q. Okay. And so essentially, for tax reasons,  
22 there was no purchase price, either when you acquired  
23 your one percent interest or when you conveyed it  
24 back, correct?

25 A. I am not sure because I don't think there's a

1 tax -- there wouldn't be any tax anyways between  
2 parent and child. It was not one of the  
3 considerations.

4 Q. Okay. So now, I'm talking about income tax  
5 and capital gains tax.

6 A. Um-hmm.

7 Q. Did you give any consideration to the capital  
8 gains taxes associated with the -- your acquisition  
9 of the one percent interest?

10 A. My capital gains, consideration for my  
11 capital gains?

12 Q. Yes, because you were acquiring the interest  
13 and then you were going to transfer it back.

14 A. I did not think about it.

15 Q. Okay. Did your dad raise that issue with  
16 you?

17 A. No.

18 Q. Did you recommend to your father that he get  
19 any professional advice in connection with the  
20 transaction?

21 A. No.

22 Q. And so far as you know, he never got any  
23 professional advice in connection with that  
24 transaction, correct?

25 A. That's incorrect.

1 Q. So in terms of -- now I'm talking about the  
2 transfers of the one percent interest in the loan.

3 A. Um-hmm.

4 Q. What professional advice do you know that he  
5 got in connection with that transaction?

6 A. Yes, so he talked to the real estate agents  
7 and also the loan agent.

8 Q. Okay. And he did that independently,  
9 correct?

10 A. That's correct.

11 Q. And the reason you just gave that testimony  
12 is that your father explained to you that he had  
13 spoken to a real estate agent and a loan agent about  
14 it, right?

15 A. That's correct.

16 Q. Okay. And did he convey to you -- I'm not  
17 asking you what he said. I'm just asking you if he  
18 told you what he had learned from the real estate  
19 agent.

20 A. Yes.

21 Q. And he told you what he had learned from the  
22 loan agent as well, correct?

23 A. Yes.

24 Q. And you, at the time, thought that -- strike  
25 that.

1                   So when your dad gifted the one percent  
2                   interest to you --

3                   MR. BAER:   Actually, can you do me a favor?  
4                   Can you find the deed here?

5                   MR. BIORN:   Peter, we've gone past 6:00 quite  
6                   a bit.

7                   MR. BAER:   Oh, sorry.

8                   MR. BIORN:   I thought you were going to maybe  
9                   wrap this up quicker.

10                  MR. BAER:   Well, we can stop if you want.  
11                  That's okay.

12                  MR. BIORN:   Yes, that would be great.   Thank  
13                  you.

14                  THE COURT:   Great.   Off the record.

15                  (WHEREUPON, the proceedings were adjourned at  
16                  6:09 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 24, 2024

NINA PAVONE,  
CSR No. 7802