

1 Q Okay. So you're not referring to her trust assets  
2 going back and forth into -- or going into Eric's trust,  
3 correct?

4 A No, we documented that in the report.

5 Q Now you have here see item 12 of our observation  
6 form review of trust accounting below. So what is item 12?  
7 Is that --

8 A Let's see. Where are we at again? I lost my spot  
9 here.

10 Q I don't have a tab 12 on mine. Is there a tab 12  
11 somewhere or --

12 A Item 12.

13 Q Item 12. What's item 12?

14 A Of our observations -- oh. I don't know if that's a  
15 typo. I think I had these observations on the following page  
16 at the bottom numbered at one time.

17 Q Okay. So which what --

18 A So would it be probably approximately the 12 -- let  
19 me see. We're talking about -- it's -- it's referring to the  
20 paragraph at the bottom of Bates Number 8.

21 Q 8? Oh, okay.

22 A And it's just -- it's talking about the same thing.

23 Q Okay. So we'll get to that paragraph, but that's  
24 what your referencing?

1           A     That's what I'm referencing. I must -- I think I  
2 had these numbered originally and deleted it and forgot to  
3 change that reference.

4           Q     Okay. So what are you telling us here by that  
5 sentence? What are we supposed to be observing or what's the  
6 relevance of this?

7           A     I -- there was net operating losses. What I'm  
8 telling you here is there are net operating losses incurred  
9 due to losses on Eric's separate property that were carried  
10 back to 2001 and 2002 which was a joint income tax return.  
11 The refunds were deposited into Eric's trust. I'm not sure  
12 what the legal ramifications are if that would be Eric's  
13 separate property, because it -- the refunds were generated  
14 from Eric's separate property losses or if it should be split  
15 50/50. Whatever.

16                     What I did do is I showed that 50 percent of that  
17 was due back to Lynita's trust is how I posted in the books.  
18 But that was just -- it's an observation of money that came in  
19 that I wasn't sure of it's character.

20           Q     But that would be -- so the entire hundred and  
21 ninety-five thousand ten dollars went into Eric's trust,  
22 correct?

23           A     Correct.

24           Q     And that was based upon the bookkeeping of Eric and

1 his young ladies that you referred to here earlier, correct?

2 A Correct.

3 Q Okay. And so you just decided to correct that entry  
4 whether it was a mistake, however you want to characterize it  
5 and to credit half of that back to Lynita.

6 A Yeah. And then whether that entry is correct, I'm  
7 saying I don't know if that was correct even for me to do  
8 that. It may a hundred percent belong.

9 Q Okay.

10 A But I wasn't sure. So I took the conservative  
11 approach and --

12 Q Now what year was that deposited into Eric's trust  
13 -- the trust --

14 A I mean, it's 2006.

15 Q So six years ago.

16 A Correct.

17 Q And Eric has had the use of those monies since that  
18 time.

19 A Actually, I think she had a hold of that -- in 2006,  
20 she really owed him money overall.

21 Q Well, but under your theory.

22 A Right. Because of all of the property transfers  
23 that went to Lynita's trust that it was substantial assets  
24 transferred to Lynita.

1 Q Let me ask you. Did she compensated anything for  
2 giving Eric 50 percent interest in the cabin?  
3 A I'm -- I -- yes. She --  
4 Q What did she get?  
5 A She's getting all the Mississippi property going her  
6 way.  
7 Q But you gave half of that back.  
8 A Yeah, so 50 percent of it.  
9 Q Did she get anything for transferring half of  
10 Lindell to Eric?  
11 A Again --  
12 Q Did she get anything for transferring --  
13 A Yes.  
14 Q -- half of -- what did she get?  
15 A 50 percent of the Mississippi property.  
16 Q And who told you that?  
17 A As I answered before, it was Eric and what the  
18 transaction was. And also I -- Lana and I discussed it also  
19 with her.  
20 Q When was the Mississippi property transferred into  
21 Lynita's trust?  
22 A 2004.  
23 Q When was Lindell transferred into --  
24 A That was -- I'm sorry.



1 Q When was 50 percent of Lindell transferred into  
2 Eric's trust?

3 A 2007.

4 Q When was 50 percent of a cabin transferred into  
5 Eric's trust?

6 A 2007.

7 Q Now we have already heard from Jeff Burr that  
8 discussions with Eric with respect to issues pertaining to the  
9 divorce were as early as I believe August of 2007.

10 A I'm -- I'm not aware of that, so --

11 Q Then moving on. However, even regarding these tax  
12 refunds, it is our understanding that these refunds were  
13 generated from losses from Eric's 2001 trust property and may  
14 have been treated as Eric's separate property. Now you've  
15 gotten that understanding from whom?

16 A That's my own.

17 Q Okay. Eric had the capability to file an amended  
18 return on his own to claim these refunds, however, we did not  
19 trace where the original tax payments came from or reviewed  
20 the original returns to confirm our understanding. So you  
21 didn't even review the returns?

22 A They were -- I couldn't -- they didn't have copies  
23 of them.

24 Q So you're just going by memory.

1           A     No. I'm -- I'm saying I know -- yeah. Well, I know  
2 that the losses were part of that audit that we went through,  
3 so I was --

4           Q     But you -- okay. So you're just going by your  
5 memory.

6           A     As far as what? I mean, what did --

7           Q     The losses.

8           A     That the losses were from Eric's --

9           Q     Yes.

10          A     Yes. That's correct.

11          Q     Because we could not confirm our understanding these  
12 refunds. We adjusted the books to show that one-half of the  
13 refund was due back to Lynita's trust. Next paragraph. There  
14 were transfers made of assets back and forth between Lynita's  
15 trust and Eric's trust. Eric's trust -- now is that a mistake  
16 here? Are one of those supposed to be Lynita's trusts? It  
17 says Eric's trust and Eric's trust made loans --

18          A     Yes.

19          Q     -- between --

20          A     Yes. Yes.

21          Q     Okay.

22          A     One of those is supposed to be Lynita's.

23          Q     So just one of those we'll make Lynita's trust.

24 Okay.

1 A Correct.

2 Q All right. So Eric's trust and Lynita's trust made  
3 loans between each other as evidenced by written notes between  
4 them. We have accounted for transactions between these trusts  
5 as a due to due from account in order to keep track of what  
6 was due to each trust and then see Exhibit 7 for a list of  
7 these transfers. Well, let's first go to tab 5 of your  
8 report. Tab 5 consists of four promissory notes that the  
9 Bates stamp number on the bottom of this is from you.

10 A Okay.

11 Q Okay. Which indicates that this was received from  
12 you. Who did you receive these from?

13 A I -- Lana and Eric.

14 Q And when?

15 A I don't recall when. I would have to look at the  
16 Bates stamps on the files.

17 Q Okay. And will that be shown --

18 A Probably a year ago.

19 Q Okay. Now let's take the first one. It's a  
20 \$440,000 note that was due to be paid on or behalf January 1  
21 of 2002.

22 A Uh-huh (affirmative).

23 Q Was this note ever paid out?

24 A Yes.

1 Q And where is the evidence of that?

2 A We traced it. There is an assignment of property.  
3 Deeds were transferred to the satisfaction of this note as  
4 they agreed.

5 Q So what you're telling us then is sometime  
6 approximately in September of 2001 Eric borrowed \$440,000 from  
7 Lynita's trust.

8 A Correct.

9 Q And that would have been cash from her trust?

10 A Uh-huh (affirmative).

11 Q Is that a yes?

12 A That -- yes, sorry.

13 Q Do you know why Eric's trust would have needed  
14 \$440,000 in cash during that period of time?

15 A I would have to go back and look at it. I don't  
16 recall.

17 Q Was this during the same period of time that he had  
18 that million dollar cash flow that you were telling us about?

19 A No, that was prior. That was in '98. Million  
20 dollar -- the billion dollar cash flow we were talking about  
21 earlier was back in '98. This is in 2001.

22 Q So apparently in 2001 he needed some money.

23 A Apparently.

24 Q Do you know how many of these type of transactions

1 that -- where he needed money from Lynita's trust that  
2 occurred between 1993 and 2001?

3 A No.

4 Q And instead of paying back in cash, what did Eric  
5 do?

6 A He -- originally, he transferred a note of  
7 equivalent amount from Lucky Lucky Lucky -- I think it was  
8 Lucky Lucky Lucky if my memory is right. A note receivable  
9 from that entity and then that entity transferred some  
10 Mississippi property to her satisfaction. I think it was  
11 Mississippi. It may have been -- I just know it was real  
12 estate for sure. I -- I --

13 Q Do you know what --

14 A I think it was Mississippi. I would have to look.

15 Q Do you know what real estate?

16 A Well, that's what I was saying. I'm -- I'm a little  
17 fuzzy on which -- but there was -- there was deeds -- deeds  
18 that we saw on the transfer.

19 Q Now you obtained this from minutes, Eric's minutes?

20 A From the -- actually, there was -- I'm sorry, I  
21 don't -- there was a written agreement that we looked at  
22 whether it was in the minutes. I forget exactly. I just  
23 recall seeing -- we did cite notes -- minutes on that. I  
24 believe -- I'm not sure if it was the minutes itself.

1 Q But we are looking -- we have seen minutes dated  
2 August 31st of 2001 where references made of Eric's trust  
3 borrowing \$440,000 from Lynita's trust.

4 A Uh-huh (affirmative).

5 Q Now the purpose of that was to purchase Viva Gaming  
6 Management, Inc. Is -- does that refresh your recollection on  
7 anything?

8 A Well, that it states what the purpose is right  
9 there.

10 Q Okay. And that is a business entity that went  
11 defunct?

12 A Correct. That was a Mexico operation.

13 Q And essentially Eric lost his entire investment in  
14 that investment?

15 A That is correct.

16 Q And so you're telling us then he then transferred --  
17 well --

18 A With -- within less than a year from this date he  
19 transferred first, the note and then that note Lucky Lucky  
20 Lucky, it -- I'm sure it was Mississippi property. He gave a  
21 few tracks of land in Mississippi in exchange to pay off that  
22 note.

23 Q And do you know what tracks of land he gave her for  
24 this \$440,000 in tax --

1           A     It's --  
2           Q     -- that he took from her?  
3           A     -- it's on my -- it's on my CD, the -- the documents  
4 and the deeds. The deeds were there.  
5           Q     Now is that -- does that land still exist today?  
6           A     I believe it does.  
7           Q     Now is that part of the land that you decided to  
8 give half back to Eric?  
9           A     No.  
10          Q     Okay. So how did you separate that land from the  
11 other?  
12          A     There was 80 acres of beach front that had been  
13 transferred to Lynita in 80 -- in 2004. And so I ignored all  
14 the other tracks and only valued the 80 acres out of the 200.  
15 I kind of just -- because that was the most valuable tracks at  
16 the time.  
17          Q     And who owns the 80 acres today?  
18          A     Lynita's trust.  
19          Q     And do you know what the value of that is?  
20          A     Yes. Based -- Well, based on the recent appraisal,  
21 it -- it -- 12 acres of it valued at a million, nine. 12 or  
22 14 I forget --  
23          Q     That 80 acres, do you know what that 80 acres value  
24 is?

1           A     Well, the rest of it was not valued, so it didn't  
2 have that much of a value.

3           Q     Pardon me?

4           A     The rest of it didn't -- there was maybe a half a  
5 million on some of the other acreages, but the key 15 acres  
6 was worth almost two.

7           Q     And is that -- what appraisal are you looking at?

8           A     The one that Larry Bertsch had --

9           Q     And does that appraisal include -- is that acreage  
10 that you're talking about included in this 80 acres that you  
11 think went to Lynita?

12          A     Which -- okay. I'm confused on the question. Which  
13 -- say it again, please?

14          Q     I'm just curious about -- you told us that somehow a  
15 decision was made that instead of giving Lynita back the  
16 \$440,000 cash that Eric took from her in September of 2001 she  
17 somehow ends up with property in Mississippi.

18          A     Uh-huh (affirmative).

19          Q     Is that a yes?

20          A     Correct. That's a yes.

21          Q     And do you know specifically what property she ended  
22 up with?

23          A     I can look at the deeds and tell -- show you, but I  
24 don't have -- I would have to look at my work papers.



1 Q All right. The next promissory note that we see is  
2 Eric again taking a hundred and seventy-two thousand two  
3 hundred and ninety-three dollars and 80 cents from Lynita's  
4 trust sometime in May of 2002, is that right?

5 A That is correct.

6 Q Let me go back to the first one for a second, okay?  
7 September of 2001, did that note, that 40 -- \$440,000 show up  
8 on Eric's books?

9 A Yes.

10 Q Where? Other than the minutes, did that \$440,000  
11 loan show up on his general ledger?

12 A It -- not initially it wasn't there, not until --

13 Q So you made the adjustment.

14 A Correct.

15 Q Okay. So you made the adjustment. It was never on  
16 his books.

17 A That did not get posted.

18 Q All right. Now the hundred and seventy-two thousand  
19 two hundred and ninety-three dollar and eighty cent promissory  
20 note, do you know why Eric took this money from Lynita's trust  
21 in May of 2002?

22 MR. SOLOMON: Object to the form of the question.  
23 It assumes facts that are not in evidence.

24 THE COURT: But you saw it as a loan?

1 THE WITNESS: I just saw it as a loan. I didn't  
2 look at what it was for.

3 BY MR. DICKERSON:

4 Q Do you know why Eric needed this loan from Lynita's  
5 trust in May of 2002?

6 A No.

7 Q Was this loan ever paid off?

8 A Yes, it was.

9 Q When and how?

10 A I don't recall. No.

11 Q How do you know that it was paid off?

12 A Well, I go back to the books and follow it through.

13 Q Well, isn't it a fact that this loan also never  
14 showed up on any of Eric's books other than in the minutes?

15 A I don't believe so. I think it does show up on  
16 there.

17 Q But can you show us where it's reflected in his  
18 books? Where are you looking? I might be able to help you.

19 A I'm looking at account 2205 on 92, the Bates Number  
20 92.

21 Q You're on there?

22 A I am. And it's -- it's buried in the 2002  
23 transactions.

24 Q Can you tell us where it is?

1           A     C -- HAE001, record 2002 activities. The money that  
2 Eric borrowed, he also paid Lynita back. And he actually paid  
3 her back 265,000 in cash that went from Eric's trust to  
4 Lynita's trust.

5           Q     Okay. So what --

6           A     During that year.

7           Q     -- was done then --

8           A     So it's netted together.

9           Q     And this is what year?

10          A     2002.

11          Q     So in 2002, what you're saying is that he did what?  
12 Took all of from --

13          A     I'm saying that --

14          Q     -- all the monies that he borrowed from her during  
15 2002 and did what with it?

16          A     He actually paid her back more than we borrowed in  
17 2002 and paid part of the money that he's got. It only left a  
18 balance of 27,000 that was due, Lynita's trust. Originally,  
19 he owed her 270. He borrowed more money and then paid her  
20 back substantially all of it.

21          Q     And what is the entry of this log? What -- the one  
22 that you're referring to on Page 92.

23          A     It's journal entry number one.

24          Q     So what year -- your -- this was done in 2002?

1 A Yes.

2 Q So are there any promissory notes for the other  
3 amounts that are reflected there?

4 A There was some money that came in and out that we  
5 didn't see promissory notes for.

6 Q So apparent -- did you see any minutes with respect  
7 to that?

8 A Not for every transaction, no.

9 Q Did you have any conversation with Lynita as to  
10 whether those transfers to Eric were authorized by her?

11 A I did not.

12 Q Okay. We move to the next promissory note, \$700,000  
13 in October of 2003. Can you tell me why Eric would need to  
14 take \$700,000 in cash from Lynita in October of 2003?

15 A I don't know the reason for the note, so no.

16 Q So now it appears -- do you know what -- was this  
17 ever paid off?

18 A That's -- let's see. Because there's cash going in  
19 and out. So we've -- at the end of 2003 Eric's trust shows it  
20 owes Lynita's trust 707,000.

21 Q How much?

22 A \$707,402.

23 Q And what's what -- and that's reflected where?

24 A On account number 2205, the same account number.

1 Q Bates stamp number?

2 A Bates Number 107.

3 Q All right. So what does that entry -- you're

4 looking at 2205, about the fourth one down.

5 A Correct.

6 Q What does that show us?

7 A It shows what the ending balance was. The net money

8 coming in and out between the two trusts was 680,000 that

9 year.

10 Q And what is the 707 mean?

11 A That's the ending balance.

12 Q Owed to who?

13 A Lynita's trust.

14 Q Now was that ever paid off?

15 A Let's go to next year. Yes. It was paid off in

16 2004.

17 Q How?

18 A Let's go to -- Exhibit 7 shows the transactions on

19 an annual basis. It probably would be easier to go there.

20 Let's see. Exhibit 7 would be before -- and this up here. A

21 lot of it was paid back in 2004. As far as cash coming in and

22 out, there was still a balance due at the end of 2004 of

23 324,940. And then that's in 2004 Eric transferred all the

24 Mississippi property. And according to the minutes I saw,

1 part of that note was paid off with Mississippi property. But  
2 just with cash in and out, there's still a balance of cash due  
3 of 3 -- 324,940.

4 Q Didn't you see from the minutes that the -- take a  
5 look at the promissory note itself and that you're  
6 referencing. Doesn't this provide that as collateral for this  
7 note, a grant bargain sale deed will be completed to transfer  
8 that portion of the property owned by Eric L. Nelson Nevada  
9 trust commonly known as Tropicana Albertson land, the  
10 appraiser number there, to Lynita's trust. Now moving on, a  
11 minimum monthly payment will be paid with a monthly income  
12 from Eric L. Nelson's trust monthly mortgage interest payment  
13 from the Heiser (ph) trust of \$2,098.43. This payment will be  
14 applied to principal beginning monthly on or about December 1,  
15 2003 through August 1 of 2006. On September 1, 2006, a  
16 balloon payment will be made for the total outstanding  
17 principal plus six percent APR on the balance. Okay. I may  
18 have read that somewhat incorrectly, but you've got it. You  
19 read that with me, right?

20 A I listen to you every day, yes.

21 Q All right. So do you show any monthly payments  
22 going to Lynita of \$298.43?

23 A I don't recall what the monthly amounts were.

24 Q You don't recall --

1 A I --

2 Q -- seeing any of those, do you?

3 A Well, I don't recall, period, what -- I didn't -- I  
4 had Angelo tracking, Angelo, my assistant -- the manager in my  
5 office tracking this. So he's the one who did the -- the part  
6 of the work, the bookkeeping part and tracing the  
7 transactions. So that's why I don't recall.

8 But what he did is summarize the cash coming in and  
9 out and there was 300 and some thousand paid off during the  
10 year. I don't remember each monthly entry. There's too many  
11 transactions.

12 Q Do you know that this prop -- this note was paid off  
13 by a transfer of the Tropicana Albertson land?

14 A What I do -- no, that actually never got  
15 transferred. That Tropic -- the deed never was transferred.  
16 I think it -- and so we did not reflect that being transferred  
17 because there was no actual transfer of that Tropicana land.  
18 So the minutes, that's not what happened.

19 Q Well --

20 A I think it was booked that way by --

21 Q What if I told you that on November 12th, 2004 the  
22 deed was signed by Eric's trust conveying that Tropicana land  
23 to Lynita's trust, but that was not recorded until January 5th  
24 of 2005? What was the date it was recorded?

1           A     When you have -- you have something that I haven't  
2 seen here.

3           Q     I'm going to go through something here. Are we --

4           THE COURT: Do you want to finish up this and then  
5 we'll take a break?

6           MR. SOLOMON: Mr. Dickerson, have these documents  
7 ever been disclosed to us before?

8           MR. DICKERSON: They are deeds. They are --

9           MR. SOLOMON: Have they ever been disclosed to us  
10 before?

11          MR. DICKERSON: No, because I am responding to your  
12 expert witness whose report you gave me a week before trial.  
13 I'm giving them now.

14          MR. SOLOMON: Well, I'm not sure the transfers  
15 between the trusts were not known to you prior to our expert  
16 witness.

17          MR. DICKERSON: I didn't know what your expert was  
18 going to say.

19 BY MR. DICKERSON:

20          Q     I'm showing you what's been marked as quadruple I.  
21 Can you take a look at this, sir? There is a deed, the number  
22 at the top of the recording. It is 20050 -- 150. And it ends  
23 with 004265. Do you see that?

24          A     Which one? Say that one more time, please.



1 Q Let me help you find it. It's --

2 MS. PROVOST: About halfway through.

3 Q There's a grant bargain sale deed that appears to  
4 have been signed by Eric L. Nelson trustee, the Eric L. Nelson  
5 Trust, on November 12 of 2004. Do you see that?

6 A I do.

7 Q It appears that this deed was recorded in January 1  
8 of 2000 -- or January 5th of 2005.

9 A Correct.

10 Q And this property, are you familiar with this deed?  
11 Are you familiar with the transaction?

12 A I am somewhat familiar with the transaction and we  
13 -- it was recorded on the books as if it was transferred. And  
14 when we investigated it, we could not find any evidence that  
15 it was ever transferred and could not find any deeds or so --

16 Q You did not find this deed?

17 A We didn't. Angelo did not --

18 Q So Angelo --

19 A -- come up with this.

20 Q -- searched for the deed, but he just couldn't find  
21 the deed, is that right?

22 A Evidently.

23 Q All right. So this is a deed to the property  
24 referring to the Tropicana Albertson land, is that right?

1           A     I'm -- well, I'm not sure of the legal description,  
2 but if that matches that, I'll have to take your --

3           Q     And you see that Eric's trust is transferring to  
4 Lynita's trust 50 percent interest in this land?

5           A     Correct.

6           Q     And then we see as you take a look at the next deed,  
7 well, we see that he claims -- look at the declaration of  
8 value form, a few pages back. He claims that this transfer  
9 from his trust to her trust is exempt from the transfer tax  
10 pursuant to Nevada law because it's a transfer from husband's  
11 trust to wife's trust.

12          A     Correct.

13          Q     Do you agree that that's accurate?

14          A     That's what it says.

15          Q     But do you agree is that -- that is a legitimate  
16 exemption?

17               MR. SOLOMON: Objection, relevance.

18               MR. DICKERSON: Okay. I'll accept it.

19               THE COURT: Well -- now a good time to break? I  
20 don't know how much longer you have. We have a few minutes

21               MR. DICKERSON: Okay. I'll just go --

22               THE COURT: -- we could finish.

23               MR. DICKERSON: I'm just going to get through this.

24               THE COURT: Okay.

1 BY MR. DICKERSON:

2 Q Do you see sir then that the next deed is another  
3 deed that is now recorded in June 25th of 2007 approximately  
4 two and a half years later where Lynita's trust is  
5 transferring the property back to Eric's trust? Do you see  
6 that?

7 A I am. I do.

8 Q And do you know why that was done?

9 A I'm -- again, not -- well, I -- it was all part of  
10 the -- I'm not sure why.

11 Q Do you know what considerations Lynita received for  
12 transferring her interest in this Tropicana Albertson land to  
13 Eric's trust?

14 A I do not.

15 Q Now if we take a look at the next deed, do you see  
16 that there's a grant bargain sale deed, the same property?  
17 And now Paul Edward Nelson, a married a man, and Eric L.  
18 Nelson Trust are conveying to the Las Vegas Center Limited  
19 LLC. Are you familiar with this transaction?

20 A I am not that familiar with the transaction as a  
21 whole note.

22 Q Do you know how much money Eric received from the  
23 sale of this property?

24 A It --

1 Q Do you know how much?

2 A I'm not sure if it was a sale or a contribution to  
3 partnership.

4 Q Well, let's take a look at the declaration of value  
5 form which is back here. It appears that the sale was for  
6 \$1,457,000, is that right?

7 A That's correct.

8 Q And this sale was made on the exact same day that  
9 Lynita transferred her interest in this same property to  
10 Eric's trust, is that right?

11 A Let me look at the dates.

12 Q Is that true, sir?

13 A Just a second. Let me get to the right deed here.  
14 It's not the same day. It's close in time.

15 Q Well, it's --

16 A It's two months apart.

17 Q It looks like the deed -- take a look at the deed  
18 that Lynita conveyed -- Lynita's trust conveyed to Eric's  
19 trust was recorded on June 25th, 2007.

20 A But it was signed on November 28th, 2006.

21 Q So it was signed in, it was held off and recorded on  
22 June 25th, 2007, is that correct?

23 A Correct.

24 Q So whoever decided to record this on that date

1 waited almost seven months to do so, correct?

2 A Correct.

3 Q And then we see that on that same day by way of a  
4 deed that is dated January 11, 2007, this grant bargain sale  
5 deed is actually recorded in which Eric and his brother that  
6 -- Paul Nelson is his brother, right?

7 A Yes.

8 Q Apparently are conveying this property to Las Vegas  
9 Center, LLC, true?

10 A True.

11 Q And it appears from the declaration of value form  
12 that appears to have been signed by Eric or not?

13 A By Eric and Paul.

14 Q It looks as if the sales price was \$1,457,000, is  
15 that right?

16 A That's correct.

17 MR. SOLOMON: Object, it's either sales price or  
18 total value.

19 THE WITNESS: It's value -- yes.

20 BY MR. DICKERSON:

21 Q Well, sales price of property.

22 A Or value.

23 MR. SOLOMON: Hold on.

24 Q Can you tell us how Eric booked this on his books?

1           A     Right now I don't recall. I would have to look and  
2 see.

3           Q     Can you look for it?

4           MR. DICKERSON: I'll tell you what, is this a good  
5 time to take a break?

6           THE COURT: Yeah, why don't we --

7           Q     Okay. Why don't you look at that during the break  
8 and tell us how he recorded this transaction on his books.

9           A     Okay.

10          Q     Then I would also like you to look in there and tell  
11 us how much of this 1.457 million did Lynita receive. Okay?

12          THE COURT: We'll be in recess until about 2:30.  
13 You can leave everything here and we'll lock it all up for  
14 you.

15          THE WITNESS: Okay.

16          (Recess in proceedings)

17

18                               \* \* \* \* \*

19          ATTEST: I do hereby certify that I have truly and  
20 correctly transcribed the digital proceedings in the  
21 above-entitled case to the best of my ability.

22

23

24

*Adrian Medrano*

\_\_\_\_\_  
Adrian N. Medrano

1 TRANS

FILED

JUL 23 2014

*Alvin J. Sullivan*  
CLERK OF COURT

COPY

5 EIGHTH JUDICIAL DISTRICT COURT  
6 FAMILY DIVISION  
7 CLARK COUNTY, NEVADA

9 ERIC L. NELSON, )

10 Plaintiff, )

11 vs. )

12 LYNITA NELSON, )

13 Defendant. )

CASE NO. D-09-411537-D

DEPT. L

(SEALED)

16 BEFORE THE HONORABLE FRANK P. SULLIVAN  
17 DISTRICT COURT JUDGE

18 TRANSCRIPT RE: NON-JURY TRIAL - VOL II

20 THURSDAY, JULY 19, 2012

1 APPEARANCES:

2 The Plaintiff:  
3 For the Plaintiff:

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6 For the Intervener:

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8 The Defendant:  
9 For the Defendant:

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(702) 388-8600



1 MR. SOLOMON: -- her out, but didn't know she snuck  
2 in from the back door.

3 THE COURT: I thought we --

4 MS. FORSBERG: Oh, snuck in.

5 THE COURT: -- started going back.

6 MR. SOLOMON: We've been waiting 10, 15 minutes for  
7 you.

8 THE COURT: Yeah. Or setup a motion to have you  
9 held in contempt, Mr. Dickerson.

10 (Off record)

11 THE COURT: This is reconvening the matter of Eric  
12 Nelson and Lynita Nelson, case number D-411537. We took a  
13 recess for lunch. We're ready to pickup where we left off.  
14 Mr. Dickerson, you can proceed at your pleasure.

15 MR. DICKERSON: Thank you, Your Honor.

16 BY MR. DICKERSON:

17 Q Mr. Gerety, before we left, I had asked you if you  
18 could check your records to determine how much money Eric  
19 Nelson received from the sale of the Tropicana Albertson  
20 property. And then also --

21 A Okay.

22 Q -- add on that if you could also check to see how  
23 much Lynita received if anything from the sale of that  
24 property.

1           A     Okay. I thought -- well, okay. I thought the  
2 question was how was it recorded, the transfers of the  
3 Tropicana property and my client's --

4           Q     I do want to get to that. That's my next question.  
5 You're --

6           A     Okay.

7           Q     -- one step ahead of me. But do you know how much  
8 she actually received from the sales proceeds of the roughly  
9 1.4 million dollars?

10          A     I do have it in our file because I have the sales  
11 documents, but off the top of my head I don't remember the  
12 exact amount.

13          Q     Do you know that he received a great -- greater than  
14 half the amount?

15          A     I do not know that.

16          Q     Are you aware that on September 2nd, 2007 he  
17 deposited \$966,780.73 into his deed -- his trust account?

18          A     I do know that the number was in that range, yes.

19          Q     Okay. And do you know where that -- do you know  
20 where that 900 -- I'm going to use 966,000. Do you know where  
21 that \$966,000 came from?

22          A     I believe it came from the sale of the property.

23          Q     And do you know why he received more than 50 percent  
24 of the sales proceeds?

1           A     I don't recall at this time without looking at the  
2 contracts.

3           Q     Now of the monies that were received from the sale  
4 of the Tropicana Albertson property, how much if any -- how  
5 much money if any did Lynita Nelson or her trust receive?

6           A     She didn't -- I don't believe she received anything  
7 from the sale of that property.

8           Q     Now in going through your adjustments that you have  
9 under tab 8, you have entries for the Tropicana Albertson  
10 land, do you not?

11          A     We do.

12          Q     Okay. Let's first -- I'm going to first direct you  
13 to Page Number DG-00117. And the Tropicana land that we're  
14 referring to is what you call account number 1580, is that  
15 right?

16          A     That is correct.

17          Q     Okay. So now 1580, if we take a look, this is for  
18 the year 2004. And it shows that the beginning balance for  
19 this was zero, true?

20          A     That is true.

21          Q     And you for some reason determined that you were  
22 going to reverse this and make that a -- do an adjustment for  
23 a hundred and seventy-six thousand five hundred and forty  
24 dollars, is that right?

1 A That's correct.

2 Q And that is because you somehow were of the  
3 impression that that land was never transferred to Lynita.

4 A That's correct.

5 Q And that you've seen the deed.

6 A I just saw it for the first time. I talked to  
7 Angelo while we were on break about this entry and -- and the  
8 deeds and so forth. And we were told that that property was  
9 never intended to be transferred and that it was reversed in  
10 2007 but since it was never intended to be transferred we  
11 booked that entry at -- in '04. In fact, the reverse.

12 Q Okay. So not withstanding the fact that this  
13 promissory note that is at your Page 70 of your report --

14 A Uh-huh (affirmative).

15 Q -- indicates that if this \$700,000 in cash that Eric  
16 took -- or Eric borrowed from Lynita's trust was not paid,  
17 then the -- this collateral, this grant bargain sale deed, the  
18 land would be conveyed to her.

19 MR. SOLOMON: It does not say that at all.

20 Q Well, let's see. As collateral for this note, a  
21 grant bargain sale deeds will be completed to transfer that  
22 portion of the property owned by Eric L. Nelson Trust commonly  
23 known as Tropicana Albertson land to the LSN Nevada Trust.  
24 Okay. Do you know if that grant bargain sale deed was

1 executed?

2 A As you showed me the deed, the thing is is it should  
3 have been a trust deed and --

4 Q There's no question it should have been a trust  
5 deed, but this is how Eric Nelson handles all his  
6 transactions, isn't that right? Many of his transactions.

7 A Well -- well, I can't say that. I --

8 Q Eric Nelson invests in real estate, does he not?

9 A He does.

10 Q All right. So if Eric Nelson decides that he is  
11 going to secure a note by a grant bargain sale deed instead of  
12 a deed of trust like most people would do, that's his choice,  
13 is it not?

14 A It's his choice. You would then give somebody here.  
15 You can hold onto this deed. This is your security. When I  
16 pay the note back, you give me back the deed. And that's what  
17 it looked like it happened is we took care of the note. You  
18 give me back the deed so the deed was transferred back to  
19 Eric's --

20 Q Tell me --

21 A -- trust.

22 Q -- where do you show that this \$700,000 was ever  
23 repaid to Lynita?

24 A If you go to my Exhibit 7 which is on --

1 THE COURT: DG-00073?

2 A Yes. You can see that actually in '04, the net  
3 amount that actually went to Eric's trust was only 375,  
4 because he had paid money back. There's money coming back and  
5 forth there.

6 Q Where are you talking about, sir?

7 A That's cash transactions of -- for 2004. You got  
8 cash -- in 2003, you had 676. So I think the 2003 is when  
9 that note if I'm not -- got my years right was taken out. In  
10 '04, a large portion of that money come back to Lynita's  
11 trust. Eric had transferred 370 -- almost 376,000 net.

12 Q Do you know how he did that?

13 A I can -- I'll have to look at -- I'll have to look  
14 at the actual journal entries.

15 Q Can you do that?

16 A I'll need to get my CD out, computer out. And he  
17 also transferred all the Mississippi property which there was  
18 a few -- there's even minutes that said that part of the  
19 Mississippi property was to be in satisfaction of all the  
20 amounts owed at 2004.

21 Q No, but those were for loans dating back to 2002, is  
22 that right?

23 A It's --

24 Q I'll take a look at --

1 A I --

2 Q -- the -- I'll take a look at those minutes.

3 A We'll look at the minutes and see exactly the  
4 wording.

5 Q Yeah, I'll get the wording for you. This is the one  
6 where I believe it was to balance off the trust if I recall.  
7 Do you remember those minutes?

8 A But as of 2007 is when that deed was transferred  
9 back. And I'm showing that 2007 Lynita's trust actually  
10 before the transfers of property owed Eric's trust money.

11 Q According to your adjustments.

12 A That's correct.

13 Q Okay. Now --

14 MR. DICKERSON: May I have Exhibit -- oh.

15 Q Actually, do you have an exhibit book in front of  
16 you, sir?

17 MR. SOLOMON: He can only do one thing at a time.  
18 What do you want him to do? You asked him to look at his  
19 journal.

20 THE COURT: Yeah, he's looking for the --

21 MR. DICKERSON: Thank you.

22 THE WITNESS: Let's see. All right. On the biggest  
23 number, there was a number of payments, loan payments being  
24 made monthly. The biggest one was in October 6th, 2004,

1 Lindell Professional Plaza, a loan payment -- it was 350,000  
2 was made.

3 Q What was that for?

4 A To pay down -- to pay down the loans between the two  
5 trusts.

6 Q Okay. So are you saying that there's evidence  
7 somewhere of Lynita borrowing \$350,000 from Eric's trust?

8 A What I'm saying is there -- that's a loan payment  
9 going back to Lynita. And so it's -- it's against those --  
10 the loans that Eric had borrowed from Lynita.

11 Q Okay.

12 A So there was a \$350,000 payment --

13 Q And what note -- what does that pay off? What loan  
14 or note or transaction, what does that pay off?

15 A I didn't combine -- I didn't -- I just grouped all  
16 the balan -- the due tos, due froms in one account which is  
17 really what the -- the general ledger had done too. And so we  
18 just kept track in total. So I didn't apply -- I didn't  
19 really look at it on whether it went to one individual note or  
20 not.

21 Q Can I ask you to do this? Can I ask you to take a  
22 look at Exhibit 139 in the exhibit book next to you?

23 A And then -- okay. There's also other large  
24 payments.



1 Q Do you want to go through them?

2 A And then it's the transfer of the Wyoming property  
3 listed there.

4 Q When was that, sir?

5 A The general led -- per the general ledger it was  
6 posted November 15th, 2004.

7 Q And does that indicate why it was transferred?

8 A Just says transfer of Wyoming and -- no, it does  
9 not.

10 Q So you --

11 A But it -- it shows -- it indicates that it's a  
12 payment on the loan.

13 Q Well, does it -- where does it say that?

14 A It's being applied against the loans.

15 Q No, but it doesn't say it on the general ledger that  
16 it's being applied to the loans.

17 A Well, the -- by -- by charging it against a loan is  
18 indicating that it's a payment on the loan --

19 Q Well --

20 A -- which is the question --

21 Q -- who charged it?

22 A -- you asked.

23 Q You charged it?

24 A No, the -- the -- Lana, whoever was doing the books

1 in 2004.

2 Q So what journal entry is that?

3 A I -- there's no journal entry number here. It's not  
4 one of my journal entries. It's in --

5 Q So where is the corresponding journal entry or is  
6 there any -- where would we look for how Lana would have  
7 handled this?

8 A She would have posted a receipt of Wyoming property.  
9 How Lana -- I mean, it would have -- the Wyoming property  
10 would have gone off of the assets. Eric gave the asset to  
11 Lynita. The transferred title. And that's -- so you would  
12 have reduced the assets and reduce the liabilities at the same  
13 time.

14 Q Now if you take a look then at Exhibit 139.

15 A 139.

16 Q Are you on that exhibit, sir?

17 A I am.

18 Q Now the last resolution reads it resolved that all  
19 Mississippi and Las Vegas properties owned by the trusts will  
20 be transferred to the LSN Nevada Trust in exchange for final  
21 payment due on loans outstanding from 2002 and to level off  
22 the trust. Now did you -- have you seen that -- those minutes  
23 before?

24 A I saw this for the first time Friday.

1 Q Last Friday.

2 A Yeah.

3 Q Now notwithstanding this, first of all, do you have  
4 anything in the records that you show that all the Mississippi  
5 property and all the Las Vegas property was transferred to  
6 Lynita?

7 A There -- yes, there was -- there was property owned  
8 by Dynasty, Mississippi property where Dynasty actually  
9 transferred deeds. There was property owned by Eric's trust.  
10 And Eric's trust transferred deeds. There was -- so I mean,  
11 yeah, the Mississippi property was in the number of entities,  
12 but --

13 Q So what --

14 A -- but yes, but there were transfers of the deeds  
15 that which I show on Exhibit 7, those transfers.

16 Q So was all the Mississippi property transferred to  
17 Lynita pursuant to these minutes to -- as final payment on all  
18 outstanding loans for 2002?

19 MR. SOLOMON: Object, lack of foundation. I mean,  
20 it didn't even say that. It says properties owned by the  
21 trust. The witness just testified there's properties owned by  
22 Dynasty. There were also transfers --

23 MR. DICKERSON: Dynasty's isn't owned by the trust.  
24 I thought I -- Dynasty's owned by the trust, counsel.

1 MR. SOLOMON: You know, counsel, you know the  
2 difference between a property owned by the trust and a  
3 property owned by Dynasty and what these minutes say in it and  
4 there's no --

5 MR. DICKERSON: No, I don't.

6 MR. SOLOMON: -- foundation --

7 MR. DICKERSON: No, I don't understand --

8 MR. SOLOMON: -- this witness would know.

9 MR. DICKERSON: -- what anything Eric does. That's  
10 the problem.

11 THE COURT: Let's keep the civility and let's keep  
12 the --

13 BY MR. DICKERSON:

14 Q Were the -- were all the Mississippi properties  
15 transferred?

16 A I believe so.

17 MR. SOLOMON: What's the question?

18 Q Were all the Mississippi properties transferred?

19 A Yes, they were.

20 Q And how about all the Las Vegas properties?

21 A I don't -- I would have to look. I don't recall.

22 Q Okay. Can you -- will you please? Can you tell us  
23 what Las Vegas properties were owned by Eric's trust on  
24 November 20th of 2004.

1           A     Just looking at this quickly, let me go to Exhibit  
2 -- the only property, there's 39th Avenue which I don't  
3 believe is in Las Vegas.

4           Q     I believe that's in Arizona if I recall.

5           A     And then there's the Tropicana land.

6           Q     So the Tropicana land is the only property that Eric  
7 Nelson trust owned, that's the one that we're talking about,  
8 Tropicana Albertson land was the only land the trust owned on  
9 November 20th of 2004, is that correct?

10          A     That's correct.

11          Q     Okay. Now notwithstanding this, it's my  
12 understanding that because you were told by Eric Nelson that  
13 there was an agreement that all the Mississippi property would  
14 -- half of it will be transferred back to his trust. You  
15 accepted that representation and you made adjustments based  
16 upon that representation, is that correct?

17          A     That is correct.

18          Q     In fact, what you've done is -- well, we'll get to  
19 that. That's set forth in your tab 7, I believe, isn't it?

20          A     Correct. The transfers are represented there.

21          Q     And notwithstanding the fact that the minutes  
22 indicate that all Las Vegas properties are to be transferred  
23 to Lynita's trust, you ignored the fact that it was  
24 transferred to her and then the day it sold the deeds were --

1 the two deeds were recorded and Eric got all the money.

2 A That's false. That's not correct what the statement  
3 you just said.

4 Q All right. Correct it for me.

5 A I never saw a transfer of that. So it was not  
6 ignored.

7 Q I'm sorry. I didn't --

8 A And --

9 Q I didn't mean it that way. I didn't mean that you  
10 were doing anything -- but you have ignored that now.

11 A No, I did not ignore it. I questioned it, we  
12 investigated it and we saw no transfer. We saw -- and as now  
13 that I look at it, it -- you know, there was a deed already  
14 secured, I don't --

15 Q But I didn't hear -- understand your testimony  
16 earlier. My understanding was --

17 A I didn't ignore this is what I'm saying.

18 Q My understanding is that during the lunch hour you  
19 called your associate and your associate told you that he was  
20 aware of the deed but was told that it was --

21 A No.

22 Q -- recorded by a mistake and so you all backed it  
23 out.

24 A That's incorrect.

1 Q Okay. Correct me.

2 A That's not what I said.

3 Q Correct me, please.

4 A I said that we asked about the transfer. We were  
5 told that there -- there was no -- it was never transferred.  
6 We never -- I said we never saw a deed and we never further  
7 looked for a deed, because we -- we were told that that  
8 property never actually was transferred.

9 Q So you really --

10 A We have --

11 Q You have never --

12 MR. SOLOMON: Can you let him finish?

13 MR. DICKERSON: I'm sorry.

14 THE COURT: Finish. Yeah, let him finish.

15 MR. DICKERSON: Yeah, I will.

16 A And so --

17 MR. DICKERSON: He can say it gently.

18 A -- we made the journal entry because there wasn't as  
19 far as the records that we looked at, there was no transfer.

20 Q But you did not due diligence on your own, is that  
21 correct?

22 A And it -- well, and then we saw the property was  
23 sold and it was titled in Eric's trust name. It appeared to  
24 us. There was no transfer. So it didn't --

1 Q Did you see the date --

2 A We did do due diligence, so that statement's not  
3 correct.

4 Q Did you see the deed in which the transferring of  
5 the title to Eric?

6 A To where?

7 Q From Lynita to Eric, did you see that deed?

8 A No.

9 Q So what deed were you provided with?

10 A We -- with a sales contract which showed that the  
11 sale was in Eric's trust name which meant that he had to have  
12 the deed at that time.

13 Q Can you tell me why on your journal entry back here  
14 the one we just referred to, I think it was 117?

15 MR. SOLOMON: How about Bates stamp?

16 Q Why did you do that adjustment recorded as a hundred  
17 and seventy-six thousand five forty?

18 A That's where -- how it was carried on the books  
19 originally as.

20 Q Well, when was it on the books?

21 A It had always been on the books.

22 Q Okay. So if we go back to the previous year, let's  
23 go back to 2 -- now this is Item 1580, correct?

24 A Oh, I'm sorry.



1 Q Now if we go back to 2000 -- this is 2004. So if we  
2 go back to 2003, is there an item for 1580?

3 A No, there's not.

4 Q Okay. Let's go back then to 2002.

5 A No, that account number didn't exist.

6 Q Okay. How about 2001?

7 A I don't know. I don't believe it's there either.

8 Q So when you just told us that that's the value that  
9 was always on the books for, what are you referring to?

10 A Well, let me look at my journal entry here and I'll  
11 tell you. I -- my memory was wrong on that. I'm not sure. I  
12 would have to question Angelo on that. I'll let the basis of  
13 that number is -- general ledger Page 17. Let me just go back  
14 to the general ledger. He's -- his reference on that journal  
15 entry is the Page 17 of the general ledger for that year.  
16 This is 2004. Okay. Okay. The reason -- the reason that --  
17 it was actually in account 1460 on the client's GL. So it was  
18 carried on -- on the -- Eric's trust general ledger under  
19 account 1406. I'm not sure why -- I'm not sure why I'm not  
20 seeing it -- that account here. But there was a beginning  
21 balance at the beginning of January of '04 for the Las Vegas  
22 Albertson land. And that's where the number comes from is  
23 what that was being carried at.

24 Q And what is the number on there?

1           A     a hundred and seventy-six thousand five thirty-nine  
2 seventy-two.

3           Q     And is that the cost basis?

4           A     Yes.

5           Q     And what year is that?

6           A     2004 general ledger.

7           Q     Is that -- does that general ledger entry show up on  
8 the company -- the trust general ledger for 2005?

9           A     No, because the -- that's why we were reversing it  
10 was it was -- the journal entry was on the client's general  
11 ledger in November 30th of 2004 showing that the property was  
12 transferred to LSN.

13          Q     And that would be in accordance with the minutes  
14 that we just went over, wouldn't you agree?

15               MR. SOLOMON: Object, lack of foundation. This  
16 client has no way of interpreting what those minutes mean.

17               MR. DICKERSON: Well, he's been listening to  
18 everybody in the trust office. He's been listening to Eric.

19               MR. SOLOMON: Well, you ask some foundation --

20               MR. DICKERSON: He's been listening to Lana.

21               MR. SOLOMON: -- if he knows.

22               THE COURT: If he knows it. Do you know it? Do you  
23 have any basis?

24               THE WITNESS: No, I mean, the first time I saw those

1 minutes were just Friday. So that's -- it's relatively new to  
2 me.

3 BY MR. DICKERSON:

4 Q So you started your assignment in September of last  
5 year. You met with Eric. You have met with Lana. You have  
6 met with Rochelle. You have met with Shelly. And not one of  
7 them provided you with those minutes? Those are the trust  
8 minutes.

9 A We have a lot of the minutes. We did not have that  
10 particular page. And the minutes we really asked for were the  
11 ones for distributions just to show that there were  
12 distributions approved.

13 Q Well, you were also interested in the transfers  
14 between the trust, right?

15 A That is correct.

16 Q Was it part of the assignment to show there's no  
17 commingling of the trust property?

18 A Just we -- we asked about the transfer and we  
19 received email from Lana that it had not really -- was no  
20 intent to be transferred or was not transferred. I am not  
21 sure of the exact wording.

22 Q Well, do you know who walked the deed down and  
23 recorded it?

24 A Of course not. I didn't know it existed.

1 Q All right. If we move then to the next promissory  
2 note. That is your Page Number 71. What is this promissory  
3 note?

4 A It's a promissory note for \$250,000 made out in  
5 December of 2005.

6 Q And do you know what it's for?

7 A No.

8 Q Do you know why Eric Nelson's trust borrowed another  
9 \$250,000 from Lynita's trust in December of 2005?

10 A No.

11 Q Do you know if this loan was ever paid off?

12 A Again, I -- in 2005, actually, the cash  
13 transactions, there's more than 250 borrowed by Eric. There's  
14 about 576,000 in cash. 2006, there was more. In 2007 in cash  
15 transactions and postings, Eric had paid back close to a  
16 million five. So -- and again, like I said, I didn't trace  
17 those to individual notes. I just traced it to the total  
18 balance that was due.

19 Q When you say he paid back, you're -- now you're  
20 going from the -- again, the general ledger that was provided  
21 to you?

22 A Using that, yes.

23 Q And did it show how it was paid back and how that  
24 million dollars that you just talked about was paid to Lynita?

1           A     The million five, let's go to cash transactions in  
2 2007. Let's see. I have to pull up the 2007 general ledger.

3           Q     Is that when this was paid off or reportedly paid  
4 off?

5           A     Well --

6           Q     I mean, this is December --

7           A     Yes.

8           Q     It indicates that it's due 12 months. So it may  
9 have been a month late, but it should have been paid off  
10 sometime in 2006. What does 2006 show?

11          A     2006 shows -- and it may have been paid off, but  
12 2006 shows the net transactions, because there's money going  
13 back and -- I mean, there's transfers, there's payoffs, loan  
14 payments. And then there is money -- you know, other money  
15 coming and going both ways. But the net number, Eric had  
16 increased the amount that owed Lynita by 97,500 per their GL.

17          Q     Okay. Now with respect to this particular note, the  
18 one on Page 71, if I can direct your attention to your Page  
19 Number 128.

20          A     To my Page Number 128?

21          Q     Right. Were you -- oh, I thought you were looking  
22 for something. Is that --

23          A     Well, you asked me to turn to --

24          Q     Oh.

1           A     -- Page 128, so I was just waiting for a question.  
2           Q     Oh, I thought I asked a question. I'm so sorry. Do  
3 you see the transaction there 250?  
4           A     Yes.  
5           Q     Is that the transaction that you're referring to?  
6           A     It may be. I'm not positive if it's the same one or  
7 not.  
8           Q     Okay. Is this that promissory note? What --  
9           A     Like I said, I'm not sure if it's the same  
10 transaction or not. It was --  
11          Q     It seems to be the same date. The note's dated  
12 December 12 and it indicates record 12125 check from Lynita's  
13 trust, check number 1776 --  
14          A     Uh-huh (affirmative).  
15          Q     And the funds were used to get a CD. Now have you  
16 ever seen that check?  
17          A     I don't recall the source. We were following up on  
18 that deposit.  
19          Q     But it says here in your -- the column here under  
20 work paper per Lana, what does that mean?  
21          A     Per Lana.  
22          Q     Per Lana. I'm sorry. It Lana. I apologize. I  
23 know that. Per Lana.  
24          A     We were -- where the -- yeah, asking where that

1 money came from --

2 Q So --

3 A -- and then which we found it came from Lynita's

4 trust, a CD that was in Lynita's name that -- or -- well, it's

5 -- it describes it here. So there was a check number and we

6 -- were funds used to setup a CD.

7 Q And you learned that then from Lana. She gave you

8 that information.

9 A That's correct.

10 Q And then the same thing with the check right below

11 that. It appears there is a \$350,000 check per Lana, is that

12 right?

13 A That's correct.

14 Q And that would be check number 1769?

15 A That's correct.

16 Q And then what is the next one? It says GLP15. What

17 does that mean?

18 A GLP -- where do you see GLP?

19 Q Oh, I'm looking under your work papers. See work

20 paper?

21 A Oh, that's general ledger Page 15.

22 Q So that's the --

23 A So that's the client's general ledger that comes

24 from what they had posted.

1 Q Okay. So that's where you got the information,  
2 correct? So this column --

3 A Correct.

4 Q -- entitled work paper, for us to understand what --  
5 how this form of your works, you're trying to tell us the  
6 source of the information?

7 A That's correct.

8 Q Now when it is blank such as the ones here on the  
9 top of Page 128, what does that mean?

10 A We didn't make any journal. The work papers are for  
11 the journal entries. Journal entry number one is -- just  
12 comes straight from their general ledger. It's what they  
13 posted. So there was no -- the work paper is the client's  
14 postings. So we didn't need to reference it to anything else.

15 Q Well, did you make adjustments? Say for --

16 A No.

17 Q -- look at 103. Did you make any adjustments there?

18 A No.

19 Q Okay. I guess that's going to be my next question,  
20 because I'm trying to figure out what your adjustments are,  
21 but --

22 A Well, again, I'll just repeat what I had mentioned a  
23 number of times it he journal entry AJE number one is not our  
24 adjustment. Those are the cash transactions as posted in the



1 -- in the general ledger prepared by Lana -- or -- and whoever  
2 was posting to the books. So AJE-01 comes directly from the  
3 general ledger. It's really not our adjustment. It's --  
4 we're just summarizing all the transactions in one entry.

5 Q Well, so that we understand, looking at this page  
6 then, 218 at the top, we've established work paper is the  
7 source of the -- your information, correct?

8 A Correct.

9 Q The next column is simply what the ending balance  
10 was of the previous year.

11 A Correct.

12 Q Correct. And now the next two columns are for  
13 adjustments or --

14 A On this particular trial balance, the next column  
15 was the beginning. It's really the first -- the one dated  
16 December 31st, 2004 is the ending. The one dated December  
17 31st unadjusted is really the same numbers if you look at it.  
18 It's just the beginning of the year balances.

19 Q Okay. I noticed your form changed over the year as  
20 you -- I'll go back --

21 A Yeah, I --

22 Q -- and try to clear that up. But I want to show you  
23 what's been marked as our next exhibit in order. This is  
24 Exhibit quadruple J. Those checks that we're referring to on

1 Page 218 --

2 A You mean 128, correction.

3 Q I'm sorry, what was it?

4 A 128.

5 Q Oh, I'm sorry. Yeah. 128. The -- starting with

6 the \$250,000 check dated December 12th, check number 1176 --

7 A Uh-huh (affirmative).

8 Q -- is --

9 A Yes.

10 Q -- this -- the first one, is that the check that

11 you're referring to?

12 A Well, it's the same check number, yes --

13 Q Okay.

14 A -- as what we've referred to.

15 Q So it appears to be a --

16 A Go ahead.

17 Q It appears to be a check drawn on the account of

18 Lindell Professional Plaza for \$250,000. And this check is

19 signed by Rochelle --

20 MS. PROVOST: McGowan.

21 Q -- McGowan, is that correct?

22 A Yes.

23 Q And the memo was loan.

24 A Yes.

1 Q All right. And then the next check is at the 200 --  
2 the \$350,000 check.

3 A Yes.

4 Q And this one again, 350,000 signed by Rochelle  
5 McGowan, but the memo says for management fee. And this is  
6 made to Eric personally, correct?

7 A Correct.

8 Q Okay. Can you tell me anything -- what do you know  
9 about this?

10 A Well, we did -- we did not record it as a management  
11 fee. We recorded it as a loan on the books with our  
12 adjustment and showed that that money was due back to Lynita.

13 Q But apparently the intent of when that \$350,000 was  
14 taken from Lynita was that it be a management fee?

15 MR. SOLOMON: Object, lack of foundation. How would  
16 --

17 A I --

18 MR. SOLOMON: -- this witness know?

19 A All I can --

20 THE COURT: You know --

21 A -- say is -- I'm sorry, Judge.

22 THE COURT: Not that if you know. If you have any

23 --

24 THE WITNESS: I -- I don't. All I can say is it

1 says management fee in the memo section of the check. I have  
2 no idea what the client was thinking or what Rochelle was  
3 thinking.

4 BY MR. DICKERSON:

5 Q Okay. But did -- now did you make an adjustment  
6 here?

7 A I made an adjustment to post it as a loan.

8 Q So why did you make that decision to oppose what  
9 Eric wanted as a management fee to a loan?

10 MR. SOLOMON: Object to the form of the question  
11 that Eric wanted that. All we know it was a mistake in the  
12 beginning. Who knows.

13 A Per -- that was our discussion with Lana. We -- we  
14 saw the money being deposited in there and we -- we were  
15 conservative in showing it as a loan.

16 BY MR. DICKERSON:

17 Q Okay. And then the check -- the next check, 751,  
18 that's the one for \$25,000 again signed on -- all three of  
19 these are signed on Lynita's account Lindell Professional  
20 Plaza. This one is again by Rochelle McGowan and it says loan  
21 payment. What do you understand that to be?

22 A Again, we posted that to made sure it ran through  
23 the due to, due from and show as a loan.

24 Q So you look at this and you treated that as a loan

1 from Lynita and not a loan payment by Lynita to Eric.

2 A Again, we ran the due to, due froms together in one  
3 account. So a loan payment would still get posted to the same  
4 account whether it was a loan or a payment. It would still  
5 run through the same general ledger account.

6 Q Well, you treated this as a due from Eric to Lynita.

7 A I treated it as a credit to the due to, due from  
8 Lynita's trust and so whether -- loan payments would have been  
9 a credit to that account, a new loan would have been a credit  
10 to that account.

11 Q How did you treat it? Did you treat it as a --

12 A I treated it as a credit to that account.

13 Q I guess I -- let me simplify it, because I don't  
14 understand the credit/debit. I -- are you treating this as a  
15 loan from Lynita to Eric?

16 A I'm treat -- well, the -- whether I treated it as a  
17 loan payment or as a loan, it's the same journal entry. It's  
18 -- and in fact, in 2005 it showed that Lynita's trust before  
19 some of these transactions owed Eric money.

20 Q Based upon --

21 A So there would have been a debit balance in that  
22 account and if there was a loan payment, that would have been  
23 a credit. If Eric borrowed money from Lynita, that would have  
24 been a credit. We would have debited cash in Eric's GL and

1 credited the due to, due from.

2 Q Okay.

3 A So I guess I wasn't making a distinction is the  
4 point I'm trying to make.

5 Q I understand. Okay.

6 MR. DICKERSON: Your Honor, move for the admission  
7 of Exhibit JJJJ.

8 THE COURT: Any objections?

9 MR. SOLOMON: First time I've seen it, I think.

10 MS. FORSBERG: Yeah, first time I've seen it.

11 MR. SOLOMON: Has it been produced?

12 MR. DICKERSON: Listen, this is in -- I'm going --  
13 no, it's being produced right now based upon the report we got  
14 from him a week ago.

15 MR. SOLOMON: May I inquire how long he's had this  
16 document and he didn't know it was relevant to his case before  
17 he received a report and couldn't produce it? Is that his  
18 theory of this ambush?

19 MR. DICKERSON: You can see that it says Wednesday,  
20 June 26th Central Time. So that's when it was ordered.

21 THE COURT: It's on the bottom.

22 MR. SOLOMON: Well, yeah. It says June 26th at the  
23 bottom, a month before the report he received this but didn't  
24 decide to disclose documents to us even though we have

1 routinely disclosed documents to him as we received them. You  
2 know, amazing, Your Honor, this apparently only works one way  
3 and objecting.

4 MR. DICKERSON: Objection?

5 MR. SOLOMON: Yes, it's untimely produced.

6 MR. DICKERSON: And I move for the admission, Your  
7 Honor. This is part of the rebuttal.

8 MS. FORSBERG: Your Honor, I also object. And he  
9 also has the obligation under 16.2 to continue to produce  
10 documents and he didn't. And he had this one a month before  
11 he got this report. Had he even followed 16.2 which he was  
12 under the obligation to at the beginning of this -- before the  
13 beginning of this trial, you know --

14 MR. DICKERSON: 16.2 only deals with documents that  
15 become relevant in a proceeding. Who would ever think that  
16 we're going to have a report like this --

17 MS. FORSBERG: Relevant?

18 MR. DICKERSON: -- that has more and more -- well, I  
19 won't even comment on it. Okay.

20 MR. SOLOMON: Look at your own pleading to determine  
21 whether it was relevant, because you pled that they were  
22 treating this alter ego and running monies back and forth.

23 THE COURT: Thank you.

24 MR. SOLOMON: Gee, I guess that might be relevant.

1 THE COURT: Yeah. How much probative value the  
2 Court gives I guess is another on that, but they will be  
3 admitted.

4 (Defendant's Exhibit JJJJ admitted)

5 THE COURT: Let's get this thing and move on on that  
6 issue. I think his testimony has gone through his ledger in  
7 detail showing --

8 MR. DICKERSON: So Judge --

9 THE COURT: -- what he posted.

10 MR. DICKERSON: -- to -- as you understand as you  
11 well know, okay, under the rules when we get a report, we're  
12 entitled to --

13 THE COURT: Allowed to go through.

14 MR. DICKERSON: -- have 30 days.

15 THE COURT: Absolutely.

16 MR. DICKERSON: So I'll tell you what I'm going to  
17 do. I'm going to have them delivered to each of them tomorrow  
18 binders. There's probably 10,000 pages?

19 MS. PROVOST: At least.

20 MR. DICKERSON: I'm going to have binders, probably  
21 10 binders.

22 MS. PROVOST: I think it was 10.

23 MR. DICKERSON: I think 10 binders each. Easily in  
24 the estimate 10,000 pages. I'm going to have those send over.



1 I'm not going to Bates stamp them. They're going to be in a  
2 binder that is labeled as to what they are such as this one,  
3 but I'm not going to Bates stamp them, but those will be over  
4 to each of your office tomorrow and bless you.

5 THE COURT: Do you plan on --

6 MS. PROVOST: We don't plan on --

7 THE COURT: -- using them or you just --

8 MS. PROVOST: -- using all 10,000 documents, but if  
9 they --

10 MR. DICKERSON: I don't plan on using them all.

11 MS. PROVOST: -- want them produced ahead of time  
12 before we realize which ones we need to use, then I guess  
13 that's what they want.

14 THE COURT: Yeah, well, they're making a record. We  
15 have a nice record on that and the issue of them telling to --

16 MR. SOLOMON: The record -- I would like a record of  
17 when they got those documents.

18 MR. DICKERSON: Monday, this Monday.

19 MR. SOLOMON: You got all those documents this  
20 Monday.

21 MR. DICKERSON: Monday, yeah.

22 MR. SOLOMON: All right.

23 MR. DICKERSON: Trust me, Monday, is when all these  
24 were made.

1 THE COURT: Did you want -- do you want the  
2 delivered?

3 MR. DICKERSON: Well, all the doc --

4 MR. SOLOMON: Sure.

5 MR. DICKERSON: When they were made. Everything was  
6 compiled over the weekend and everything was copied.

7 MS. FORSBERG: Well, then how does this one show  
8 June 6th? That wasn't Monday.

9 MR. DICKERSON: No, the documents were complied.  
10 They're put together over the weekend after we get his report  
11 and the binders are put together.

12 MR. SOLOMON: So you had the documents for months  
13 but decided to compile them this weekend.

14 MR. DICKERSON: No, listen. These are documents  
15 that they had. Rochelle McGowan, his puppet --

16 THE COURT: No, they're all --

17 MR. DICKERSON: -- signed it.

18 THE COURT: They're all -- let's strike the puppet  
19 comment. We'll strike it on effect. These are the documents  
20 everybody apparently access to or they came on that. There's  
21 a lot of documents that everybody's been putting on that and  
22 the more, the better I guess. There's a lot of arguments that  
23 people are hiding things on that, but it looks like there's  
24 documentation for everything on that good or bad, but we'll

1 LAS VEGAS, NEVADA

THURSDAY, JULY 19, 2012

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 09:33:56)

4  
5 THE COURT: This is the time set in the matter of  
6 continuation of adjudicatory hearing as to Eric Nelson and  
7 Lynita Nelson, case number D-411537. We'll get everybody's  
8 appearance for the record, starting with Mr. Solomon.

9 MR. SOLOMON: Thank you. Mark Solomon, bar number  
10 418, on behalf of Lana Martin, the distribution trustee.

11 THE COURT: Thank you.

12 MR. LUSZECK: Jeff Luszeck, bar number 9619, on  
13 behalf of Lana Martin, distribution trustee.

14 MS. FORSBERG: Good morning, Your Honor. Rhonda  
15 Forsberg, 9557, on behalf of Eric Nelson.

16 THE COURT: Good morning, Ms. Lana.

17 MS. PROVOST: Good morning, Your Honor, Katherine  
18 Provost, bar number 8414 and Robert Dickerson, bar number 945,  
19 on behalf of Melissa -- on behalf of Lynita Nelson who is  
20 seated to my left. And also present at counsel table is  
21 Melissa Antanassio.

22 THE COURT: Good morning, Ms. Lynita. It's always  
23 good to see you. I guess where we left off, Mr. Gerety was on  
24 the stand.

1 MR. DICKERSON: Yes, Your Honor.

2 THE COURT: Well, Mr. Gerety, we'll have you come  
3 back up here. We'll get you all sworn back in again and get  
4 this show on the road for you.

5 THE CLERK: You do solemnly swear the testimony  
6 you're about to give in this action shall be the truth, the  
7 whole truth and nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Thank you. You may be seated.

10 DANIEL GERETY

11 called as a witness on behalf of the Intervener and being  
12 previously sworn, testified as follows on:

13 CROSS EXAMINATION CONTINUED

14 BY MR. DICKERSON:

15 Q Mr. Gerety, you --

16 MS. FORSBERG: Your Honor, I believe I'm next.

17 MR. DICKERSON: Oh, I am so sorry. I'm so rude.

18 MS. FORSBERG: With three -- it's okay. But mine  
19 will be really brief for you, sir.

20 THE WITNESS: Okay.

21 MS. FORSBERG: I would ask every question that Mr.  
22 Solomon asked. So -- in my case, okay? Therefore, I'm not  
23 going to repeat them for the Court. We'll just make this  
24 stand as well.

1 THE WITNESS: All right.

2 THE COURT: Okay.

3 MS. FORSBERG: Sorry, Bob. I didn't mean to make  
4 you sit down.

5 MR. DICKERSON: All right.

6 THE COURT: I'm going to watch you --

7 MR. DICKERSON: Didn't get to the gym -- I haven't  
8 been to the gym this week and I've lost five pounds, so --

9 THE COURT: Okay.

10 MR. DICKERSON: -- I need trials.

11 BY MR. DICKERSON:

12 Q Mr. Gerety, I am going to show you what is marked as  
13 -- well, this is marked as Intervener's Exhibit 168. And that  
14 purports to be a complete copy of your report, is that  
15 correct?

16 A Yes, it appears so.

17 Q In fact, this is the report that you actually  
18 brought to Court with you yesterday, is that true?

19 A Yes.

20 Q And I believe you provided to the Court at the end  
21 of our proceedings.

22 A That is correct.

23 Q Now I'm going to leave the exhibit book. I'm going  
24 to put this --

1           A     Sure.

2           Q     -- one over here.  And sometimes I may make  
3 reference --

4           A     All right.

5           Q     -- to that.

6           MR. DICKERSON:  And Your Honor, I apologize in  
7 advance.  I do have a number of potential exhibits to use.  I  
8 haven't had time to have them premarked as we go through.  I  
9 understand causes a little bit of delay, but if you bear with  
10 us, I think we can get through this.

11           THE COURT:  Not a problem.

12           Q     All right.  Mr. Gerety, as I understand it, you have  
13 been working as a CPA for Eric Nelson and his various entities  
14 since 1998, is that correct?

15           A     That is correct.

16           Q     And if I understood your testimony yesterday, you  
17 primarily started with Mr. Nelson working with Wyoming Downs  
18 and the Phoenix Leisure project, is that true?

19           A     That is correct.

20           Q     And then -- and you have consistently continued to  
21 work with him throughout the years up into this date, is that  
22 correct?

23           A     That is correct.

24           Q     So we're looking at what, a good 15 years you have

1 been Mr. Nelson's CPA?

2 A That is correct.

3 Q Now in that 15 years you have defended Eric Nelson  
4 on a number of tax audits?

5 A That is correct.

6 Q In fact, there is a tax audit going on right now  
7 that you're representing Eric Nelson?

8 A That is correct.

9 Q How many tax audits have you represented Eric Nelson  
10 over the last 15 years? How many have you --

11 A I have helped him with three.

12 Q And in doing a tax audit for Mr. Nelson, what do you  
13 do?

14 A The first one, actually, Eric was handling himself  
15 until we got to the complex transaction to explain that to the  
16 IRS. And he pulled me in and I walked the IRS through the  
17 transaction, how basis was computed and went through all the  
18 tax codes and everything else with the IRS which the IRS found  
19 -- find. And actually, the entire audit was a no change.

20 Q And that was in what year?

21 A Oh, jeez. I don't recall exactly which year. It --  
22 it was a number of years ago. It may have been around 2005,  
23 somewhere --

24 Q Okay.

1           A     -- around there.

2           Q     Now if I understood you, you're currently working on  
3 a tax audit with Mr. Nelson?

4           A     There's an audit going on and Eric's been -- Eric's  
5 been handling most of it himself at his office. I think I was  
6 -- I think they were just about finished with that, actually.  
7 I haven't been that involved with it though.

8           Q     Now Mr. Gerety, the attorneys for the ELN Trust  
9 filed a motion with this Court on March 6th, 2012. And the  
10 motion was entitled motion for payment of attorney's fees.  
11 And they represented in that motion and I'm reading from Page  
12 4 starting at Line 7. It says further, the ELN Trust  
13 currently owes Gerety & Associates, CPA the ELN Trust expert  
14 witness \$34,901.05. And Gerety & Associates, CPAs requests an  
15 additional \$25,000 to be held as a retainer to offset fees  
16 associated with the preparation of an expert report on behalf  
17 of the ELN Trust. Now are those representations correct?

18          A     They are.

19          Q     So as of March 6th, 2012, Eric Nelson -- or excuse  
20 me, ELN Trust or Nelson owed you just short of \$35,000?

21          A     That's -- that sounds about right, yeah.

22               MR. DICKERSON: If I may have this marked as our  
23 next exhibit in order.

24               THE COURT: Quadruple H?



1 Q Mr. Gerety, I'm showing you what's been marked as  
2 quadruple H. And it's Exhibit quadruple H.

3 A Okay.

4 Q This is the billing statement that was attached to  
5 that motion that I just read from. And does this reflect the  
6 just short of \$35,000 that was owed to you by Eric Nelson?

7 A It does.

8 Q Now I noticed that the bill is made payable to Eric  
9 Nelson -- or it was sent to Eric Nelson, is that right?

10 A It was.

11 Q This was for services rendered to Eric Nelson, is  
12 that correct?

13 A It was actually for the trust and for Eric Nelson  
14 both, actually.

15 Q Well, if we look at this bill, it appears as if it  
16 relates to services that you performed and this was probably  
17 sometime in October of 2011 the services in the amount of  
18 \$8,421.05?

19 A That would have been -- that's when that invoice  
20 date was.

21 Q And so --

22 A It would have been prior to that.

23 Q What were those services for?

24 A I would have to look at the invoice.

1 Q Do you have any recollection of what you did in the  
2 month of August for Eric Nelson individually or the ELN Trust?

3 A You know, there's been a number of things. I know  
4 we looked at some of the Silver Slipper agreements in 2011  
5 which just related to the issues going on with that. There  
6 was --

7 Q When you say the issues going, that would be the  
8 lawsuit that --

9 A Lawsuit.

10 Q -- Eric Nelson has going on with Paul Alanese?

11 A That is correct. Some of -- probably most of it was  
12 related to this case.

13 Q In what respect? What would have been doing in  
14 October of 2011 with respect to this case?

15 A In October, well, we started work on the accounting  
16 in September of 2011.

17 Q Then I noticed then you apparently stopped working  
18 for the month of November and December, is that correct?

19 A That's not correct.

20 Q Why is that not correct?

21 A This is just when I invoiced him. So I probably  
22 held off about three months before I invoiced again. So there  
23 was continuous time going on.

24 Q Okay. And then you billed him on January 31st, 2012

1 in addition of \$26,480?

2 A I believe that's correct. Yes.

3 Q And what is your --

4 A This just shows the balance due on those invoices.  
5 It's not what the total -- you know, I mean, if nothing was  
6 paid on that invoice, that's correct, but if he had made  
7 payment previously, then that invoice could have been greater  
8 than that.

9 Q Well, wouldn't the payment have been reflected on  
10 the billing statement?

11 A Normally it would. Yeah, I guess that's correct.

12 Q So I mean, actually, you take a look at it. It  
13 shows invoice number 10876 was in the amount of \$8,421.05 and  
14 invoice 11246 was in the amount of \$34,901.05, is that  
15 correct?

16 A Correct.

17 Q Or actually, I take that back. We both misstated  
18 it. That last invoice, 11246, was in the amount of \$26,480.

19 A Excuse me, yes.

20 Q Bringing the total to the 34,901.

21 A But that's the -- yeah.

22 Q And so you received no payments from either Eric  
23 Nelson individually or the ELN Trust during this period of  
24 time all the way up through at least March 6th of 2012, is

1 that right?

2 A I would have to look at my records.

3 Q Has this billing statement been paid?

4 A I have been -- I -- I have been paid -- I know I  
5 received like 20,000 on this and I -- I may -- this may have  
6 been. I --

7 Q You don't know?

8 A -- again, I don't recall.

9 Q So as you sit here today, you do not know how much  
10 is owed to you by either the ELN Trust or Eric Nelson?

11 A I would have to look at my records.

12 Q And where would you look?

13 A On my -- on our billing record -- on the Creative  
14 Solutions software we have.

15 MR. DICKERSON: Your Honor, move for the admission  
16 of Defendant's Exhibit quadruple H.

17 MR. SOLOMON: No objection.

18 MS. FORSBERG: No objection.

19 THE COURT: Hereby admitted as quadruple H.

20 (Defendant's Exhibit HHHH admitted)

21 BY MR. DICKERSON:

22 Q How much Mr. Gerety have you received from Eric  
23 Nelson individually or the ELN Trust over the last 15 years?  
24 Would you have a good estimate, ballpark amount?

1 MR. SOLOMON: Object to the form of the --

2 A No --

3 MR. SOLOMON: Hold on. Let me object to the form of  
4 that question. How much has he received from Eric Nelson  
5 individually? I don't know what individually means. As  
6 investment trustee, as an individual person not an investment  
7 trustee? It's vague and ambiguous.

8 MR. DICKERSON: Maybe he could clear that up in his  
9 cross -- redirect.

10 THE COURT: Do you know what he means as far as --  
11 BY MR. DICKERSON:

12 Q How much money have you received for services  
13 rendered by you to either Eric Nelson, any of Eric Nelson's  
14 entities, the ELN Trust, anything dealing with Eric Nelson  
15 over the last 15 years?

16 A I'm not sure. Those tax returns, things like that,  
17 are probably -- you know, I don't even -- see, I don't  
18 actually do the billing. They're probably somewhere around  
19 \$5,000 a year. And depending on the planning back when I was  
20 at McGladrey, you know, with Dynasty, we had some extensive  
21 work done then with the jockey club deal. So that probably  
22 ran 30,000 or so in some years.

23 Q How about since 2008 when the -- essentially when  
24 the divorce situation came to arise? What -- do you recall

1 how much you've received since then?

2 A I'm not sure. Again, I -- you know, it's easy to  
3 determine. I just need to printout a report. But I don't --

4 Q Well, we know that you testified before this Court  
5 in the year 2010.

6 A Correct.

7 Q Do you know how much you received from Eric Nelson  
8 or ELN Trust or any of his entities during 2010?

9 A Probably somewhere between 10 to 20,000.

10 Q Now have you ever -- did you ever have a discussion  
11 with Eric Nelson about giving him an opinion that you thought  
12 it might be wiser for him to hire an independent CPA to do the  
13 work that you were asked to do instead of somebody that he's  
14 had an association with for the past 15 years?

15 A I did not have that conversation with him.

16 Q Now in the preparation of your report if I  
17 understood you correctly, you were -- the primary source of  
18 the information you received was from Eric Nelson and  
19 secondarily from Lana Martin, Shelly Newell (ph) and Rochelle  
20 McGowan, is that correct?

21 A That's a fair state -- correct statement.

22 Q Now you have never talked to Lynita Nelson, did you?

23 A No.

24 Q Did you ever have any questions that you thought in

1 order for you to prepare an appropriate report for this Court  
2 that it would have been helpful for you to talk to Lynita  
3 Nelson?

4 A I -- I -- well, I was looking at just the  
5 transactions in Eric's trust. So I -- I thought talking to  
6 the trustees of the trust would be sufficient since they had  
7 full knowledge of what went on with this trust.

8 Q Well, you noticed there were a number of  
9 transactions in which there were purported loans from Lynita's  
10 trust to Eric's trust, is that correct?

11 A That is correct.

12 Q Did you ever give any consideration about talking to  
13 Lynita Nelson about what she understood those loans to be?

14 A I did not.

15 Q Did you ever make any suggestion to anybody  
16 involving this case that maybe it might be wise to take the  
17 deposit of Lynita Nelson to clear up any questions you may  
18 have or to verify matters that you've set out in your report?

19 A I was looking if they just added -- I'm trying to  
20 find the original documentation of the transactions, looking  
21 at what contracts were signed.

22 Q Did Eric Nelson provide you with the general ledger  
23 for the LSN Trust?

24 A I have some cop -- some years, yes.

1 Q So what years of the LN -- LSN Trust do you have  
2 general ledger for?

3 A I would have to look at my file. I don't recall off  
4 the top of my head.

5 Q Now in your report -- well, I will get to the report  
6 and the less. It -- if I understand your report correctly  
7 then, Mr. Gerety, you made absolutely no review of any  
8 transactions that occurred between the years 1993 and 2001, is  
9 that correct?

10 A No reviews, not a correct statement. We were trying  
11 to get those records, so we did start to look at some of those  
12 records. But it was too incomplete to do any type of report.

13 Q So in your report you make no reference to any  
14 materials that you have examined for the period of time  
15 between 1993 and 2001, isn't that true?

16 A Me -- well, we had records for 2001.

17 Q Okay. And that was the opening balance sheet --

18 A And the assignments. And I -- we looked at the  
19 separate property agreements from '93. We looked at the --  
20 the signed -- all the agreements that were done in '93. So  
21 no. I mean, that's not a -- we did look at those records.

22 Q So you looked at the separate property list from  
23 1993, is that correct?

24 A That is correct.



1 Q If you will, let's take a look then sir at Exhibit  
2 4, in the exhibit book that's in front of you. If you take a  
3 look at Exhibit 4, please.

4 A Okay.

5 Q This is the separate property agreement. You  
6 reviewed that, is that correct?

7 A That is correct.

8 Q So that is a document prior to 2001 that you  
9 reviewed.

10 A Correct.

11 Q And then if we take a look at the attachments to  
12 that, let's start with Exhibit A. Do you understand, sir,  
13 Exhibit A to be the property that is to go into Eric L.  
14 Nelson's separate property trust dated July 13th, 1993?

15 A That is correct.

16 Q Let's take a look at that. This list under Item 1,  
17 two bank accounts. One at First Interstate Bank and the other  
18 at Bank of America.

19 A Uh-huh (affirmative).

20 Q Is that a yes?

21 A That -- yes, that is a yes.

22 Q Do either of those two accounts exist today?

23 A Actually, I don't think --

24 Q Let me go back.

1           A     I would have to --

2           Q     Did either of those two accounts exist in 2001?

3           A     I would have to look at the account numbers. I

4 don't have them memorized.

5           Q     You did not verify that in doing your study?

6           A     No, because I was looking at what the assignments

7 were. After -- because we didn't have the records to trace

8 those accounts --

9           Q     Okay. So you could not --

10          A     -- in 2001.

11          Q     You could not trace those two accounts, is that

12 correct?

13          A     I'm saying -- yes, through what the transactions

14 went on in those accounts --

15          Q     Is there anything in your report that has been

16 marked as Intervener's Exhibit --

17               MS. PROVOST: 168.

18          Q     -- 168, is there anything in your report that you

19 can turn to to tell us whether in 2001 either of those two

20 bank accounts were in existence?

21          A     I could look at the trial balance.

22          Q     Would that be Exhibit -- tab 2?

23          A     Exhibit --

24          Q     It would be Exhibit -- let's call it tab --

1 A All right.

2 Q -- for -- is that tab 2?

3 A Yes.

4 Q All right. Now on tab 2, do you see either of those

5 two accounts reflected on what you're saying is -- this is

6 what you call the trial balance sheet?

7 A Correct.

8 Q And that is purporting to be a trial balance sheet

9 of the assets owed by the Eric L. Nelson Trust as of May 31st,

10 2001, is that correct?

11 A That is correct.

12 Q Do you see either of those two bank accounts listed

13 on tab 2, that --

14 A Let's --

15 Q -- trial balance sheet?

16 A No, I do not, but I think we need to go to tab 8 --

17 Q Okay.

18 A -- which is -- because there are a few accounts not

19 shown. There was a Bank of America Money Market account that

20 we couldn't get statements for that existed in 2001.

21 Q And can you tell me what that account number was?

22 A Not off the top of my head.

23 Q Is it anywhere in your --

24 A Not without looking.

1 Q Is it anywhere in your report?

2 A I don't think the account number's in my report. It  
3 would be in my file.

4 Q Can you show me where under tab 8 you're making  
5 reference to some money market account at Bank of America?

6 A Actually, I -- there was account 1001 money market  
7 account, but I don't think that's not the Bank of America one,  
8 I don't believe.

9 Q Can you give us your -- by the way, on the bottom of  
10 these --

11 A And that's -- that is -- as I stated earlier  
12 yesterday, that is the one account we could -- Bank -- we  
13 could not get statements from Bank of America on.

14 Q Okay. So is there anywhere in here where you can  
15 confirm whether that account number of Bank of America  
16 990005372 was in existence as of May 31st, 2001?

17 A I would have to look at my file. Not from my report  
18 I cannot.

19 Q Now if you were to look at your file, what would you  
20 be looking for?

21 A The -- what records we had on with the money market.  
22 There's the general ledgers would show that money was  
23 transferred from that account.

24 Q Now you did not bring any of your records with you

1 today, did you?

2 A I have them on CD.

3 Q Okay. Did you make an inventory of all the records  
4 that you reviewed?

5 A We have all of them on that CD, yes.

6 Q Well, did you make an inventory? Did you -- as  
7 documents came in, did you make an inventory or --

8 A Well, when you say inventory, I mean, just a list on  
9 one sheet of paper or what do you mean by inventory?

10 Q Yes, that's what I mean, but I don't --

11 A I don't have it one sheet of paper.

12 Q I would assume it would be more than one sheet of  
13 paper.

14 A No, we just have all the documents themselves.

15 Q So you never made a log as to when you received a  
16 document, who you received it from?

17 A No.

18 Q Why?

19 A I didn't need to. We scanned it in. We got the  
20 scan dates. So I have the dates that they were scanned  
21 attached to the files and we sorted, split them up and sorted  
22 them so we -- as for our work papers.

23 Q Is there any chance I could get a copy of that CD --

24 A Sure.

1 Q -- say later today?

2 A Uh-huh (affirmative).

3 Q Is that a yes?

4 A A -- I can give you one right now.

5 Q I appreciate that. I'll take that right now.

6 A This was made last week, so if there's anything that

7 came in, anything that came in last week like I got some

8 documents Thursday and Friday -- or Friday actually, they're

9 not on here. Because this was made prior to those documents

10 coming.

11 Q Okay. So will we find out what documents were given

12 Friday -- was that before you prepared your report or --

13 A Those --

14 Q -- after?

15 A That was after.

16 Q Now what documents were those that you received?

17 What documents did you receive last Friday?

18 A They came from your office. There were minutes.

19 There were some other documents that you can -- did I take

20 that? I'm sure I -- this is an extra copy. I have one still

21 on my computer.

22 Q Okay. Great. Thank you very much. So what you

23 just handed me then is a disc that contains all the documents

24 that were provided to you so that you could prepare your

1 report, is that correct?

2 A That is correct.

3 Q Now the documents that you received last Friday, can  
4 you tell us what they were? It was something you received  
5 from my office?

6 A Yes, it was -- it was stuff that you submitted as  
7 evidence to Mark's office. So --

8 Q Okay.

9 A -- Mark's office sent it to me.

10 Q I was going to say I was just wondering why I would  
11 be sending you something.

12 A No.

13 Q All right. So you received it from Mark Solomon's  
14 office.

15 A Correct.

16 Q What documents did you receive specifically?

17 A I received the minutes which -- for over the years  
18 for Lynita's and Eric's trust --

19 Q You had not reviewed any of those minutes?

20 A I reviewed some. I reviewed some of the  
21 distributions. I didn't review any of Lynita's minutes, no.

22 Q So if understand you correct, in preparing your  
23 report, you reviewed none of Lynita or L -- let's call it for  
24 easier -- let's call it Lynita's trust and Eric's trust. Is

1 that easier for you?

2 A Sure.

3 Q It's easier for me.

4 A Okay.

5 Q Okay. You reviewed none of the minutes for Lynita's  
6 trust?

7 A No, I wasn't working on her trust. And that wasn't  
8 provided to me.

9 Q Okay. And we'll get into that. And then you only  
10 reviewed some of the minutes from Eric's trust?

11 A I -- when we reviewed -- we -- the minutes we asked  
12 for were -- that is correct, because there were more minutes  
13 that you provided that Eric didn't have. We -- because we  
14 have minutes, but they weren't -- you had addi -- there was  
15 additional minutes I hadn't seen when I got your list. Does  
16 that make sense, that answer?

17 Q Well, the interesting thing is is how we obtained  
18 the minutes. It would have been through sources affiliated  
19 with Eric. At least with Eric's trust.

20 MR. SOLOMON: Well, I object to testifying in that  
21 regarding.

22 MR. DICKERSON: Well, all right. I guess we'll just  
23 have to establish that.

24 THE WITNESS: Well, that -- and that's what Eric had



1 too is because some of the documents we couldn't get. He said  
2 had given to you and you were going to charge him for those to  
3 come back.

4 BY MR. DICKERSON:

5 Q Of those what he's talking about is bank records  
6 that he --

7 A Right.

8 Q -- gave to Jolie Alanine (ph), correct?

9 A I'm not sure who he gave them too, but I just know  
10 that he had trouble getting some of the original documents  
11 that had been provided back because he had given the  
12 originals.

13 Q And but --

14 A Who they were given to, I don't know for sure.

15 Q Those were bank records, correct? Not minutes.

16 A That is correct.

17 Q And did you get all the bank records you eventually  
18 wanted?

19 A The only bank records we did not get and we asked  
20 Bank of America for them and Bank of America said they were --  
21 they couldn't provide them were a money market account from  
22 2001 through 2000 -- I forget '3 or '3 or '4.

23 Q And do you have that money market listed anywhere in  
24 your report?

1 A No, because we couldn't verify what was in there --

2 Q So you --

3 A -- at the time.

4 Q -- don't know how much was in there?

5 A I don't.

6 Q Do you know --

7 A I know what was transferred from there to this  
8 trust, yes.

9 Q Okay. And is that in your report?

10 A It's just -- it's in the balance sheets, yes.

11 Q But you couldn't confirm how that money got into the  
12 money market account?

13 A I could not.

14 Q Okay. And so what asset do you trace from that  
15 money market account?

16 A None. It was just gradual deposits coming in. I  
17 mean, you can't trace it to one individual.

18 Q How much money was in that money market account?

19 A I don't recall now. I had Angelo doing that work.  
20 I don't recall how much was transferred in. I can look --

21 Q Where would you --

22 A -- and see.

23 Q -- look, sir?

24 A I would look at our journal entries and -- and the

1 -- the balance sheets that we prepare.

2 Q Is that in your report?

3 A Let's see if I can tell here.

4 Q You're going to -- oh, I'm sorry. You're looking in  
5 -- at your report now?

6 A I am. I'm trying to think if we had -- it was all  
7 -- it was all in the early years. Most of it came in in 2001,  
8 '2. So it was again money being transferred at the beginning  
9 of the trust. It was in 2001, there was a hundred and  
10 ninety-seven thousand five hundred coming in.

11 Q Can you give me your --

12 A And I --

13 Q Give us your Bates stamp number at the bottom. And  
14 for the record, the DG --

15 A There's no --

16 Q -- that stands for Daniel Gerety or Dan Gerety?

17 A What -- what --

18 Q Your Bates stamps at the bottom where it says?

19 A I don't have any Bates stamps on this file.

20 Q Okay. So what -- oh, okay. You don't have -- oh,  
21 that's your -- okay. All right. Wow, that's going to make it  
22 difficult for us then, I think.

23 A It's Exhibit 8, Page --

24 Q I'll tell you what.

1           A       -- 5.

2           MR. DICKERSON: I'll tell you want. Can -- is there  
3 anyway, Judge, we could -- wow. I think then for the record  
4 we're going to need the one with the Bates stamp, but there's  
5 just so many documents. Is there anyway we can switch the two  
6 exhibits or maybe have this one the -- we can have it twice.  
7 We can have this one there. Now does this one have the --

8           THE COURT: That one doesn't have the -- do you have  
9 -- yeah, we can switch them. Whatever we need to do to follow  
10 -- see -- could be easier for him to follow with the Bates  
11 stamp, yeah.

12          MR. DICKERSON: What I'm doing here is we had taken  
13 out of this one Bates stamps that were DG-00422 and 00423. So  
14 I'm replacing them from my book and putting them in this one  
15 as we're going -- two pages. This one's marked as  
16 Intervener's next. So that would be 169.

17          MR. SOLOMON: Are you marking that?

18          MR. DICKERSON: 169.

19          THE COURT: Can we just do --

20          THE CLERK: Is this the same information?

21          THE COURT: Yeah, we just replace that with the 168?

22          THE CLERK: With the exhibit?

23          THE COURT: Okay. Just mark that one 168 and we'll  
24 take the marker off the other one and just switch them out

1 then. Just make sure --

2 MR. DICKERSON: All right.

3 THE COURT: -- we get that one back.

4 BY MR. DICKERSON:

5 Q Mr. Gerety, we're going to give you your book back  
6 that were -- for our purposes you could --

7 THE COURT: That way it would be easier for you to  
8 follow without the stamps on the bottom. And we'll just --

9 MR. DICKERSON: Did you want to put the date on it?  
10 You didn't put the date on this one.

11 THE CLERK: Yeah.

12 MR. DICKERSON: Did you want to do that?

13 THE COURT: Yeah, you can use the same date unless  
14 someone's thinking it's a different document, yeah.

15 THE WITNESS: All right.

16 BY MR. DICKERSON:

17 Q Okay. Mr. Gerety, we're showing you now what has  
18 been marked as Intervener's Exhibit 168. Could you refer to  
19 Bates stamp number where you're referring to?

20 A It is Bates Number 78.

21 Q All right. So what specific entry on that Bates  
22 Number 78 --

23 A Look -- look at account 3005.

24 Q Okay.

1           A     It says contributions. There's a hundred and  
2 ninety-seven thousand five hundred that came into the trust  
3 during 2001 that was not shown as an asset at the beginning.  
4 I would have to look at the general ledger to get the detail  
5 on that, because this is what the client had posted in their  
6 books what the trustees had -- had posted to the books at that  
7 -- in that year, because this is just a total. But I -- if  
8 memory serves me right, I believe that was from that money  
9 market account.

10          Q     All right. How do you -- okay. Why don't we just  
11 take this entry as an explanation so you can explain? Because  
12 we're going to get into this a little later and explain some  
13 of these transactions. But you have these pages setup under  
14 your tab 8 of -- let's take the first column, the December  
15 31st, 2000. All of those appear as I go through your report,  
16 all those columns have a zero, is that correct?

17          A     That is correct.

18          Q     And why?

19          A     We didn't post -- we didn't -- here's what we did.  
20 We took the client's general ledger balance as of December  
21 31st in 2001. So these were the ending balances on the second  
22 column. We didn't -- because we weren't tracing 2 -- the year  
23 2000. We didn't bother dropping those numbers in.

24          Q     Okay.

1 A This --

2 Q So --

3 A This is done on our software. Do you have a  
4 question?

5 Q So I think what you're telling us is you didn't  
6 really have any numbers prior to December 31st of 2001. So  
7 you're using the numbers that you did have as of December  
8 31st, 2001, is that correct?

9 A That's not -- no, that's not a correct statement.  
10 The general ledgers would have had beginning balances for  
11 2001. So they would have had January -- starting with January  
12 1 what the beginning balances were that we had.

13 Q Is there a reason that you didn't use that then as  
14 the ending balance for December 31st of 2000?

15 A No, because that would be January. Why would we use  
16 it for December?

17 Q Well, I would think that the balance on January 1st  
18 of 2001 is going to be the same as December 31st of 2000. I  
19 don't think much happens between those -- between 12:59 and --

20 MR. SOLOMON: Object to the --

21 MR. DICKERSON: -- midnight.

22 MR. SOLOMON: -- form of the question.

23 THE WITNESS: Well, that's a whole year.

24 BY MR. DICKERSON:

1 Q No, I'm talking about December --

2 A January 1 through December 31st?

3 Q No, you have -- you're showing the balance -- for  
4 example, on column 2, you're showing the unadjusted balances  
5 as of December 31st, 2001, is that correct?

6 A We are showing --

7 Q Look at that page --

8 A We are showing January 1st, really that December  
9 31st, 2001 unadjusted numbers --

10 Q Yes.

11 A -- are the beginning balances that were on the GL as  
12 of January 1st, 2001. And then our journal entry one is to  
13 post all the transactions exactly as they the -- the client's  
14 general ledger had post them to what accounts. So journal  
15 entry number one is posting that. And that 197 was posted by  
16 the client. That's why if it's a journ -- AJE -- A -- AJE01  
17 stands for adjusting journal entry 01.

18 Q So can we look then at your second column? And  
19 you're saying that as of December 31st, 2001 for that item  
20 that you referenced the 3005. Why does it show a negative  
21 3,454,000 plus?

22 A As I had testified yesterday, the client's general  
23 ledger was showing accumulation of what went on from '93  
24 through 2001. So that was what was -- had been posted on the



1 client's general ledger prior to 2001. These were beginning  
2 balances that were there. So it was an accumulation of -- of  
3 years.

4 Q Well, how could you then -- why did you adjust it?

5 A Because this is a new trust. It -- it included the  
6 balances from the separate property trust. They just  
7 continued to separate property trust general ledger, so it had  
8 all this separate property trust GL balances in there instead  
9 of starting a brand new general ledger. So the capital counts  
10 that retained earnings, there was retained earnings there that  
11 there weren't no retained earnings at the beginning of the  
12 trust. So those retained earnings of -- that accumulated from  
13 '93 on, so we needed to back all that out to start with a  
14 fresh trial balance. And we made journal entries for that.

15 Q But the client did not do that, is that correct?

16 A The client just continued as if it was the same  
17 trust going forward.

18 Q And so what you are trying to do if I understand it  
19 then is you're trying to say notwithstanding what the client's  
20 intent may have been, whatever it was, you're going to fix  
21 this so that it's the way it should have been done, is that  
22 correct?

23 MR. SOLOMON: Object to the form of the question.

24 THE WITNESS: I'm reclassifying -- if I saw things

1 that were posted incorrectly, for instance, there were no  
2 capital contributions on January 1st, I'm backing those out.  
3 I'm starting with beginning capital, what was actually  
4 transferred based on the assignments and the assets that are  
5 held on the trust and what that equity is.

6 BY MR. DICKERSON:

7 Q So the ELN Trust apparently indicated that it had  
8 some asset here worth 3,454,000?

9 A It's showing that it had assets worth more than  
10 that. So --

11 Q All right. So --

12 A At least 6,000,000 in assets.

13 Q And you found that you needed to adjust those.

14 A Again, I was backing out the equity accounts,  
15 retained earnings, distributions, contributions that had  
16 happened previous to the formation of this trust.

17 Q What's the 197,500? That's in the column under  
18 adjusted credits. What does that mean?

19 A If -- I would have to look again at the general  
20 ledger that has all the detail, because this is the total for  
21 the year. But I believe that was money that was transferred  
22 from the Bank of America Money Market account.

23 Q To where?

24 A To the cash account, Wells Fargo account or wherever

1 one of the accounts I have on the balance sheet.

2 Q But it doesn't show it here as to where that money  
3 was transferred, does it?

4 A No. Again, I would have to look at the general  
5 ledger to get the detail.

6 Q And it doesn't say where that 197,500 came from.

7 A Not on this, no. It's just a summation.

8 Q So is it --

9 A It's a summary.

10 Q -- anywhere in your report that it will tell us  
11 that?

12 A Probably not. I don't believe so.

13 Q So why did you adjust that over in the fifth column  
14 where it says December 31st, 2001 adjusted? Why did you  
15 negative that out?

16 A I didn't. That's the balance.

17 Q Is that not a negative?

18 A It's a credit which is the 197 is in the credit  
19 column. So a credit is a negative number.

20 Q Okay.

21 A So the -- the first column is your beginning  
22 balances. The -- or I should say the first column with  
23 numbers. The second column is your beginning balances. The  
24 second column are debits if you would or what were debiting

1 accounts for which are positive. One way to say it is is a  
2 plus. And the fourth column are credits where we're crediting  
3 accounts which will be a negative. It doesn't have brackets  
4 in the credit column, because it's -- it's defined as a credit  
5 or a negative number up above. And then you add all these  
6 across and you come up with 197.

7           So you start off with a credit balance, we debit  
8 that credit balance to eliminate it. And we post the  
9 transactions that came in during the year. That's a credit.  
10 So if it's a credit to a contribution, that means it's a debit  
11 to a cash account. So it balances. So we end up with a  
12 credit balance which is equity.

13           Q     Now what do you mean here --

14           A     Principal.

15           Q     -- on that one where it says record 2001 activity,  
16 the income's statement activity is from 1/1 to 12/31/2001?  
17 What does that mean?

18           A     That means those were the transactions in total that  
19 would run through this account as posted on the client's  
20 general ledger. So it's the sum of from January 1 on.

21           Q     And so again, if I understand you then, you're  
22 trying to fix the books of ELN Trust to the way you believe  
23 they should read, is that correct?

24           A     I -- yes, I am -- if I see anything that was posted

1 incorrectly, a bookkeeping error, I'm going to correct the  
2 bookkeeping errors.

3 Q How do you determine that it's a bookkeeping error  
4 versus an intentional entry? How do you make that  
5 determination?

6 A I saw no intentional -- I mean, it's -- it's -- you  
7 can -- from 23 to 30 years of experience, I forget how many  
8 years I got now, in correcting clients' books, you see what  
9 clients are doing. And some people don't get it, other  
10 people, I'm lucky, I guess, I can see mistakes client make and  
11 I know what they're thinking. You know, it's just you can  
12 tell how they make their entries. So you can see what is just  
13 honest -- they just -- they don't -- they make a bookkeeping  
14 error.

15 Q So you're --

16 A So based on my experience of working 30 years with  
17 clients, there isn't anything I saw that wasn't intentional.  
18 It was they were posting the cash coming in and the cash going  
19 out and sometimes they post it to the wrong account.

20 Q Okay. So you're making assumptions that they just  
21 made the mistake and you're going to fix it for them, is that  
22 correct?

23 A This isn't a major mistake. This is just -- they  
24 just carried the GL forward.

1 Q Yeah, well, we're going to go in -- you have made  
2 numerous adjustments in your report, is that correct?

3 A That's correct.

4 Q Okay. Now let's go back to Exhibit 4, the schedule  
5 A of Exhibit 4. That's in the exhibit book -- no, not yours,  
6 the actual exhibit book there. This is back to that separate  
7 property agreement. Going back to the property that was  
8 purportedly transferred into Eric Nelson's irrevocable trust  
9 in 1993, is that correct?

10 MR. SOLOMON: Now hold on.

11 A No.

12 MR. SOLOMON: You misstated that.

13 THE WITNESS: That's incorrect, because this was a  
14 revocable trust.

15 Q Now did I say irrevocable? I'm so sorry.

16 A Yes.

17 Q I -- that was a misstatement. So yeah, 1993  
18 revocable, 2001 irrevocable.

19 A Correct.

20 Q Okay. So we'll -- this -- we'll refer to the 1993  
21 trust. So these assets then were transferred to the 1993  
22 trust?

23 A Off of schedule A here, yes.

24 Q All right. So we talked about the two bank accounts

1 and established that none of those were in existence on may  
2 31st of 2001, correct?

3 A I didn't confirm that on the Bank of America  
4 account.

5 Q You haven't confirmed it one way or another.

6 A Well, I said there was a money market account at  
7 Bank of America. I would have to go back and look at my  
8 records to see if it was the same account number or not. I  
9 don't know.

10 Q Okay. And would that be on the disc that you just  
11 gave me?

12 A Yes, it would.

13 Q Okay. Now if you go down, we now see under item 2  
14 real property that was transferred into Eric Nelson's 1993  
15 trust, is that correct?

16 A That's correct.

17 Q Can you tell me Palm Park Apartments, that shows  
18 nowhere on your report, is that correct? That was not in  
19 existence on May 31st of 2001, correct?

20 A I believe that's correct without looking, yes.

21 Q Well, I -- I want you to look if you -- you're  
22 pretty certain that that's not on there, isn't that correct?  
23 Do you want to go back to --

24 A I'm pretty certain, yeah. I mean --

1 Q Okay.

2 A -- again, I don't recall every single -- I mean --

3 Q Well, that's why we have your report. We're going  
4 to help you --

5 A That's right.

6 Q -- recall. Okay. So if you can go back to that tab  
7 2. Do you see Palm Park Apartments anywhere on tab 2 of your  
8 report?

9 A Yeah, I'm looking at tab 8, the first -- first year.

10 Q Tab 8 now?

11 A And I do not -- and I do not see that asset anywhere  
12 there.

13 Q Can you tell me what happened to that asset?

14 A I do not, no.

15 Q Okay. How about 304 Ramsey, Las Vegas, Nevada? You  
16 don't find that anywhere in your report either, do you?

17 A Correct.

18 Q Can you tell me what happened to that property?

19 A I do not know.

20 Q We go down to the next one. 12 acres on Cheyenne,  
21 Las Vegas, Nevada. That's not anywhere in your report either,  
22 is it?

23 A No, I don't believe it is.

24 Q Can you tell me what happened to that property?



1 A I do not know.

2 Q The next item, 10 acres on Cheyenne, Las Vegas,  
3 Nevada. That's also is nowhere in your report, is that true?

4 A Correct.

5 Q And can you tell me what happened to that property?

6 A I do not know.

7 Q How about 1098 Evergreen, Phoenix, Arizona? That  
8 also appears nowhere in your report, is that correct?

9 A I would have to look again.

10 Q Take a look, please.

11 A I don't believe it is. It's not showing as an asset  
12 directly owned by the trust. It could be an asset. I don't  
13 think it's there, but it could be an asset held in an LLC that  
14 has its own trial balance.

15 Q In any documents that you reviewed that were  
16 provided to you or in any conversation that you either had  
17 with Eric, Lana, Rochelle, who is the other one?

18 A Shelly.

19 Q Shelly. Can you tell us what happened to that  
20 property, the Evergreen property?

21 A I did not ask them what happened. I asked them if  
22 -- here's what I asked. I talked to Shelly Newell who was  
23 doing all the accounting from the time this '93 trust was  
24 created up through the time that the 2001 trust was created.

1 And I asked her if she -- she told me she look -- made sure  
2 that she was part of getting the titles changed. She was to  
3 the trust name. She worked on that. She posted -- she told  
4 me that she kept everything separate, that they -- and knowing  
5 how she did their bookkeeping from the times I worked with  
6 her, you know, I -- that's -- that's what I asked is I didn't  
7 ask what each individual asset was. I asked if they kept  
8 everything separate and she told me they had done that and the  
9 accounting.

10 Q She told you they kept everything separate all the  
11 way up through all the time that she did the work, correct?

12 A That is correct.

13 Q And Nola told you that she kept everything separate  
14 during the period of time she kept --

15 A I didn't talk to Nola.

16 Q Lana, excuse. Lana told you she kept everything  
17 separate, correct?

18 A That is correct.

19 Q And Rochelle, was it Rochelle --

20 A Uh-huh (affirmative).

21 Q -- McGowan, is that a yes? She told you --

22 A Yes.

23 Q -- she kept everything separate, correct?

24 A Correct.

1 Q And Eric told you they kept everything separate,  
2 isn't that correct?

3 A Correct.

4 Q Now we go through your report and we see hundreds  
5 and hundreds of adjustments, is that correct?

6 A That's correct.

7 Q Okay. So they obviously didn't keep the records  
8 correct, did they?

9 A That's a false statement.

10 Q All right. Let's go on to the next page, Exhibit 49  
11 -- or excuse me, 49, lots and notes, vacant land, Queen Park  
12 subdivision, Queen Creek Arizona Inn. Is that -- does that  
13 property appear anywhere in your report?

14 A No, it -- no, it does not.

15 Q Okay. Do you know what happened to that property?

16 A I do not.

17 Q How about 41 lots and notes, vacant land, in Los  
18 Rancheros Del Rio subdivision Sunland Park, New Mexico? Is --  
19 does that appear anywhere in your report?

20 A It does not.

21 Q Do you know what happened to that property?

22 A I do not.

23 Q Okay. We now move down to apparently that the trust  
24 stores beneficial interest in the following notes receivable.

1 So we have notes receivables from Sport of Kings. Is that  
2 note receivable appear anywhere in your report?

3 A No.

4 Q Do you know what happened to that note receivable?

5 A I do not.

6 Q Do you know if it was ever collected upon?

7 A I do not.

8 Q Do you know how much it was?

9 A No.

10 Q Okay. Number 4, all of trustor's beneficial  
11 interest in the following described automobiles. A 1988  
12 Mercedes. Now I note that in your report you make reference  
13 to about \$94,000 -- 90 -- yeah, just close to 94,000. We take  
14 a look at your tab 2, the last item on there, automobiles,  
15 \$93,779.54. Is that the Mercedes, the 1998 Mercedes in 2001?

16 A I'm not sure.

17 Q That would be the 1988.

18 A I had Angelo in my office traced the titles of the  
19 cars in that. And so I didn't do that personally. It was  
20 Angelo Ruccio who helped me with this report.

21 Q Do you know --

22 A So I'm not sure what -- which cars in that, because  
23 I didn't look at them for --

24 Q So the only car that he received, Eric received,

1 that went into his 1993 trust was a 1988 Mercedes, is that  
2 correct?

3 A Yes.

4 Q Okay. Now here we are roughly 13 years -- well, the  
5 car will be 14 years old by 2001. Is that the 90 -- roughly  
6 \$94,000 automobiles or automobiles is plural?

7 A It's plural.

8 Q Do you know what automobiles are included in there?

9 A Again, I would have to look at my -- the details of  
10 the report. I -- like I said, Angelo traced the -- all of  
11 those and I don't know which was -- I don't recall which --  
12 all those that it were.

13 Q Do you know what happened to the 1988 Mercedes if  
14 anything?

15 A I do not.

16 Q All right. Then we move down to apparently number  
17 5, all of trustor's beneficial interest and the following  
18 described partnership interest. And it lists Eric Nelson  
19 Auctioneering 40 percent. Does that appear in your report  
20 somewhere?

21 A It does. I mean --

22 Q Can you show us where it is? Because it should be  
23 on number -- on tab 2, should it not?

24 A Tab 2 is what -- it's a summary of what came from --

1 Q A summary of what came from Shelly Newell, correct?

2 A A summary of what came from Lana.

3 Q Well, May 31st, 2001, Shelly Newell was handling the  
4 books, was she?

5 A Well, it was Lana who hand -- handed me the GLs I  
6 guess is what I'm saying.

7 Q Okay.

8 A So yes. So that's correct.

9 Q So --

10 A That --

11 Q -- would you point out to the Court where Eric  
12 Nelson Auctioneering, his partnership interest in Eric Nelson  
13 Auctioneering -- actually, let's say his 40 percent interest  
14 in Eric Nelson Auctioneering is?

15 A It's not on there.

16 Q All right. Now do you know what Eric Nelson's  
17 interest in -- in -- or the trust interest? When I say Eric,  
18 I'm using that for meeting Eric or the trust. Do you know  
19 what Eric, his trust, any entity that he may be associated  
20 with, what ownership interests he has in Eric Nelson  
21 Auctioneering on May 31st, 2001?

22 A I -- I don't recall.

23 Q Do you know that it -- do you know that it was a  
24 hundred percent interest at that time?

1           A     I always thought he had a hundred percent of it,  
2 yes.

3           Q     But at least at the time of all he transferred into  
4 his trust in 1993 was a 40 percent interest, would you agree?

5           A     I agree.

6           Q     Do you know how he acquired the additional 60  
7 percent interest?

8           A     I do not.

9           Q     Okay. Do you know what interest he owns today in  
10 Eric Nelson Auctioneering?

11          A     I think it's a hundred percent.

12          Q     Now the next item partnership that he had is Casino  
13 Gaming International, LTD. A hundred percent interest. Does  
14 that show anywhere in your report as being an item or an asset  
15 owned by him on May 31st, 2001?

16          A     I believe that was sold prior to that, disposed of  
17 prior to that.

18          Q     So it sold sometime prior to 2001, is that correct?

19          A     That's correct.

20          Q     So you have no records to indicate how much money he  
21 received from the sale of that?

22          A     Just personal knowledge.

23          Q     Is this your personal knowledge or his personal  
24 knowledge?

1           A     My personal knowledge of -- I -- it's been a long  
2 time.

3           Q     Well, let's tell us. Let's use your personal  
4 knowledge. How much did Eric Nelson received from his sale of  
5 Casino Gaming International, LTD and when did he receive it?

6           A     If -- what I remember is -- and if it's the same as  
7 Las Vegas Casino Entity, what he called that, I looked at the  
8 K-1s. Eric brought those in at the time he was disposing of  
9 that just to let him know what the tax consequences were going  
10 to be. And -- and if I'm thinking of the same entity because  
11 I was calling it something else, but I think it's the same  
12 entity, is he got 50 percent of Tierra Del Sol he ended up  
13 with on the disposition of that. There was another rental  
14 property. And it was over a million in cash that he received  
15 on the disposition of that.

16          Q     Okay. So he received a 50 percent interest in  
17 Tierra Del Sol, is that correct?

18          A     That's correct.

19          Q     And he received what you believe -- this is just  
20 from your memory.

21          A     This is just from my memory.

22          Q     And you believe you received a million dollars in  
23 cash.

24          A     Yeah, I think it was in excess of that, but right



1 around -- I think it was right around that.

2 Q And do you know what he did with the million dollars  
3 in cash?

4 A The -- well, I -- shortly after that, I know some of  
5 it was used to buy Wyoming Downs.

6 Q How do you know that, sir?

7 A I was involved in that transaction.

8 Q How do you know that that cash is what was used? Do  
9 you know where it was deposited?

10 A Actually, no.

11 Q Okay. And do you know where any money that he used  
12 to purchase any interest in Wyoming Downs, what bank account  
13 that came out of?

14 A No, I do not recall.

15 Q You have no records of any of that, isn't that  
16 correct?

17 A That is correct.

18 Q Now do you know what happened to Tierra Del Sol? Do  
19 you know where the ownership of that went?

20 A He transferred it to Lynita's trust.

21 Q So that went to Lynita's trust, is that correct?

22 A That is correct.

23 Q Yet, it was something that he purportedly according  
24 to your memory and recollection received when he sold Casino

1 Gaming International, LTD.

2 A That's correct.

3 Q All right. Now we've gone through all the assets  
4 that Eric Nelson owned or was transferred to his 1993 trust  
5 and it appears it's the only item that he owed in 19 -- in  
6 2001 and the only item he owed today is his interest in Eric  
7 Nelson Auctioneering and that doesn't appear on either your  
8 tab 2, your trial balance sheet, does it?

9 A No, it does not.

10 Q Does it appear anywhere else in your report?

11 A Just transactions between that entity. There's some  
12 loans that are shown to that entity that show up here  
13 throughout the years.

14 Q So you've only treated it as an entity in which  
15 loans are going to and from?

16 A Yeah, it should be -- it's shown as an asset and  
17 it's -- it's not -- not on there.

18 Q So a little mistake by Shelly Newell.

19 A This -- well, and -- and a mistake by me for --  
20 because I knew about it.

21 Q But it's not a big deal, is it? I mean, that we --

22 A Well, if it --

23 Q -- forget an asset like that.

24 A It -- it's still kept -- as long as it's kept

1 separate and the --

2 Q All right.

3 A -- transactions going to and from it --

4 Q But you can't tell us --

5 A -- are recorded --

6 Q -- sir what's been kept separate, can you?

7 A I cannot --

8 Q You have no records between 19 --

9 MR. SOLOMON: Hold on. Hold on.

10 Q -- 93 and 2001 --

11 MR. SOLOMON: You know --

12 Q -- do you?

13 THE COURT: Let him answer. Let him answer.

14 MR. SOLOMON: -- you asked him a question, he

15 started --

16 THE COURT: Let him answer it.

17 MR. SOLOMON: -- answering and he cut him off.

18 THE COURT: Let him answer. You can finish it.

19 THE WITNESS: I can tell what was kept separate from

20 2001 to 2000 -- and today.

21 BY MR. DICKERSON:

22 Q And that is why you made the numerous adjustments,

23 is that true?

24 A Part of it was good assets that belonged on the

1 books.

2 Q And that is why you made the numerous adjustments,  
3 is that true?

4 A Well, that's not -- I wouldn't word it that way.

5 Q All right. And you have reviewed no records between  
6 1993 to 2001 in order for you to make additional adjustments  
7 to fix whatever issues or problems there were at the time.

8 A We did not have the records to go through that and  
9 confirm.

10 Q And in order for you to fix the Tierra Del Sol or  
11 what you considered to be a mistake with Tierra Del Sol, you  
12 give it back to Eric, don't you?

13 A I'm not sure what you're talking about.

14 Q Make an adjustment and give Eric the money from  
15 Tierra Del Sol?

16 A No, I -- Eric would report that as his asset and  
17 then he would report the transfer.

18 Q All right. Well, we'll go through --

19 A So that -- I wouldn't say that's a mistake if it was  
20 transferred.

21 Q We will go through -- well, we'll go through Tierra  
22 Del Sol shortly.

23 A We were stating, so --

24 Q Okay. All right. Let's take a look at your nine

1 page report.

2 A Okay.

3 Q That's the letter that is dated July 5, 2012  
4 addressed to Mr. Solomon, is that correct?

5 A That's correct. July 5th, yes.

6 Q If I can -- let's go through this. And I would like  
7 to go through each paragraph and try to understand what you're  
8 telling us that you've done. We start off -- and I will read  
9 this. You correct me if I make a mistake because I often do  
10 that. Not intentional. But starting with the first  
11 paragraph. As requested, we analyzed the trust accounts --  
12 the trust accounting of Eric L. Nelson Nevada Trust dated May  
13 30, 2001. And then you referred to that as throughout your  
14 report as ELNNVT, correct?

15 A Correct.

16 Q Do you mind if instead of me using those words that  
17 I just call it Eric's trust?

18 A That's fine with me.

19 Q From inception to September 30, 2011, now why did  
20 you limit your study to September 30, 2011?

21 A That's when we first started the work and that's all  
22 the records were completed through. And as we got going, we  
23 were concentrating on just getting done what we originally  
24 assigned to do.

1 Q Were you asked to review the accounting for Lynita's  
2 trust?

3 A No.

4 Q Do you know why?

5 A We were not defending her trust, so I wasn't  
6 concerned of what happened in her trust. I was only concerned  
7 with whether Eric's trust was operating, you know.

8 Q Well, if I understood you in your direct testimony,  
9 you indicated that there were '02s and what was the term you  
10 used?

11 MS. PROVOST: Due tos and froms.

12 A Due to, due from.

13 Q Due to, due from. Now if I understood your  
14 testimony also, and I may be mistaken, but you said that  
15 that's how it was recorded by Shelly Newell, Lana Martin,  
16 Rochelle McGowan and Eric as due tos and due froms.

17 A That is correct.

18 Q Can you show us anywhere on that tab 2 of your  
19 report where it shows that anything that Eric Nelson owed to  
20 Lynita's trust or anything that was owed by Lynita's trust to  
21 Eric?

22 A There is in the balance as I stated yesterday there  
23 was no beginning balance.

24 Q That's because they didn't keep any due tos or owed

1 -- what's the term again?

2 MS. PROVOST: Due tos, due froms.

3 Q Due tos, due froms. There was nothing in their  
4 records reflecting that, isn't that true?

5 A That's not -- I can't say that's a true statement.  
6 I'm just saying as of the beginning of January there was no  
7 balance. That doesn't mean there weren't balances in prior  
8 years.

9 Q But they never recorded those balanced, isn't that  
10 true?

11 A That's not true.

12 Q How do you know that, sir?

13 A Because you just read --

14 Q Did you see --

15 A -- you just -- I -- that's not what I said. So that  
16 statement you made is not true based on what I had answered.

17 Q Tell us --

18 A So you're misstating what I said.

19 Q Okay. Then let me see if we can clear this up. On  
20 December 31st, 2001, can you tell us what Eric's books  
21 reflected he owed to Lynita's trust?

22 A On December 31st, 2001?

23 Q No, May 31st, 2001.

24 A It showed zero.

1 Q Okay. Can you tell us on Eric's books for May 31,  
2 2000 -- what did it show that Lynita's trust owed to him?

3 A Zero.

4 Q Then you what attempted to do is you went through  
5 your study is you attempted to make a determination of these  
6 due tos, due froms and make certain adjustments, is that  
7 correct?

8 A We traced all the transactions and yeah, we just --  
9 we looked at -- when there was transfers of real estate and  
10 cash and if we found -- if we found an error, there's -- for  
11 example, as I stated yesterday, there was rent coming in from  
12 Tierra Del Sol that should have gone to Lynita's trust. And  
13 if we found that, we would post that as that money owed back  
14 to her --

15 Q Okay.

16 A -- to account for it.

17 Q But Eric and none of his bookkeepers ever treated  
18 that as an owed to Lynita, did they?

19 A Not on that -- those particular transactions.

20 Q And when you did your calculations, you didn't  
21 figure out how long Eric held on to any of Lynita's money and  
22 attributed some type of rate of return on that either, did  
23 you?

24 A I did not.



1 Q Okay. Now --

2 A But it -- it went back and forth, because there are  
3 times where her trust owed him money.

4 Q We will go through those.

5 A So it --

6 Q Okay. We'll go through those so we'll show the back  
7 and forths that you're talking about. Okay. Now in order for  
8 you to verify these due tos, due froms, one would think that  
9 the generally accepted accounting principle would be to take a  
10 look at the general ledger of Lynita's to see how it was  
11 reported on her books, would you agree?

12 A It's good. It would be helpful to know that the two  
13 books agreed with each other.

14 Q And that is the generally accepted accounting  
15 principle, is it not?

16 A You normally -- if I'm auditing, I'm going to send  
17 confirmations. I mean, you don't normally get to look at  
18 other people's books.

19 Q Well, but Eric had her books, did he not?

20 A I don't -- I don't know.

21 Q You never asked?

22 A I did not. We weren't hired to look at her  
23 transactions.

24 Q But I thought you told us earlier that he did give

1 you some of her general ledgers.

2 A I have some of the GLs.

3 Q Did you ever look at them?

4 A I did.

5 Q Okay. And did you see anything on there that showed  
6 that Lynita was owed any money by Eric?

7 A Yes.

8 Q What did you show?

9 A I don't recall the numbers.

10 Q With respect to anything that you characterize as a  
11 loan from Eric to Lynita or a loan from Lynita to Eric, did  
12 you ever decide that it might be wise to ask Lynita what her  
13 take on that would have been?

14 A I did not.

15 Q Is that what you would call generally accepted  
16 accounting principles?

17 A Well, it depends on how you're applying those so you  
18 don't misuse the term. This was a special procedures report.

19 Q A special procedures report prepared by a man who  
20 has been working for Eric Nelson for 15 years, correct?

21 A That's correct.

22 Q Let's move on with your letter. We were unable to  
23 analyze the trust accounting of the Eric L. Nelson separate  
24 property trust dated July 13, 1993. From 1993 to 2001 as we

1 have been informed that the accounting records going back to  
2 1993 were no longer available. Okay. So who told you that  
3 they were no longer available?

4 A Lana

5 Q Anybody else?

6 A Eric, Lana -- I mean I -- we were asking Lana to  
7 start with.

8 Q We have also quantified the contingent  
9 non-contingent debt of the trust. Okay. So that is what the  
10 last part of your report, is that correct?

11 A That is correct.

12 Q And that information is based upon information that  
13 you received from Eric, is that right?

14 A That is correct.

15 Q Okay. Now we move on. A copy of my credentials is  
16 attached to Exhibit 1. Okay. And then you go through talking  
17 about your fees. You're -- you charge 465 an hour?

18 A Correct.

19 Q And is it your associate Angelo charges 360 an hour,  
20 is that correct?

21 A That's correct.

22 Q All right. Next paragraph. This report is based on  
23 facts and information I am aware of today. I reserve the  
24 right to modify this report should other information become

1 available to me. Now you mentioned earlier that since writing  
2 this report on July 5th, 2012 you received additional  
3 documents. I'm assuming then based upon you testifying here  
4 yesterday that your reservation of rights to modify this is  
5 not affected at all by what you saw last week.

6 A The only thing that I would consider modifying it  
7 for was -- and I don't know if that's -- it was in the minutes  
8 that I hadn't seen one -- one piece of minutes that I hadn't  
9 seen, that there was some Minnesota -- or not -- Mississippi  
10 property that was transferred as payment of debt that I wasn't  
11 aware of. So that would have reduced -- that would have  
12 changed the amount that was, you know, due to, due from based  
13 on that.

14 Q How would it change it under your terms of  
15 accounting principles?

16 A Well, the way I recorded the transfers was based on  
17 what I was told and that it was an exchange. So I took all  
18 the Mississippi property as being exchange for the property  
19 that Eric received so as an equal -- of equal value. If a  
20 piece of some of those properties were not actually part of  
21 that exchange but to pay off a note, I would have reduced the  
22 cash that it was due which would have reduced the amount that  
23 was due to Lynita's trust.

24 Q Well, according to your report, Lynita's trust owes

1 Eric's trust money, correct? According to --

2 A Well, it's --

3 Q -- your report --

4 A According to my report, her trust would still -- the  
5 -- finish the transaction which was 50 percent of the  
6 Mississippi property. And I did place a value on that and I  
7 think it was 28 that came out that it zeroed out or close to  
8 28,000.

9 Q The bottom line of your report after doing what you  
10 have told the Court you've done, Lynita's trust owes roughly  
11 \$28,000 to Eric's trust, is that correct?

12 A That's correct.

13 Q Okay. Now with the additional information you got,  
14 you want to revise the report to do what?

15 A If I -- I wasn't aware of a few pieces of the  
16 Mississippi property being transferred as payment of the cash  
17 that was due. And so that would increase the amount that  
18 Lynita owed Eric's trust.

19 Q Okay. So you now think Lynita even owes Eric's  
20 trust more money, is that right?

21 A Possibly. I haven't had a time to investigate those  
22 minutes. I just received them Friday and I haven't talked to  
23 anybody about them. So I --

24 Q And --

1           A     -- don't know what I would do yet until I followed  
2 up with it.

3           Q     And with your respect to the Minnesota --  
4 Mississippi properties, you relied upon what Eric told you, is  
5 that correct?

6           A     That is correct.

7           Q     All right. And Eric told you that the transfer of  
8 all the Mississippi property to Lynita was all part of an  
9 agreement to first transfer it to her and then transfer half  
10 back to him, is that correct?

11          A     Along with other -- other properties, yes.

12          Q     And so what you did is you took Eric at his word and  
13 says okay, there was an agreement, between whom it may have  
14 been, God only knows, but there was an agreement and so you  
15 decided to make an adjustment and give Eric half of the land  
16 in Mississippi even though it -- right now it's held in  
17 Lynita's trust, is that correct?

18               MR. SOLOMON: I object to the form of the question  
19 especially the God only knows portion of it.

20               MR. DICKERSON: I strike that portion.

21               THE COURT: So stricken.

22               THE WITNESS: That's correct.

23 BY MR. DICKERSON:

24          Q     Okay. Now you then are relying upon the credibility

1 of Eric Nelson, is that right?

2 A That's correct.

3 Q If I were to told you that this Court at least on  
4 one occasion with respect to a temporary protective order has  
5 found him not to be credible, would that affect your decision,  
6 sir, on his credibility?

7 A No.

8 Q If I told you that there was a bankruptcy judge in  
9 Mississippi that found him so totally non-credible that he  
10 dismissed his bankruptcy action in Mississippi, would that  
11 affect your --

12 MS. FORSBERG: Your Honor, we have to object to  
13 that. That misstates anything -- there's nothing --

14 MR. DICKERSON: May I --

15 MS. FORSBERG: -- in the record that says that.

16 MR. DICKERSON: -- complete the question? It's a  
17 proper impeachment.

18 THE COURT: Well, he ask the question. I don't know  
19 if it's true or not, but he could ask the question.

20 THE WITNESS: I don't know what the facts of it are.  
21 So it's hard for me to make a judgment.

22 BY MR. DICKERSON:

23 Q But if I told you that a bankruptcy judge in  
24 Mississippi has found Eric Nelson to be so non-credible that

1 he dismissed his bankruptcy action filed, would that affect  
2 your opinion of Eric Nelson's credible?

3 MR. SOLOMON: Objection. Assumes facts not in  
4 evidence.

5 THE WITNESS: I -- again, I don't know what the  
6 facts are behind it. It's --

7 BY MR. DICKERSON:

8 Q I want you to assume it's true. Assume it's true,  
9 would that affect your opinion of his credibility?

10 A That what's -- that a judge dismissed his  
11 bankruptcy? That is not even --

12 Q That a judge in a written decision and order found  
13 him so unbelievable and non-credible that he dismissed his  
14 bankruptcy action? If that were a fact, would that affect  
15 your opinion of Eric Nelson's credibility?

16 A I still would judge him based on my personal  
17 experience with him and not what somebody else had.

18 Q A personal experience and a professional  
19 relationship over the last 15 years in which you had been paid  
20 money over all of those years by Eric Nelson, is that correct?

21 A That is correct, that I found him very --

22 Q All right.

23 A -- credible in all his business dealings.

24 Q All right. Moving down, understanding of facts.



1 Now this understanding of facts was provided to you by whom?

2 A Eric --

3 MR. SOLOMON: Vague and ambiguous. I don't know,  
4 what understanding of the facts and what regard?

5 BY MR. DICKERSON:

6 Q Understanding the facts, your next section is titled  
7 understanding of facts. Where did you get the information to  
8 put in this section, sir?

9 A I -- I received this information from Eric and Lana  
10 and Rochelle also.

11 Q All right. On July 13th, 1993, Eric Nelson and  
12 Lynita Nelson entered into a separate property agreement dated  
13 April 28th, 1993 in order to divide and convert their  
14 community property into separate property. I have been told  
15 that this was done for three reasons, that Lynita did not want  
16 to be associated with the ownership in any business with  
17 gaming or alcohol to there would be no requirement for Lynita  
18 to be licensed for gaming if she had no community property  
19 interest in any of the gaming properties, and three, to  
20 protect the assets transferred to Lynita from Eric's potential  
21 creditors due to the businesses he was investing in. Now who  
22 told you that?

23 A Eric

24 Q Okay. So Eric specifically told you that these

1 trusts were entered into to protect the assets transferred to  
2 Lynita from Eric's potential creditors due to the businesses  
3 he was investing in, is that right?

4 A And it came also --

5 Q Is that what he told you, sir?

6 A That this is what --

7 Q Okay.

8 A -- he told me.

9 Q Now reading on. I have been told that this  
10 agreement split all the investment assets of Eric and Lynita  
11 except for possibly a small bank account that was used to pay  
12 personal expenses. The next paragraph. On July 13th, 1993,  
13 Eric Nelson formed the Eric L. Nelson separate property trust  
14 and Lynita Nelson formed a similar trust. I am advised that  
15 Eric and Lynita's separate property was transferred into each  
16 of their respective separate property trusts. Who advised you  
17 that?

18 A I -- let me see what I am saying here. Eric would  
19 have advised me of that.

20 Q Now the next sentence, it is my understanding that  
21 both Lynita and Eric had full knowledge of the transfers made  
22 to each separate property trust. Who told you that?

23 A Based on Jeff Burr's depositions and -- and Eric's  
24 also. I mean, that's --

1 Q So you did read Jeff Burr's deposition?  
2 A I read some of them.  
3 Q Which ones did you read? There's only -- he was  
4 only deposed two days.  
5 A I read -- I don't recall which days.  
6 Q About that thick. Do you mean --  
7 A Yeah, I know.  
8 Q -- the whole thing?  
9 A And I read a section of them.  
10 Q Well, how much did you read?  
11 A I read most of one day, actually. And I don't  
12 recall which day or which --  
13 Q Did you read the second day, third day or first and  
14 second?  
15 A Like I said, I don't recall.  
16 Q All right. Did you read his trial testimony?  
17 A I'm trying to remember if I did or not. I don't --  
18 I don't recall.  
19 Q Okay. Now you then -- next paragraph. I spoke to  
20 Shelly Newell who handled all of Eric's and Lynita's  
21 accounting for all business entities. Now the first one there  
22 is referencing Eric's 1993 trust, is that correct?  
23 A That is correct.  
24 Q I guess the second one there is referencing Eric's

1 2001 trust.

2 A Correct.

3 Q Lynita Sue Nelson separate property trust and LSN  
4 Nevada Trust which for our purposes I'm going to refer to as  
5 Lynita's trust or Lynita's 19 -- or 2001 trust.

6 A Okay.

7 Q From sometime prior to 1993 to 2001, she told me  
8 that during this time period all the assets and accounting  
9 were kept separate. Now we have established earlier that you  
10 have been told that by all of the women that you spoke to that  
11 have kept the books, is that right?

12 A Oh, I'm sorry. Repeat the question?

13 Q We have heard you testify earlier that not only did  
14 Shelly Newell tell you she kept them separate but so did Lana  
15 Martin and so did Rochelle McGowan told you that they kept the  
16 assets separate, is that correct?

17 A That's correct.

18 Q The only exception we were aware of that Lynita's  
19 1993 trust received part of the proceeds from the disposition  
20 of Las Vegas Casino Inc. which was owned by Eric's 1993 trust,  
21 correct?

22 A Correct.

23 Q So Lynita's 1993 trust received 50 percent of the  
24 Tierra Del Sol real estate and 75 percent of Sycamore Plaza

1 real estate. Both of these properties were received as part  
2 of the proceeds from the sale of the Las Vegas Casino. Shelly  
3 Newell is currently a CPA who is employed as an auditor for  
4 the Gaming Control Board. Now she currently is a CPA. She's  
5 already testified here. She was not a CPA during any period  
6 of time that she was working at Eric's office. Do you agree  
7 with that?

8 A That's correct. I agree with that.

9 Q Now so who told you that Lynita received her  
10 interest in Tierra Del Sol and Sycamore Plaza as part of the  
11 proceeds from the Las Vegas Casino Inc.?

12 A Shelly had told me, Eric had told me.

13 Q Okay. Now I could go back to Exhibit 4, Plaintiff's  
14 -- Intervener's Exhibit 4. Let's now take a look at schedule  
15 B. Let's go through -- now you made no investigation as to  
16 what would have happened to any of the assets that were  
17 transferred into Lynita's 1993 trust, did you?

18 A No.

19 Q So if we take a look at this, you have no idea what  
20 happened to either of the three bank accounts that are  
21 reflected on schedule B of Exhibit 4?

22 A It's --

23 Q When I say three, I mean, there's more than three.  
24 One, two, three, four, five, six, seven, eight. So eight

1 different bank accounts you have no idea whatever happened to  
2 those, is that right?

3 A Which tab are you on? I'm not in the right spot.

4 Q Go to Exhibit 4.

5 A Right.

6 Q And go to schedule B which is going to be the last  
7 several pages, the last four pages, three pages.

8 A Okay.

9 Q You have -- I'm assuming you have no idea what  
10 happened to any of those bank accounts that are reflected on  
11 that page, is that correct?

12 A Yeah, that's a correct statement.

13 Q Now you know that she still lives in the Palmyra  
14 home..

15 A Correct.

16 Q Okay. And moving to the next page, do you know what  
17 happened to the East Indian School Road property?

18 A I do not.

19 Q Do you know what happened to the 10 acres on West  
20 Flamingo?

21 A I don't recall.

22 Q Do you want happened to the Pine Hurst (ph)  
23 property?

24 A No.

1 Q Now we see the next two, Sycamore Plaza, there's an  
2 asset that she owned in 1993, correct?

3 A That's correct.

4 Q And 16 and Bell, that is the Tierra Del Sol that  
5 you're referring to, is that correct?

6 A Correct.

7 Q Okay. And then the Hartford property -- now neither  
8 of those two exist today, would you agree? Neither the  
9 Sycamore Plaza or the Tierra Del Sol?

10 A That's -- there's been -- yes, that's correct.

11 Q And the Hartford property, do you know what happened  
12 to that?

13 A No.

14 Q How about the Polaris property?

15 A Maybe -- I -- I don't recall.

16 Q Do you know anything about these notes receivables?  
17 There's three note receivables there. Do you anything of what  
18 happened to those?

19 A No.

20 Q How about the life insurance policy that's listed  
21 under 40? Do you know anything about that?

22 A No, I do not.

23 Q Now when did Las -- when did Eric, meaning Eric or  
24 his trust or anything relating to Eric, sell the Las Vegas

1 Casino Inc.?

2 A If -- I believe it was -- I may be mistaken, but I  
3 believe it was around '99, 2000, somewhere around there.

4 Q So '99 or 2000. Okay. Now moving on. On May 30,  
5 2001, Eric formed his 2001 trust and Lynita formed her 2001  
6 trust, correct?

7 A Correct.

8 Q These two trusts were irrevocable Nevada spendthrift  
9 trusts. Once formed, Eric and Lynita then proceeded to  
10 irrevocably gift the property from his or her separate  
11 property trust to his or her respective irrevocable Nevada  
12 spendthrift trust. Is it my understanding that each spouse  
13 made these transfers with full knowledge of what the other  
14 spouse was doing? Now who told you that?

15 A Again, I -- I -- actually, I spoke with Jeff Burr  
16 personally. I read his deposition. Eric told me, Lana told  
17 me.

18 Q When did you speak with Jeff Burr personally?

19 A Prior to his court testimony.

20 Q Yesterday.

21 A No, awhile back.

22 Q So back in 2010?

23 A Yeah, I think -- yeah.

24 Q So that would have been November 22nd, of 2010 you



1 talked to him --

2 A Well, I'm not sure --

3 Q -- about --

4 A -- of the date.

5 Q -- it being your understanding that each spouse made  
6 these transfers with full knowledge of what the other spouse  
7 was doing and he told you that in November of 2010?

8 A I called him and asked him because I did not have  
9 copies of the separate property agreements. I called him and  
10 asked him if there was separate property agreements made and  
11 asked him what -- how --

12 Q When did you do that?

13 A Sometime prior to over a year ago.

14 Q Would that have been prior to November of 2010?

15 A When did he -- what date -- you know, I don't --

16 Q November 22nd.

17 A -- recall my dates that well.

18 Q November 22nd, 2010 is when he testified.

19 A Then it would have been prior to that.

20 Q Okay. Now did Eric not give you a copy of the  
21 separate property agreement?

22 A I ended up getting him copies. I can't even --

23 Q Why did you call Jeff Burr to get it and not get it  
24 from him?

1           A     I didn't have one. I did not have copies of it. I  
2 asked Jeff if he had copies he could give me and if there were  
3 any made and so forth. So I asked him how --

4           Q     Why didn't you --

5           A     -- just --

6           Q     -- ask Eric for a copy of the separate property  
7 agreement?

8           A     I did.

9           Q     And what did he tell you?

10          A     I don't recall. And I don't even recall if it's  
11 from Jeff or Eric that I got them. I just --

12          Q     All right. All right. So reading on, I have been  
13 told that the purpose of creating these trusts was to give  
14 each spouse even great asset protection than what they had  
15 before the creation of the two trusts. Based on the numerous  
16 continuing education I have attended regarding asset  
17 protection planning and irrevocable Nevada spendthrift trust,  
18 if things are done correctly, the grantors and beneficiaries'  
19 creditors are unable to access the assets of the trust once  
20 they have been in the trust for over a two year period. This  
21 holds true for even alimony and child support. Once the  
22 assets are gifted to an irrevocable Nevada spendthrift trust,  
23 the assets are no longer considered the grantor's assets.

24                   Moving on, procedures and work performance. So this

1 is -- now you're going to describe what you did, is that  
2 correct?

3 A That's correct.

4 Q Okay. We analyzed the thousands of transactions  
5 posted to the general ledger of Eric's 2001 trust from its  
6 start date of May 30, 2001 through September 30, 2011. We  
7 analyzed the cash receipts and journal entries as posted to  
8 the general ledger to determine if the transactions belong to  
9 Eric's 2001 trust and were properly posted. We looked at  
10 assignments and transfers to and from Eric's 2001 trust, bank  
11 statements, cancelled checks, sales documents, appraisals,  
12 Lynita's -- no, excuse me, Eric's 2001 trust minutes,  
13 distribution authorizations and the general ledger of related  
14 entities. Now who provided you with those documents?

15 A Lana, Eric, Rochelle.

16 Q Now my understanding is the disc that you gave me  
17 earlier contains all the documents that they provided to you,  
18 is that correct?

19 A That's correct.

20 Q Except for what you received last week that was  
21 apparently some minutes that we had sent over.

22 A Right. That is correct.

23 Q Okay. The assets of each trust were kept separate  
24 on the books. Now again, where do you get that statement? Is

1 that what you were told by Shelly Newell, Lana Martin and  
2 Rochelle McGowan?

3 A And by our observation.

4 Q Okay. Well, if that were true, sir, then you would  
5 need no adjustments, would you agree?

6 A No.

7 Q Okay. Let's go on. Whether we discover any  
8 bookkeeping errors, we made adjustments whenever we discussed  
9 any bookkeeping errors. We made adjustments to ELN's books.  
10 We post the transaction as a business would do to keep its  
11 books. We are providing the trial balance for Eric's 2001  
12 trust for each year and as part of Exhibit A along with a list  
13 of journal entries we made to correct the books. Note, that  
14 the first journal entry each year is a summary of the  
15 transactions that were posted on Eric's 2001 books before any  
16 of our adjustments.

17 The trust accounting starts with a balance sheet of  
18 May 31, 2001. Now that's Exhibit 2 that we looked at, is that  
19 correct?

20 A Correct.

21 Q Since there were beginning balances in the equity  
22 accounts on the balance sheets, capital contribution draws and  
23 retain earnings, it appears that for ease of accounting the  
24 person doing the bookkeeping for Eric's 2001 trust used the

1 Peachtree accounting file used for Eric's 1993 trust with its  
2 ending account balances and just changed the name to Eric's  
3 2001 trust. Okay. So explaining that, that's what you  
4 explained earlier as this is what you believe happened, is  
5 that correct?

6 A That's correct.

7 Q We traced beginning assets per the May 31, 2001  
8 balance sheet to the assignments or other source documents  
9 contained in Exhibit 3. Now what are source documents that  
10 you're referring to? What are the source documents? Is that  
11 everything under tab 3?

12 A Everything under tab 3.

13 Q So when you refer to source documents then, we just  
14 need to look at what is -- in -- under tab 3?

15 A Correct.

16 Q All right. Let's go to -- what's the first  
17 document?

18 A It's Bates 17.

19 Q Yes. What is that?

20 A What is it?

21 Q Yes.

22 A It's the assignment and assumption of corporate  
23 stock for Phoenix Leisure Inc.

24 Q And why are you including this in here?

1 A Because it was assigned to his 2001 trust.

2 Q Okay. So the purpose of this is just to show that  
3 this was put into the 2001 trust?

4 A That's correct.

5 Q Okay. Take a look then. The next item is 19. What  
6 is that \$16,000 promissory -- why is that in here?

7 A This is showing that the note was actually payable  
8 to Eric's Nevada Trust.

9 Q Okay. Now do you know what happened with this note?

10 A Off the top of my head, I -- I don't know without  
11 going back and looking.

12 Q So why are you including it in here?

13 A It was one of the original assets of the trust.

14 Q Okay. So that would be something that was reflected  
15 on Exhibit 2?

16 A Well, no, it wouldn't, because it didn't come in  
17 until 2002.

18 Q Well, then if it didn't come in in 2002, what is our  
19 -- what's 3 doing for us then? These are not assets that --

20 A It's just a source document showing where that asset  
21 came from. And it was originally written in the trust name.

22 Q Well, can you tell me why it was written in the  
23 trust name?

24 A Because it came from the cash out of the trust.

1 Q How do you know that? Do you see that?

2 A We would have traced that with the books.

3 Q So where is it traced here? Where do you trace

4 this?

5 A Well, I know.

6 Q And it's a minor amount, \$16,000 --

7 A It's through the general ledger.

8 Q -- but I'm trying to understand how do you do your

9 tracing?

10 A We saw the entries on the general ledger showing

11 that that money was -- there's a check written to him and a --

12 and a note coming back. So we were able to trace it based on

13 the general ledger journal entries posted by the client.

14 Q Okay. What is the next -- it's a grant bargain sale

15 deed 20. What is that in here for?

16 A This is the conveyance of -- it's just the

17 assignment from Eric prop -- the ownership title changing from

18 the separate property trust to the Nevada trust, this

19 particular land.

20 Q And is that essentially -- we take a look at -- you

21 got various deeds here. Is that simply why it's in here to

22 show that it went from Eric's separate property trust to his

23 -- his 1993 trust to his 2001 trust?

24 A Right.

1 Q Okay. So moving on. You have summary of findings.  
2 Let's start at that section. Is that right?

3 A Okay.

4 Q We find no evidence that any community property was  
5 transferred to Eric's 2001 trust or that any community  
6 property was commingled with the assets of Eric's 2001 trust.  
7 Now when you use that term community property, what are you  
8 referring to?

9 A I am referring to Eric and Lynita's community  
10 property.

11 Q Okay. So can you tell me what you considered to be  
12 community property in 2001?

13 A It looked to me that they didn't really have any  
14 community property. They had separated their property for the  
15 most part. I didn't see any community property. There was no  
16 assets transferred to the trust that came from Eric  
17 individually or Lynita individually. The assets came from  
18 only from trust assets.

19 Q Okay. So your opinion was then that there was no  
20 community property. So why --

21 A I -- I -- I'm not aware of any. Let me --

22 Q That's fine. I'll accept your statement. But I'm  
23 trying to understand here. So you're of the frame of mind  
24 there was no community property, so you found no evidence of



1 any community property --

2 A Well, that's -- you're misstating what I said.

3 Q Okay.

4 A I said that the only assets we saw going in the  
5 trust came from other trust assets, separate property trust.  
6 Nothing came from individual source assets that were in their  
7 individual names.

8 Q But what you're not telling us here however is that  
9 regardless of how you want to characterize the property in  
10 Lynita's trust, her 1993 trust and her 2001 trust, no matter  
11 how you want to characterize the char -- the property in  
12 Eric's 1993 trust or his 2001 trust, you did see transfers of  
13 property going between those two -- those trusts, did you not?

14 A I saw transfers of property going between the two  
15 trusts.

16 Q So by making that statement, you found no evidence  
17 of any community property that was transferred to Eric's 2001  
18 trust and that there was no community property commingled with  
19 the assets of his 2001 trust, you're not telling us that you  
20 didn't see any assets from Lynita's going into Eric's 2001  
21 trust and vice versa, is that right?

22 A That's correct.

23 Q And you're also not telling us that you didn't see  
24 any commingling of the assets from Lynita's 2001 trust into

1 Eric's 2001 trust, isn't that true?

2 A If -- if we're able to separately account for them,  
3 they haven't been commingled. So that's why I'm making that  
4 statement.

5 Q But you're telling us from an accounting perspective  
6 if you can find it, you can back it out and fix the books,  
7 isn't that right? Isn't that what you're telling us? You can  
8 fix the books if you can trace it in, you can take it out with  
9 an adjustment?

10 A We can account for it, yes --

11 Q Thank you.

12 A -- is what I'm saying.

13 Q Now next sentence. Eric and Lynita kept general  
14 ledgers on Eric's 2001 trust and Lynita's 2001 trust separate  
15 assets and always maintained separate books and records of  
16 their separate property. Now who told you that? Who told you  
17 that?

18 A Shelly.

19 Q But they always maintain separate books and records  
20 on their separate property. Who told you that?

21 A Shelly Newell

22 Q Anybody else?

23 A Eric, Lana. I mean, well, I heard it from numerous  
24 sources.

1 Q Yet, we also find that as a result of your  
2 adjustments, Mississippi property for example --  
3 A Uh-huh (affirmative).  
4 Q We find that on Lynita's separate property, right?  
5 Correct?  
6 A I'm not -- which -- which Mississippi --  
7 Q Mississippi property, the one that --  
8 A Which Mississippi?  
9 Q The one that Eric told you about the agreement.  
10 A Well, that wasn't her separate property. It was the  
11 trust property. I mean, there's a difference.  
12 Q Okay.  
13 A You've got personal property --  
14 Q I apologize.  
15 A -- and trust property.  
16 Q I apologize, sir. You're right. The property --  
17 the Mississippi property, a hundred percent of it is in  
18 Lynita's property -- Lynita's trust, correct?  
19 A As of today, yes.  
20 Q Okay. And then Eric told you about some agreement  
21 so you decided you were going to make the adjustment that Eric  
22 told you about and give him 50 percent back, isn't that true?  
23 A An agreement seemed to go with the facts that I was  
24 able to --

1 Q Did you -- who was the --  
2 A -- follow.  
3 Q -- agreement between?  
4 A Trustees.  
5 Q Did you ask Lynita about that?  
6 A I did not.  
7 Q Why?  
8 A I just -- hadn't -- wasn't -- I hadn't talked to  
9 her.  
10 Q All right. The next sentence. A due to, due from  
11 account was debited and credited contemporaneously whenever  
12 transfers were made between the two trusts. Now what you're  
13 telling us, that's what you did.  
14 A No.  
15 Q Well, where is the due to and due from that's on any  
16 of their books?  
17 A Every year. It's from 2001 going through 2011.  
18 There were due to, due froms. There's two different accounts  
19 that were kept.  
20 Q Can you show us where they are?  
21 A Yeah. It's account 2205 was one.  
22 Q Can you give us a numbered one?  
23 A Oh, I'm sorry. Sorry. Bates Number 78, just  
24 starting with 2001.

1 Q 78.  
2 A Uh-huh (affirmative).  
3 Q So which item are you referring to?  
4 A Account number 2205. It's the second from the top.  
5 Q Okay. Well, now --  
6 A And that was booked --  
7 Q -- it --  
8 A -- on their general ledgers. That's journal entry  
9 number one which is not really my entry. It's what the  
10 client's entries.  
11 Q So the client entry was zero.  
12 A No. You're -- the client entry was 270,000 during  
13 the year. The beginning balance was year as I stated earlier,  
14 but during 2001, Lynita's trust lent Eric's trust \$270,000.  
15 Q And then what did you do with that?  
16 A Nothing. I didn't adjust it.  
17 Q And how was that evidenced, that loan?  
18 A Well, that's a contemporaneous general ledger  
19 entries that the client Lana made or whoever was doing the  
20 books on that year.  
21 Q And how was it evidenced? Is there a promissory  
22 note evidencing it?  
23 A There may have been on that one. I don't recall  
24 without looking at my -- at the file.

1 Q Okay. So move --

2 A And then you go down to account number 2210, the  
3 next one. And this is where Eric's trust had paid some of  
4 Lynita's expenses and it showed Lynita owed Eric's trust that  
5 money back.

6 Q And this is what you're telling us, this is on the  
7 general ledger of December 31st --

8 A On this particular one, no. This was -- this was  
9 our entry, because it's a journ -- it's journal entry three.  
10 So but --

11 Q All right. So let's go off the one that you say --  
12 the one up above, the one dealing with 270,000. You're  
13 telling us that we will find that on the general ledger for  
14 Eric Nelson's trust of -- for the year end December 31st,  
15 2001?

16 A Right. That shows that his trust owed Lynita's  
17 trust that money back.

18 Q All right. Now moving on with your report. Wyoming  
19 Horse Racing Inc. was purchased in the name of Eric's --

20 A Which page are you on again, summary findings?

21 Q Yeah, we're on Page --

22 A Okay. Got it.

23 Q -- 3.

24 A I'm -- I'm with you.

1       Q     The horse -- Wyoming Horse Racing Inc. was purchased  
2 in the name of -- now this is Eric's 1993 trust, correct?

3       A     Correct.

4       Q     On May 29, 1998 per stock certificates we cited. So  
5 you're relying strictly on a stock certificate, is that  
6 correct, to determine when it was acquired?

7       A     That is correct.

8       Q     Okay. And --

9       A     And also -- I'll take that back. And also personal  
10 knowledge because I worked with Eric on that transaction which  
11 happened in '98. So I was aware when he had acquired it,  
12 because I helped structure the transaction.

13      Q     Now this is a transaction then that occurred during  
14 that period of time between 1993 and 2001, is that right?

15      A     That is correct.

16      Q     And you have no records other than the stock  
17 certificate to tell us what happened with that money, isn't  
18 that correct?

19      A     That's correct. A written record, yes.

20      Q     Based upon the separate property agreements that  
21 were -- that -- based upon the separate property agreements,  
22 there was enough separate property assets and proceeds to make  
23 this purchase. For example, there was more than enough cash  
24 flow, more than a million dollars from Eric's Casino Gaming

1 Investment which was Eric's separate property to make this  
2 purchase of approximately \$250,000. So now tell us where --  
3 do you have a balance sheet for May 29, 2000 -- excuse me, May  
4 29, 1998 for Eric's 1993 trust?

5 A No.

6 Q Okay. Do you have income statements -- income tax  
7 returns for his trust or any of its entities during that  
8 period of time of 1998?

9 A I don't recall. I don't think I do though.

10 Q So where is it that you come to the conclusion that  
11 there was a cash flow of a million dollars from Eric's Casino  
12 Gaming Investment?

13 A I -- I reviewed the K-1 at the time that transaction  
14 closed on the final K-1 with Eric. And we went over it and  
15 advised him on what his tax consequences would be on that  
16 transaction back in -- at the time of the sale.

17 Q But when was the sale?

18 A I -- again, I -- I don't recall now what year it  
19 was, but it was after '98.

20 Q Okay. But I'm asking -- you're telling us that  
21 there was enough cash flow in 1998. What do you have from  
22 1998 to show what the cash flow was?

23 A I'm just saying what I'm saying is is from one  
24 transaction provided Eric with enough cash, more than enough



1 cash to make that purchase. So there's no -- I'm just putting  
2 what the evidence was there.

3 Q But where is the evidence? Can you -- can we see  
4 the evidence?

5 A I'm sure we can get the K-1s from that transaction.

6 Q Where are they, sir? Are they going to be on this  
7 disc?

8 A They are not on that disc.

9 Q Okay. So how can you tell us what the cash flow of  
10 Eric --

11 A Because I saw the cash flow at the time of the  
12 transaction.

13 Q So you're going by your memory.

14 A Correct.

15 Q All right. And you're going by the memory of when  
16 he sold Casino Gaming Investment?

17 A Correct.

18 Q And what year did he sell Casino Gaming Investment?

19 A I don't recall now exactly what year.

20 Q So you can't remember when it was sold but you can  
21 remember what the cash flow was, is that right?

22 A Like I said earlier, my years get mixed together.

23 Q All right. I understand, sir. It happens. But  
24 you're telling us that you can vividly remember what the cash

1 flow was in 1998.

2 A I remember it was at least a million dollars is what  
3 I remember. Vividly, that's not an exact dollar amount.

4 Q So can you give this Court any documentation to  
5 support that?

6 A I'm sure we can find it. I was not able to --

7 Q But you based your report on something that you --

8 A From my memory, yes.

9 Q From your memory. All right. Now can you tell us  
10 from your memory what Eric did? Let's assume there was a  
11 million dollars cash flow. A million dollars goes into his  
12 pocket, all cash. Can you tell us from your memory what he  
13 did with it?

14 A Of course not.

15 Q Wyoming Horse Racing Inc. then sold to Wyoming Downs  
16 Racetrack shortly after its purchase to Dynasty which later  
17 became Phoenix Leisure for the cash and installment note.  
18 Wyoming Race Horsing -- Wyoming Horse Racing Inc. and Phoenix  
19 Leisure were assigned to Eric's Nevada trust in 2001. When  
20 Phoenix Leisure defaulted on the installment note, Wyoming  
21 Horse Racing Inc. Repossessed the track. The track was then  
22 sold in 2006 for cash. Wyoming Horse Racing Inc. then  
23 liquidated and distributed the proceeds from the sale to  
24 Eric's 2001 trust \$11,120,958 was deposited in Eric's 2001

1 Mellon account. The proceeds from this sale makeup 78 percent  
2 of all the assets currently held in Eric's 2001 trust. See  
3 Exhibit A. Okay. Let's talk about that.

4 So what you're telling us is this asset that Eric  
5 acquired in May of 1998 during a period of time you have no  
6 record to tell how he purchased it or acquired it, he later  
7 sold in 2006 and received 11,120,000 -- just short of  
8 \$11,121,000, correct?

9 A Yes. I mean, that's what I said here.

10 Q Okay. And that money then accounts for almost 80  
11 percent of what Eric owns today, is that correct?

12 A That is correct.

13 MR. SOLOMON: While there's a pause, can I make an  
14 inquiry of the timing here? We've been going on a couple  
15 hours and --

16 THE COURT: Do you want to take a break? Maybe we  
17 can go to 12:30 since --

18 MR. SOLOMON: Sure.

19 THE COURT: -- I -- because we won't be coming back  
20 until 2:30 because I got to --

21 MR. DICKERSON: That would be great.

22 THE COURT: Why don't we take a 10 minute break or  
23 so and then we'll plan on going to 12:30, because we won't be  
24 back until 2:30 then. Okay?

1 THE WITNESS: Okay.

2 (Off record)

3 THE COURT: This is going back on the record as to  
4 Eric Nelson and Lynita Nelson, case number D-411537. This  
5 Court will note that Mr. Nelson had been in the court this  
6 morning and came a few minutes late and didn't want to  
7 interrupt the proceedings. It's good to see you, Mr. Eric.  
8 And we're ready to go forward. We'll pickup where we left off  
9 with Mr. Gerety. Mr. Dickerson.

10 MR. DICKERSON: Thank you.

11 BY MR. DICKERSON:

12 Q Mr. Gerety, during the break you had an opportunity  
13 to talk with Mr. Solomon and Mr. Luszeck and Eric Nelson out  
14 in the foyer area by the men's room, did you not?

15 A I did.

16 Q And you were discussing your testimony, is that  
17 correct?

18 A Not -- just a little bit, yeah.

19 Q Okay. And what did you --

20 A Just --

21 Q -- discuss?

22 A The one comment Mark made was to -- when you asked  
23 compound questions or when there's like three, four or five  
24 issues you throw in one sentence to not just answer that,

1 answer each one individually and not all of them at once.

2 Q Explained to you that when I ask a compound question  
3 he has an opportunity to object?

4 A He did not explain that to me.

5 Q Evidence 101. All right. What else did you  
6 discuss?

7 A That was -- that was really it.

8 Q What else did you discuss?

9 A That was really it. Most of this conversation was  
10 with Eric and --

11 Q Okay. Now we're on -- we're talking about the  
12 Wyoming property and that \$11,121,000 approximately was  
13 received in 2006. Now this was the result of a sale of  
14 property to Wyoming Horse Racing, LLC, is that correct?

15 A Bob, where are you at again? Let me catchup here.

16 Q We're at the bottom of Page 3.

17 A Okay. And what was the question?

18 Q All right. When it says here the track was sold in  
19 2006 for cash, Wyoming Horse Racing, Inc. then liquidated and  
20 distributed the proceeds from the sale to Eric's 2001 trust  
21 for \$11,121,000 approximately.

22 A That's correct.

23 Q Now was that the sale of -- that was just the sale  
24 of the land?

1       A     Yes, I believe that's correct. It was the -- the  
2 track itself. The structures also.

3       Q     And this was done on August 30th of 2006?

4       A     I don't remember the month, but was in 2006.

5       Q     Now the land that was sold was -- consisted of  
6 several parcels, did it not?

7       A     That's correct.

8       Q     Okay. Are you familiar with the parcels? Are you  
9 familiar with this transaction?

10      A     I'm not that familiar with each of the individual  
11 parcels.

12      Q     But one of those parcels, an 11 acre parcel, was  
13 owned by Lynita's trust, was it not?

14      A     I believe she -- yeah, she had some parcels there.

15      Q     Can you tell us --

16      A     She had the hotel I think or --

17      Q     How much of the sales, the 11,000,000 plus went to  
18 Lynita to compensate her for the 11 acres that was sold in  
19 2006?

20      A     I'm not sure. I would have to go back and look at  
21 the detail.

22      Q     Was any?

23      A     I don't recall.

24      Q     Now you've gone through Eric's records. Did you

1 make any determination whether he gave Lynita any money from a  
2 sale of the sale that occurred in 2006?

3 A I don't believe so.

4 Q You don't believe he did.

5 A No.

6 Q Is that reported anywhere on your report as a '02  
7 due from, due to?

8 A It would be Exhibit 7. I do not show what the  
9 transfer of 11 acres to Eric's trust if more -- anything like  
10 that were --

11 Q But do you show any of the proceeds from this sale  
12 going to Lynita as a result of a sale of 11 acres of that  
13 property that she owned in her trust?

14 A Based on my recollection, no. Again, to -- to  
15 confirm that, I would have to look at the sales docs.

16 Q And that was not reflected on the trust records that  
17 you reviewed either, isn't that right?

18 A That's correct.

19 Q All right. We're on Page 4 of the first full  
20 paragraph. The cash proceeds from the sale of the track in  
21 2000 -- or excuse me, in 1998 to Phoenix Leisure as explained  
22 in the paragraph above were reinvested in minority stock  
23 interest in Phoenix and loans to Phoenix by Eric's 2001 trust.  
24 Now how do you confirm that, sir?

1           A     I again help structure that transaction with Eric  
2 and it was part of the deal that the sales proceeds that he  
3 would reinvest back into Phoenix Leisure.

4           Q     Can you tell us how much was reinvested?

5           A     Just I think all of the cash, most of -- almost --

6           Q     And do you have any records to confirm that?

7           A     It's just from my -- from my memory, because that  
8 was part of a deal that was structured. I'm trying to think  
9 if I --

10          Q     So you remember --

11          A     -- what records I may have. Let me --

12          Q     -- that from 15 years ago, is that right?

13          A     Let me -- that's correct.

14          Q     Okay. When the loans were in default, a deal was  
15 struck so that Eric's 2001 trust would give back all his stock  
16 to Phoenix and cancel the notes receivable from Phoenix in  
17 exchange for a casino river boat and a long term lease in  
18 Mississippi. Now who told you that?

19          A     I was aware of it, because I was -- again, worked on  
20 that transaction.

21          Q     In 1998.

22          A     That one happened after '98. That was when -- what  
23 year was that? That was when Eric called his notes with  
24 Phoenix Leisure. So that would have been 2000 -- it was the



1 same year that Silver Slipper first K1 -- I forget which year  
2 now. I'm getting my years run together. 2004 seems like  
3 yesterday to me because of why -- but --

4 Q 1951 seems like yesterday.

5 THE COURT: Not me. I'm too young. At least that's  
6 my story.

7 THE WITNESS: Yeah, I'm too young that -- for that  
8 too --

9 THE COURT: That's my story.

10 THE WITNESS: -- just barely.

11 THE COURT: I'm sticking to it.

12 THE WITNESS: But that's when I started my own  
13 practice was '04 and it just seems like it's been -- it's been  
14 a year. But let me think -- it -- it's the same year that the  
15 investment in Silver Slipper was. It was 2003, maybe. '4. I  
16 forget. I forget what year it was.

17 Q So you have -- you would have records to support  
18 those things, is that right?

19 A Yes, I would.

20 Q And where are those?

21 A In my file. I have a whole another file on Silver  
22 Slipper.

23 Q So then moving on, ELN contributed the boat and long  
24 term lease to Silver Slipper Casino Ventures in exchange for

1 ownership in the Silver Slipper. The boat was distributed  
2 back to Eric's 2001 trust. Later, Eric's 2001 trust received  
3 \$1,560,000 for its ownership in Silver Slipper. And that is  
4 done during the -- that's during these court proceedings, is  
5 that correct?

6 A That's correct.

7 Q Just last year as I recall.

8 A That is correct.

9 Q This money can also be traced back to Eric's 2001  
10 trust Casino Gaming Investment and the purchase of Wyoming  
11 Horse Racing which were Eric's separate property prior to the  
12 gift of separate property to Eric's 2003 trust. I don't know  
13 if I read that correctly, but can you explain that last  
14 sentence to us, what you're trying to tell us?

15 A What I'm trying to say is the money that the Silver  
16 Slipper investment came from Phoenix Leisure which that  
17 investment came from Wyoming Horse Racing which came from the  
18 Las Vegas Casino Investment.

19 Q Okay. So Las Vegas Casino Investments was sold  
20 prior to 2001, correct?

21 A That is correct.

22 Q And you have no records to show where the proceeds  
23 from that sale went, isn't that correct?

24 A Not trace those funds.

1 Q And Wyoming Horse Racing, Inc. which we discussed  
2 earlier sold in 1998. Was that -- actually, it was --

3 A No.

4 Q -- acquired. I'm sorry, it was acquired --

5 A It was acquired --

6 Q It was acquired by Eric in --

7 A '98.

8 Q 1998. And you have no records to indicate from  
9 where the monies came to acquire that, isn't that correct?

10 A That's -- that's correct. I did not trace those  
11 funds.

12 Q In regards to the potential two year window in which  
13 creditors pursue assets transferred to an irrevocable Nevada  
14 spendthrift trust, capital contributions or gifts were made to  
15 Eric's 2001 trust in 2009 and 2010 which total \$96,328. What  
16 does that sentence mean? What are you trying to tell us  
17 there?

18 A It says that the -- during the last two years or  
19 during 2009 and 2010 there were contributions of money that  
20 came into the trust of 96,000. Of that 96,000, 76,000 was  
21 from income tax refunds from 2007 and '8 which was Eric's  
22 separate tax returns.

23 Q Okay. And the original tax paid for these years was  
24 paid --

1           A     And 20,000 of that 96 came from a separate property  
2 money market account that was held in Eric's -- still was in  
3 Eric's separate property trust name.

4           Q     Okay. So what is the signif -- what's your purpose  
5 of putting this in here? What are you telling us?

6           A     The purpose is is that all of the assets that are  
7 held by the trust had been in there longer than two years.

8           Q     Oh.

9           A     Other than this 96,000.

10          Q     Oh. I --

11          A     It's for statute of limitations documentation.

12          Q     Okay. So you're saying that the only monies  
13 available would be what? If we -- if the statute of  
14 limitations provisions applied to a creditor. What would --

15          A     That there's only 96,000 that came in. Really, it's  
16 been three years, four -- almost going on four years now. So  
17 those -- those are probably gone.

18          Q     We did not trace the balance of the \$305 of  
19 contributions to corpus due to the immateriality of this  
20 amount. From the information we analyzed, we saw no  
21 contributions or gifts to the trust the last two years that  
22 Lynita would have a community property or any type of interest  
23 in. Okay. Well, that -- what does that last sentence mean?  
24 Were there contributions of the trust, period?

1           A     I just --

2           Q     Well, forget the part whether Lynita would have --  
3 you know, Lynita would have a community property interest in,  
4 because that's kind of a conclusion on your part, right?

5           A     It is.

6           Q     Okay. So striking your conclusion, are you telling  
7 us that there have been no contributions into Eric's trust  
8 over the last two years?

9           A     Other than what I've described here, that's what I'm  
10 saying.

11          Q     All right. Then moving on. Except for the hundred  
12 and ninety-five thousand ten dollars of joint federal income  
13 tax refunds from 2001 and 2001 which were deposited into  
14 Eric's 2001 trust in 2006, we found no evidence that any of  
15 Lynita assets were ever transferred to Eric's 2001 trust.  
16 Does that mean any of her assets? Have you never found any  
17 evidence of any of her assets being transferred to Eric's  
18 trust?

19          A     Correct. Distinguished between her personal assets  
20 and the trust assets.

21          Q     Oh. Oh, you're talking about her personal assets.

22          A     That's what I said here, yeah.

23          Q     Okay. So what personal assets does she have that's  
24 not in her trust?

1 A I don't know. I --

2 Q So for example, by --

3 A We saw none coming into this trust.

4 Q By that sentence, you're not attempting to tell this  
5 Court that for example, the Utah cabin that was a hundred  
6 percent in her name now was --

7 A It wasn't -- I wasn't in her name. It was in her  
8 Nevada trust name.

9 Q I'm sorry. Okay. I'm using them interchangeably.  
10 I -- and you're right.

11 A You can't really.

12 Q All right. So the Utah cabin that was a hundred  
13 percent in the name of her trust, the fact that 50 percent is  
14 now in Eric's trust, you're not referring to that as being in  
15 her property and not in his trust, correct?

16 A That's -- I am not referring to that.

17 Q And same thing with Lindell, Lindell that was a  
18 hundred percent in her trust that now miraculously -- strike  
19 that. That now 50 percent of that is in Eric's trust. You're  
20 not referring to a transaction like that?

21 A I'm not.

22 Q And something like Tierra Del Sol, you're not  
23 referring to something like that either?

24 A And none of those were her personally assets.

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MATT KLABACKA, Distribution Trustee  
of the Eric L. Nelson Nevada Trust dated  
May30, 2001,

Appellant/Cross Respondent.

vs.

LYNITA SUE NELSON, Individually and in  
her capacity as Investment Trustee of the  
LSN NEVADA TRUST dated May 30,  
2001; and ERIC L. NELSON, Individually  
and in his capacity as Investment Trustee of  
the ELN NEVADA TRUST dated May 30,  
2001;

Respondents/Cross-Appellants.

MATT KLABACKA, as Distribution  
Trustee of the Eric L. Nelson Nevada Trust  
dated May30, 2001,

Appellants,

vs.

ERIC L. NELSON; LYNITA SUE  
NELSON, INDIVIDUALLY; AND LSN  
NEVADA TRUST DATED MAY 30, 2001,

Respondents.

**Supreme Court Case No. 66772**

**District Court Case No. D-09-**

**411537**

Electronically Filed  
Dec 01 2015 10:34 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**Consolidated With:**

**Supreme Court Case No. 68292**

**RECORD ON APPEAL  
VOLUME 15**

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**Supreme Court Case 66772 Consolidated with 68292 In the Matter of: Klabacka v. Nelson et al.**

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1	05/18/2009	Joint Preliminary Injunction	9-10
30	09/08/2011	Judgement and Order Granting Plaintiffs' Motion for Summary Judgment in United States District Court, Central District of California, Case No. 2:11-cv-02583-JEM (Admitted as GGGGG at Tab 23)	7409 - 7410
26	02/17/2009	Last Will and Testament of Mrs. Nelson (Admitted as Intervenor Trial Exhibit 19)	6384 - 6388
26	00/00/0000	Letter of Instruction signed by Mrs. Nelson (Admitted as Intervenor Trial Exhibit 18)	6383
26	06/19/1998	Letter to Mr. and Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 11)	6347 - 6349
6	01/30/2001	Letter to Mr. and Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 22)	6393
26	02/15/2001	Letter to Mr. and Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 23)	6394
26	05/30/2001	Letter to Mr. and Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 28)	6442 – 6444
26	05/30/2001	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 26)	6434 - 6437
26	05/30/2001	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 27)	6438 - 6441
26	05/03/2002	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 40)	6447
26	03/26/2003	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 44)	6448
26	05/03/2004	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 51)	6449
26	05/04/2005	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 57)	6450
26	02/09/2009	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 79)	6453 - 6457
26	02/09/2009	Letter to Mrs. Nelson from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 80)	6458 – 6461
26	00/00/0000	Letter to Nevada Legal News from Jeffrey L. Burr & Associates (Admitted as Intervenor Trial Exhibit 29)	6445 – 6446

26,	07/13/1993	Letter to Richard Koch with Separate Property Agreement (Admitted as Intervenor Trial Exhibit 3)	6262 - 6272
11	05/15/2012	Limited Objection to Application of Forensic Accountants for Allowance of Fees and Reimbursement of Expenses for the period from April 4, 2011 through March 31, 2012	2710 – 2712
8	09/30/2011	Lynita Sue Nelson's: (1) Answer to Claims of The Eric L. Nelson Nevada Trust; and (2) Claims for Relief Against Eric L. Nelson Nevada Trust dated May 30, 2001, Lana Martin, Nola Harber, Rochelle McGowan, Joan B. Ramos, and Does 1 through X (Whether Designed as a Counterclaim, Cross-Claim and/or Third Party Complaint)	1818 - 1853
9	12/20/2011	Lynita Sue Nelson's: (1) First Amended Answer to Claims of the Eric L. Nelson Nevada Trust and (2) First Amended Claims for Relief Against Eric L. Nelson Nevada Trust dated May 30, 2001, Lana Martin, Nola Harber, Rochelle McGowan, Joan B. Ramos, and Does 1 through X (Whether Designed as a Counterclaim, Cross-Claim and/or Third Party Complaint)	2140 - 2182
30	05/07/2013	Memorandum from Robert P. Dickerson in Support of AB378 (Exhibit 8)	7480 - 7487
27	00/00/0000	Miscellaneous Documents produced by Defendants (Admitted as Intervenor Trial Exhibit 167)	6513 – 6549
29, 30	03/01/2002	Mississippi Deeds (Admitted as Nelson Exhibit 8A)	7069 - 7393
10	03/06/2012	Motion for Payment of Attorneys' Fees and Costs	2461 – 2494
19	06/05/2013	Motion for Payment of Funds Belonging to Defendant Pursuant to Court's Decree to Ensure Receipt of the Same, and for Immediate Payment of Court Appointed Expert	4743 – 4752
8	11/07/2011	Motion to Dismiss	1885 - 1908
9	01/17/2012	Motion to Dismiss Amended Third-Party Complaint and Motion to Strike	2190 - 2224
8	11/29/2011	Motion to Dissolve Injunction	1916 - 1999
7	06/24/2011	Motion to Join Necessary Party; or in the Alternative; to Dismiss Claims Against The Eric L. Nelson Nevada Trust dated May 30, 2011	1606 - 1661
23	10/20/2014	Notice of Appeal	5576 – 5578
25, 26	06/23/2015	Notice of Appeal	6249 – 6251
21	09/10/2013	Notice of Entry of Injunctions from September 4, 2013 Hearing	5230 – 5241
10	01/31/2012	Notice of Entry of Order	2264 – 2272
11	05/29/2012	Notice of Entry of Order	2739 – 2745
12	06/05/2012	Notice of Entry of Order	2759 – 2770

12	07/11/2012	Notice of Entry of Order	2914 – 2920
12	07/11/2012	Notice of Entry of Order	2921 – 2929
19	08/07/2012	Notice of Entry of Order	4517 – 4520
	06/03/2012	Notice of Entry of Order	4691 – 4742
8	11/14/2011	Notice of Entry of Order and Order – August 24, 2011 Hearing	1909 - 1915
21	09/03/2013	Notice of Entry of Order Denying Countermotion to Stay Payments and Transfer Property Pending Appeal and/or Resolution to the Nevada Supreme Court for an Extraordinary Writ	5148 – 5153
23	09/22/2014	Notice of Entry of Order Determining Disposition of Dynasty Development Management, Inc. AKA Wyoming Downs	5553 – 5561
19	10/10/2012	Notice of Entry of Order from July 16, 2012 Hearing	4683 – 4690
19	08/31/2012	Notice of Entry of Order from April 10, 2012 Hearing and Injunction	4531 – 4539
19, 20	08/31/2012	Notice of Entry of Order from February 23, 2012 Hearing Partially Granting ELN Trust's Motion to Dismiss Third-Party Complaint Without Prejudice.	4540 – 4550
23	09/22/2014	Notice of Entry of Order from July 22, 2013 Hearing on Lynita Nelson's Motion to Amend or Alter Judgment for Declaration and Related Relief	5562 – 5575
21, 22	09/30/2013	Notice of Entry of Order from September 4, 2013 Hearing Regarding Payment of Lindell Professional Plaza Income	5247 – 5254
19	08/29/2012	Notice of Entry Of Order Granting Motion for Relief from Automatic Stay and Denying Motion to Dismiss Without Prejudice	4521 – 4527
12	06/05/2011	Notice of Entry of Order regarding Findings of Fact and Order dated June 5, 2012	2771 – 2782
7	08/09/2011	Notice of Entry of Stipulation and Order	1742 - 1746
8	09/14/2011	Notice of Filing a Summary Appraisal Report of a Two-Story Office Building (3611 Lindell Road, Las Vegas, NV )	1789 - 1801
10	02/27/2012	Notice of Filing Amendment to Source and Application of Duns for Lynita Nelson	2249 – 2460
10	01/27/2012	Notice of Filing Amendment to Source and Application of Funds for Emerald Bay Mississippi, LLC Filed December 8, 2011	2257 – 2263
10	02/27/2012	Notice of Filing Amendment to Source and Application of Funds for Eric L. Nelson Nevada Trust	2425 – 2248
7	07/05/2011	Notice of Filing Asset Schedule and Notes to Asset Schedule	1662 - 1683
9	12/23/2011	Notice of Filing Corrected Asset Schedule by Ownership	2186 - 2189
7	07/15/2011	Notice of Filing Income and Expense Reports for Banone-AZ LLC	1713 -1724

8	08/15/2011	Notice of Filing Income and Expense Reports for Emerald Bay Resorts, LLC	1762 – 1769
7	07/19/2011	Notice of Filing Income and Expense Reports for Eric L. Nelson Nevada Trust	1725 - 1741
7, 8	08/15/2011	Notice of Filing Income and Expense Reports for Eric Nelson Auctioneering	1747 - 1761
9, 10	01/26/2012	Notice of Filing Income and Expense Reports for Eric Nelson Auctioneering	2225 -2256
8	09/28/2011	Notice of Filing Income and Expense Reports for Lynita Nelson	1806 - 1817
7	07/11/2011	Notice of Filing Income and Expense Reports for: (1) Banone, LLC and (2) Dynasty Development Group	1684 - 1712
10	02/16/2012	Notice of Filing Source and Application of Funds for Banone-AZ, LLC	2362 – 2389
11	04/11/2012	Notice of Filing Source and Application of Funds for Dynasty Development Group, LLC	2645 – 2677
9	12/08/2011	Notice of Filing Source and Application of Funds for Eric L. Nelson Nevada Trust	2060 - 2095
11	04/23/2012	Notice of Filing Source and Application of Funds Pursuant to April 10, 2012 Hearing	2678 – 2709
8	10/03/2011	Notice of Filing Summary Appraisal Report of +202.50 Acres of Agricultural/Residential Land (Uinta County, Wyoming)	1854 - 1859
8	10/06/2011	Notice of Submission of First Billing for Fees and Expenses of Forensic Accountants	1860 -1884
11	04/09/2012	Opposition to Countermotion for Receiver, Additional Injunction and Fees and Costs	2630 – 2642
21	08/23/2013	Opposition to Imposition of Charging Order and Appointment of Receiver	5043 – 5066
10, 11	03/26/2012	Opposition to Motion for Payment of Attorneys' Fees and Costs, and Countermotion for Receiver, Additional Injunction, and Fees and Costs	2495 – 2594
20	06/18/2013	Opposition to Motion for Payment of Funds Belonging to Defendant Pursuant to Court's Decree to Ensure Receipt of the Same, and for Immediate Payment of Court Appointed Expert; and Countermotion to Stay Payments and Transfer Property Pending Appeal and/or Resolution to the Nevada Supreme Court for an Extraordinary Writ	4799 – 4812
16	07/20/2012	Opposition to Motion in Limine to Exclude to Exclude from Trial the Testimony and Report of Daniel T. Gerety, CPA, Layne T. Rushforth, Esq. and Any Purported Experts Testimony Regarding the Interpretation of Law, and Application of Facts to Law; to Strike the Eric L. Nelson Nevada Trusts' Pre-Trial Memorandum; and Counter-Motion to Continue Trial and for Attorneys' Fees and Costs	3803 – 3838

8, 9	12/01/2011	Opposition to Motion to Dismiss and Countermotion for an Award of Attorneys' Fees and Costs	2000 - 2040
9	12/07/2011	Opposition to Motion to Dissolve Injunction and Countermotion for an Aware of Attorneys' Fees and Costs	2041 - 2059
30	07/11/2012	Order entered in Case D-09-411537-D	7471 - 7479
20	06/19/2013	Order for Payment of Funds Pursuant to June 3, 2013 Decree of Divorce	4847 - 4850
30	08/09/2011	Order in Case No. D-09-411537-D	7400 - 7402
6	11/17/2010	Partial Transcript, Non-Jury Trial, November 17, 2010	1256 - 1435
6	11/22/2010	Partial Transcript, Non-Jury Trial, November 22, 2010	1436 - 1499
6, 7	11/22/2010	Partial Transcript, Non-Jury Trial, November 22, 2010	1500 - 1605
21	09/27/2013	Plaintiff Eric Nelson's Response to Lynita's Response to Court Ordered Accountings Provided by Eric Nelson	5242 - 5246
19	08/31/2012	Post-Trial Brief of Eric L. Nelson Nevada Trust Dated May 30, 2001	4551 - 4610
30	01/28/2005	Promissory Note in favor of Lana Martin	7488
30	01/28/2005	Promissory Note in favor of Robert A. Martin	7489
29	09/25/1999	Real Estate Records for 5220 E. Russell Road, Las Vegas, Nevada (UUUU)	7017 - 7049
	06/06/2013	Receipt of Copy regarding Motion for Payment of Funds Belonging to Defendant Pursuant to Court's Decree to Ensure Receipt of the Same, and for Immediate Payment of Court Appointed Expert	4753 - 4754
8	09/19/2011	Reply to Counterclaim and Answer to Cross - Claim	1802 - 1805
24, 25	01/14/2015	Reply to ELN Trust's Opposition to Defendant's Motion to Enforce the June 3, 2013 Decree of Divorce, Address Issues Relating to Property Awarded to Defendant in the Divorce, and for Related Relief and Eric Nelson's Opposition to Defendants Motion to Enforce June 3, 2013 Decree of Divorce, Address Issues Relating to Property Awarded to Defendant in the Divorce, and for Related Relief and Opposition to Eric Nelson's Countermotion	5941 - 6076
11	05/22/2012	Reply to Limited Objection to Application of Forensic Accountants for Allowance of Fees and Reimbursement of Expenses for the period from April 4, 2011 through March 31, 2012 filed by the Eric L. Nelson Nevada Trust and Reply to Limited Objection to Application of Forensic Accountants for Allowance of Fees and Reimbursement of Expenses for the period from April 4, 2011 through March 31, 2012 filed by Eric Nelson	2713 - 2738
22	10/14/2013	Reply to Opposition to Countermotion/Petition for Appointment of Authorized Trustee and for Fees and Costs	5255 - 5265



20	07/11/2013	Reply to Opposition to Defendant's Motion to Amend or Alter Judgement, for Declaratory and Related Relief and Joinder to Opposition	4851 – 4869
21	08/30/2013	Reply to Opposition to Imposition of Charging Order and Appointment of Receiver and Requests for Injunction and Fees and Costs	5067 – 5087
11	04/04/2012	Reply to Opposition to Motion for Payment of Attorneys' Fees and Costs	2595 – 2623
9	12/09/2011	Reply to Opposition to Motion to Dismiss and Countermotion for An Aware of Attorneys' Fees and Costs	2096 - 2123
9	12/09/2011	Reply to Opposition to Motion to Dissolve Injunction and Opposition to Countermotion for an Aware of Attorneys Fees and Costs	2124 -2139
22	10/15/2013	Reply to Plaintiff Eric Nelson's Response to Court Order Accountings	5266 - 5287
27, 28, 29	07/05/2012	Report of Gerety & Associates (Admitted as Intervenor Trial Exhibit 168)	6550 – 7014
21	08/30/2013	Response to Court Order Accountings Provided by Eric Nelson	5088 – 5147
19	09/28/2012	Response to Defendant Lynita S. Nelson's Post-Trial Memorandum on Trust Issues	4628 – 4657
29	01/21/2002	Soris Original Mortgage – (Wyoming Property) – (Admitted as Nelson Exhibit 41C)	7050 – 7068
8	08/24/2011	Summons directed to Eric Nelson	1779 -1782
8	08/24/2011	Summons directed to Lynita Sue Nelson	1783 -1786
11	04/05/2012	Supplement to Opposition to Motion for Payment of Attorneys' Fees and Costs, and Countermotion for Receiver, Additional Injunction, and Fees and Costs	2624 – 2629
	10/08/2012	Supplement to Verified Memorandum of Attorneys' Fees and Costs	4658 – 4682
26, 27	05/30/2001	The Eric L. Nelson Nevada Trust (Admitted as Intervenor Trial Exhibit 86)	6475 – 6508
12	07/06/2012	The Eric L. Nelson Nevada Trust's Pretrial Memorandum	2783 – 2849
26	07/13/1993	The Eric L. Nelson Separate Property Trust (Admitted as Intervenor Trial Exhibit 7)	6313 – 6341
26	05/30/2001	The LSN Nevada Trust (Admitted as Intervenor Trial Exhibit 25)	6395 - 6433
26	07/13/1993	The Nelson Trust (Admitted as Intervenor Trial Exhibit 5)	6283 - 6311
20, 21	08/01/2013	Transcript Re: All Pending Motions	4991 – 5039
21	09/05/2013	Transcript Re: All Pending Motions	5154 – 5229
22	10/21/2013	Transcript Re: All Pending Motions	5288 – 5347
25	01/26/2015	Transcript RE: All Pending Motions	6077 – 6225
22, 23	06/04/2014	Transcript RE: Decisions	5495 – 5552

20	06/19/2013	Transcript Re: Motion	4813 – 4846
20	07/22/2013	Transcript Re: Motion	4876 – 4990
10	02/23/2012	Transcript regarding Decision	2390 – 2424
10	01/31/2012	Transcript relating to Motion	2273 – 2361
4	10/19/2010	Transcript, Non-Jury Trial, October 19, 2010	849 – 990
4, 5, 6	10/20/2010	Transcript, Non-Jury Trial, October 20, 2010	991 – 1255
1, 2	08/30/2010	Transcript, Non-Jury Trial, Volume 1 from August 30, 2010	40 – 258
2	08/31/2010	Transcript, Non-Jury Trial, Volume 2 from August 31, 2010	259 - 441
2, 3	08/31/2010	Transcript, Non-Jury Trial, Volume 3 from August 31, 2010	442 – 659
3,4	09/01/2010	Transcript, Non-Jury Trial, Volume 4 from September 1, 2010	660 –848
13, 14	07/17/2012	Trial Transcript Re: Non-Jury Trial	3181 – 3406
14, 15	07/18/2012	Trial Transcript Re: Non-Jury Trial	3407 – 3584
22	05/30/2014	Trial Transcript RE: Non-Jury Trial	5348 – 5494
15	07/19/2012	Trial Transcript Re: Non-Jury Trial – Vol. I	3585 – 3714
16	07/23/2012	Trial Transcript Re: Non-Jury Trial – Vol. I	3839 – 3943
17	07/24/2012	Trial Transcript Re: Non-Jury Trial – Vol. I	4050 – 4187
18	07/25/2012	Trial Transcript Re: Non-Jury Trial – Vol. I	4279 – 4447
15, 16	07/19/2012	Trial Transcript Re: Non-Jury Trial – Vol. II	3715 – 3802
16, 17	07/23/2012	Trial Transcript Re: Non-Jury Trial – Vol. II	3494 -4049
17, 18	07/24/2013	Trial Transcript Re: Non-Jury Trial – Vol. II	4188 – 4278
18, 19	07/25/2012	Trial Transcript Re: Non-Jury Trial – Vol. II	4448 -4514
12, 13	07/16/2012	Trial Transcript Volume I	2930 – 3120
13	07/16/2012	Trial Transcript Volume II	3121 – 3180
26	02/17/2009	Trust Agreement of the Total Amendment and Restatement of the Nelson Trust (Admitted as Intervenor Trial Exhibit 14)	6351 – 6381
30	03/31/2011	Trust Ownership-Distribution Report of Larry Bertsch (Admitted as Exhibit GGGGG at Tab 9)	7397 – 7399
19	09/28/2012	Verified Memorandum of Attorneys' Fees and Costs	4611 – 4627

1 referred you to this page, and I believe misstated the  
2 question that was asked of you and what your answer was.

3 His question to you starting on page 9 was

4 MR. SOLOMON: Hold on until I get there.

5 MR. DICKERSON: Thank you. Page 74.

6 BY MR. DICKERSON:

7 Q His question at line 9 was, "You have no  
8 understanding one way or the other whether there was an  
9 agreement between Lynita and Eric to ignore the separate  
10 property agreement in the event of a divorce; is that correct  
11 as a factual matter?"

12 And your answer was, "Right"; is that correct?

13 A Yes.

14 Q So you have no idea one way or the other whether  
15 there was any specific agreement?

16 A Right. I guess I just said I was not aware of one,  
17 but there could have been one.

18 Q And, in fact, you were party when these two people,  
19 Lynita and Eric, expressed their interest to you prior to even  
20 drafting that separate property agreement; isn't that correct?

21 A The intent

22 Q You were party to them expressing to you what their  
23 intent was?

24 A Yes.

1 Q If I could refer you to page 77?

2 MR. SOLOMON: And, Your Honor, I don't think that  
3 this is proper examination. (Indiscernible - 14:26:00) and  
4 proper use of a deposition.

5 THE COURT: Well, the only way is to ask the  
6 question and see if he needs to clarify it. I'm not sure what  
7 (indiscernible - 14:26:09) on that, but ask him a question and  
8 see if he needs to clarify the answer. If he did or if that  
9 helps clarify it, I guess, ask him a question first and see if  
10 he needs to refresh it or clarify it.

11 BY MR. DICKERSON:

12 Q Isn't it true, sir, that you told Mr. and Mrs.  
13 Nelson when you were meeting them prior to the execution of  
14 the separate property agreement that it was highly possible  
15 that for dissolution purposes, property in either trust could  
16 be characterized as community property based upon facts and  
17 circumstances surrounding the ownership that property and how  
18 it was acquired and dealt with, do you recall telling them  
19 that?

20 A Again, I don't know if I -- could you repeat the  
21 question? I need to hear it one more time.

22 Q Did you explain to Mr. and Mrs. Nelson, prior to  
23 them executing the separate property agreement, that it was  
24 highly possible that for dissolution purposes, the property in

1 either trust could still be characterized as community  
2 property based upon facts and circumstances surrounding the  
3 ownership of that property and how it was acquired and dealt  
4 with?

5 A Again, we had a discussion about, you know,  
6 dissolution and what impact the agreement might have on a  
7 dissolution proceeding and again I stated that the very safest  
8 approach would be to equalize the ownership by gift; however,  
9 again, there was a possibility depending on the facts and  
10 circumstances that a Court could decide otherwise.

11 I don't know how I might have characterized that or  
12 that's something I usually talk about.

13 Q Decide otherwise if there were not gifts made; is  
14 that correct?

15 A If there were other facts and circumstances  
16 surrounding the acquisition of property and the transfer and  
17 the operation of the trusts, yes.

18 Q All right. Mr. Burr, if you'll please -- I'd like  
19 to refer you to -- let's start with Exhibit 40. Exhibit 40 is  
20 a letter dated May 3rd, 2002, and this is a standard letter  
21 that you send out to all your clients, is it not?

22 A Yes.

23 Q In fact, you send it out annually to each of your  
24 clients as of the date, basically a year after they have

1 entered into the agreements?

2 A Yes.

3 Q Now, this letter was sent a year later after the  
4 parties entered into their trusts that are in question here in  
5 these proceedings; is that correct?

6 A Yes.

7 Q Now, you indicate in the second paragraph -- you're  
8 sending them proposed minute; is that correct?

9 A No, just suggesting that they hold a meeting and  
10 then at that meeting, minutes could be generated or put  
11 together to document the meeting.

12 Q So that's to remind them to have annual meeting; is  
13 that correct?

14 A Yes.

15 Q And then you've also said, "In addition, I have  
16 enclosed a distribution execution form which should be  
17 executed by your distribution trustee prior to a distribution  
18 occurring."

19 Now, you do have a form that you send to your  
20 clients; is that correct?

21 A Yes.

22 Q Would you take a look, say, for example, at Exhibit  
23 121 or 122, either one of those. Is that the form that you  
24 send to your clients?

1           A     Yes, that's one of the forms.

2           Q     Is that the form that you would have sent with this  
3 particular letter -- and blank, obviously.

4           A     Again, it has two or three variations, but some form  
5 like that or a small variation of it would be.

6           Q     What is the purpose of sending that form annually --  
7 to well, what was the purpose in this case of sending it to  
8 Eric and Lynita Nelson?

9           A     Just to remind them of the requirement that  
10 distributions need to be authorized by their distribution  
11 trustee and to give them a form that they could use to  
12 accomplish that.

13          Q     Now, if a creditor ever challenged distributions  
14 made by the -- to the trustor, so distributions made to the  
15 trustor of a trust, if a creditor ever challenged that, did  
16 you advise the Nelsons as to what they needed to do to  
17 document that it was authorized?

18          A     Yes, I told them that it was important to have a  
19 written authorization for any such transfer.

20          Q     Now, if you'll take a look, just briefly, at  
21 Exhibit 44 and Exhibit 51 and Exhibit 57. Are you looking at  
22 those, sir?

23               MR. SOLOMON: I'm sorry, which are you     how many

24               MR. DICKERSON: I just want him to confirm.

1 BY MR. DICKERSON:

2 Q These are the letters that you send out annually; is  
3 that correct?

4 A You said 44. What was the other one?

5 Q Forty four.

6 A The next one was?

7 Q Fifty one.

8 A And the other one?

9 Q Fifty seven.

10 A Yes.

11 Q One fourteen, 122 -- or 114 first?

12 A Yes.

13 Q One twenty two?

14 A Yes.

15 Q One thirty five?

16 A Yes.

17 Q And, one sixty one?

18 A Yes.

19 Q Now, with respect to the meetings, moving back to  
20 the 1993 time frame, Lynita expressed to you that she did not  
21 want to go through the licensing process; is that right?

22 A Yes.

23 Q Now, you had mentioned that as far as you understood  
24 it, an equal division of the parties' property that they owned



1 in 1993, the attempt was to separate that and make two lists;  
2 is that correct?

3 A Yes.

4 Q Now, were appraisals made?

5 A Not that I'm aware of, no.

6 Q Isn't it true that they simply relied -- or you  
7 simply relied upon and the parties simply relied upon what  
8 Eric said the values would be?

9 MR. SOLOMON: Object to the lack of foundation.

10 THE COURT: Sustained.

11 If you know?

12 BY MR. DICKERSON:

13 Q How were the values determined?

14 A I just asked that the parties prepare the property  
15 split that they both feel comfortable in the split and felt it  
16 was fair.

17 Q And did you do any verification?

18 A No.

19 Q And there were no appraisals made; is that correct?

20 A No.

21 Q Okay. That's true?

22 A No, there were no appraisals that I'm aware of,  
23 anyway.

24 Q Take a look at Exhibit 3. Exhibit 3 is a letter

1 from you to Richard Coke dated July 13th, 1993, correct?

2 A Yes.

3 Q And that's the same day that the separate property  
4 agreement that is marked as Exhibit 4 was signed by the  
5 parties; is that correct?

6 A Yes -- I don't know. What exhibit was the --

7 Q Exhibit 4.

8 A I mean the separate property agreement.

9 Q Exhibit 4.

10 A Oh, Exhibit 4, I just want to make sure. July 13th,  
11 yes.

12 Q Now, Lynita was in your office. Eric was in your  
13 office meeting with you on July 13th of 1993; isn't that  
14 correct?

15 A I just don't recall.

16 Q Do you recall giving this letter to Lynita at the  
17 conclusion of your meeting with her so that she could take  
18 this letter to Richard coke, meet with him, and sign the  
19 agreement at his office?

20 A I don't recall that, no. But it appears it has the  
21 same date. I just don't recall.

22 Q Would you please take a look at Exhibit 2.

23 A Yes.

24 Q What is Exhibit 2?

1           A     It appears -- it's the schedule -- it happens to be  
2 the schedule that Eric presented with the names written next  
3 to what assets belonged to whom.

4           Q     Do you know where this fax originated from?

5           A     Only by looking at it. I don't have any personal  
6 knowledge.

7           Q     Where does it indicate that it originated from?

8           A     Rosyln D. Hinton (phonetic), Las Vegas casino.

9           Q     What was Las Vegas casino?

10          A     I don't know.

11          Q     And are you familiar with what's attached, the  
12 property schedule attached?

13          A     Only     only as I view it here. I don't recall any  
14 personal knowledge, other than just the schedule itself.

15          Q     You don't recall ever seeing this?

16          A     No, I believe I would have seen it when it was sent  
17 over.

18          Q     Do you know whose handwriting that is?

19          A     I can only assume it's Eric's. I can't tell you for  
20 sure.

21          Q     Now, you testified before this Court in November of  
22 2010 that you explained to the parties that notwithstanding  
23 the fact that the trusts that were entered into in the year  
24 2001, although they were irrevocable, that they really weren't

1 irrevocable, in that they could take all the assets out, if  
2 they so desired; isn't that correct?

3 A Not exactly, I don't believe.

4 MR. SOLOMON: I object to the form of the question.

5 MR. DICKERSON: All right.

6 BY MR. DICKERSON:

7 Q Are these trusts truly irrevocable?

8 A They are irrevocable by statute and by the terms of  
9 the trust.

10 Q How do you get around it being truly irrevocable by  
11 the statute?

12 A Well

13 MR. SOLOMON: Hold on. That assumes it's possible,  
14 so object to the form of the question.

15 BY MR. DICKERSON:

16 Q Is it possible to get around the agreement being  
17 totally irrevocable?

18 A Well, I think what I explained is that there are all  
19 kinds of powers that the trustor reserves under the statute,  
20 for example, the power of changing the beneficiaries; powers  
21 to distribute to assets to anyone but him or herself; power  
22 to -- power of -- see, what's it called again, I'm drawing a  
23 blank -- veto power that the statute gives the trust, if  
24 there's any proposed distribution by a non trustor or trustee.

1 I mean there are all of these other powers that the trustor  
2 has, but technically it's still in the irrevocable trust.

3 Q And if the trustor can convince the distribution  
4 trustee to turn over all the assets to them?

5 A Then that would be one way to terminate it, yes.

6 Q Mr. Burr, if I can have you take a look at the Eric  
7 L. Nelson Nevada Trust.

8 (Pause.)

9 MR. SOLOMON: What are you looking for, Bob?

10 MR. DICKERSON: Eric's trust.

11 MR. SOLOMON: Eighty six.

12 MR. DICKERSON: It would have taken me forever to  
13 get there. Thank you.

14 THE COURT: We're just lucky it wasn't EEEE; it  
15 would have taken us a long time to get there.

16 (Laughter)

17 BY MR. DICKERSON:

18 Q Would you please turn to Exhibit 86. This is the  
19 Eric L. Nelson Nevada Trust; is that correct?

20 A Yes.

21 Q And this is the trust that you have characterized as  
22 being irrevocable; is that correct?

23 A Yes.

24 Q Now, if we take a look at page 1 of the trust, isn't

1 it true that it basically designates that Eric Nelson is the  
2 trustor and he is the original trustee; is that correct?

3 A Yes.

4 Q And that Lana Martin is the original distribution  
5 trustee?

6 A Yes.

7 Q Now, you are given -- in order for this trust to  
8 remain effective and to serve the purposes that it was  
9 prepared for, to protect them from creditors, the trustor and  
10 the trustees need to fully comply with the provisions of the  
11 trust; is that true?

12 MR. SOLOMON: Your Honor, I find this understanding  
13 that Mr. -- number one, it's outside the scope, but more  
14 importantly, object to my expert report on the basis that he's  
15 asking questions of law. Mr. Dickerson has been doing this  
16 now for about five questions, including the irrevocability and  
17 what the law provides with respect to that and --

18 MR. DICKERSON: No, I'm asking --

19 MR. SOLOMON: -- now we're going -- we're making it  
20 an expert witness on the law when they objected to me being  
21 able to do the same through Mr. (indiscernible - 14:43:27).

22 MR. DICKERSON: Let me rephrase the question.

23 BY MR. DICKERSON:

24 Q In your discussions with Eric Nelson, did you inform

1 him that in order for this trust to remain effective to  
2 protect him against his creditors he had to make sure that  
3 this -- that the terms of this trust were fully complied with?

4 A Yes.

5 Q And one of the terms that you told him that needed  
6 to be specifically complied with is that all distributions to  
7 him needed to be approved by a distribution trustee appointed  
8 in accordance with the terms of this trust; isn't that  
9 correct?

10 A To be -- okay, I have to give a little commentary,  
11 if I can. Certainly that's the safest way to have the trust  
12 to be effective, to meet all the formalities. Certainly, if a  
13 formality might have been forgotten, or just one or two, there  
14 might be with way to rehabilitate the exercise of the  
15 discretion of the trust to still cause it to be enforceable.

16 So I just want to make sure that it's clear that I'm  
17 not saying that one little mistake would cause the trust to be  
18 unenforceable; it's just that all the formalities need to be  
19 complied with and the more you comply with the formalities,  
20 the more enforceable and stronger it is. I hope that --

21 Q Okay. Now, there are occasions, there are at least  
22 two occasions in which Eric Nelson came to you and asked you  
23 to, in your capacity, as the trust advisor, for you to remove  
24 a distribution trustee and substitute in another trustee; is

1 that correct?

2 A To the best of my recollection, yes.

3 Q Take a look at Exhibit 49. Let's take a look at  
4 Exhibit 49 -- 149, excuse me.

5 Do you see that, sir?

6 A Yes.

7 Q Okay. This is a change of distribution trustee for  
8 the Eric L. Nelson Nevada Trust, correct?

9 A Yes.

10 MR. DICKERSON: Has this been admitted into  
11 evidence?

12 MS. PROVOST: One forty nine, yes.

13 BY MR. DICKERSON:

14 Q Okay. This is signed by you on page 2?

15 A Yes.

16 Q Why did you do this? Why did you sign this  
17 document?

18 A Typically, it's done after consulting with the  
19 trustor and the trustor expressing concern about a particular  
20 distribution trustee continuing to serve either logistically  
21 or whatever reason.

22 Q Did Eric Nelson tell you who he wanted appointed as  
23 the distribution trustee?

24 A Yes.



1 Q Now, you did this pursuant to section 11.3 of the  
2 trust agreement; is that correct?

3 A Yes.

4 Q Go back to that trust agreement and let's look at  
5 that section 11.3.

6 A Was it 80 -- 80 something -- 86?

7 Q Eighty six, yes.

8 A Section -- what section, Bob?

9 Q Eleven point three. You are on page 14.

10 A Okay.

11 Q Now, if we look at this, under trust consultant, it  
12 indicates that Jeffrey L. Burr, LTD, a Nevada corporation,  
13 herein known as consultant to the trust, will have the right  
14 and power by giving ten days written notice to the trustee to  
15 remove any trustee named herein, except the trust consultant  
16 may not remove the trustor as a trustee hereunder and/or any  
17 successor trustee and to appoint either one, an individual who  
18 is an independent trustee, pursuant to Internal Revenue Code  
19 Section 674, as amended or, two, a Nevada bank or trust  
20 company to serve as trustee or as co trustee of the trusts  
21 created hereunder. And in event of death, resignation,  
22 competency -- it goes on.

23 But it was that first portion that I read is the  
24 provision under which you removed Lana Martin, distribution

1 trustee, and substituted Nola Harber in her place; is that  
2 correct?

3 A Yes.

4 Q And that was done at the (indiscernible - 14:48:33)  
5 of Eric Nelson?

6 A Yes.

7 Q And I trust that you explained to him at that time  
8 that if you did -- well, were you aware that Nola Harber is  
9 Eric's sister?

10 A I certainly am now. Whether I knew it then or not,  
11 I don't know.

12 Q Did you explain to him that under Section 11.3 that  
13 11.3 would only allow you to appoint either an independent  
14 trustee as provided under the Internal Revenue Code or a  
15 Nevada bank or trust company?

16 MR. SOLOMON: I object to the form of the question  
17 because it says -- it specifies 674, not just the entire Code.

18 THE COURT: Yeah. That's an independent trustee  
19 pursuant to IRS Code Section 674, as amended.

20 BY MR. DICKERSON:

21 Q Did you explain that to him?

22 A I don't think I did, no.

23 Q Let's take a look at Section 674. I'm showing you  
24 what's been marked as FFFF. This is Section 674 of the

1 Internal Revenue Code, is it not?

2 MS. FORSBERG: Can I have a copy, Bob?

3 MR. DICKERSON: Oh, I'm so sorry, guys.

4 THE WITNESS: It appears to be, yes.

5 BY MR. DICKERSON:

6 Q Now, if you take a look at this rule, the reference  
7 to independent trustee appears under subsection 8, under  
8 subsection C; is that correct?

9 A I'm sorry, where?

10 Q Take a look at the second page.

11 A Okay.

12 Q Go down to C at the bottom, "Exceptions for certain  
13 powers of independent trustees. Subsection A shall not apply  
14 to a power solely exercisable without the approval or consent  
15 of any other person by a trustee or trustees, none of whom is  
16 the grantor, and no more than half of whom are related or  
17 subordinate parts who are subservient to the wishes of the  
18 grantor."

19 Did I read that correctly?

20 MR. SOLOMON: Objection; irrelevant.

21 BY MR. DICKERSON:

22 Q Did I read that correctly?

23 MR. SOLOMON: One, speaks for itself.

24 THE WITNESS: The part that you read, it looks like

1 you read it correctly, yes.

2 BY MR. DICKERSON:

3 Q Now, are you aware that Section 672 defines the term  
4 "subordinate party"?

5 A I would have to review it.

6 Q I'll have you review it now.

7 I'm showing you what's been marked as Exhibit GGGG.  
8 Exhibit GGGG is Section 672 of the Internal Revenue Code which  
9 is Title 26 of the United States Code, and subparagraph C  
10 reads, "Related or subordinate party, for purposes of this  
11 part, the term "related or subordinate party" means any non  
12 adverse party who --" and then we move down to two "-- who  
13 meet any one of the following: grantor's father, mother issue,  
14 brother or sister, an employee of the grantor, a corporation  
15 or any employee of a corporation in which the stock holdings  
16 or the grantor or and the trust are (indiscernible 14:52:50)  
17 control, a subordinate employee of a corporation in which the  
18 grantor is an executive. For purposes of subsection F and  
19 Section 674 and 675, a related or subordinate party shall be  
20 presumed to be subservient to the grantor in respect to the  
21 exercise or non exercise of the powers conferred upon him and  
22 as such, party shall not be subservient by a preponderance of  
23 the evidence."

24 Did I read that correctly?

1 MR. SOLOMON: Speaks for itself.

2 THE WITNESS: Yeah, as far as I can tell, yes.

3 MR. DICKERSON: Your Honor, I move for the admission  
4 of these two exhibits, quadruple E and quadruple F.

5 MS. PROVOST: F and G.

6 MR. SOLOMON: Number one, they are law: they are not  
7 admissible; number two, they are irrelevant because I know  
8 where counsel is trying to go, but it is a legal argument and  
9 it's a wrong legal argument, but he can't do it through this  
10 witness. He can argue it at the end of the case if he thinks  
11 that that trust prohibits a 672 person from serving. It's a  
12 legal argument solely and an incorrect one at that. But it  
13 has nothing to do with this witness or evidence to be  
14 introduced at trial.

15 THE COURT: I have a tendency to agree; it legal.  
16 If you can cite any codes I would be glad to look at them and  
17 research them, but I don't think the evidence of this type

18 MR. DICKERSON: If it is not admitted, I provide  
19 Your Honor with (indiscernible - 14:54:18).

20 THE COURT: Sure. If you want to put it in the  
21 closing or do it now on that and just leave them on the side  
22 or if you want to do it during your closing. I'll give  
23 everybody a chance if I find that people need it to brief so  
24 they can have a nice record on the law. I'll give everybody

1 that side if we need it. Rest assured, I'm not real smart,  
2 but I read everything and I'll research everything that's  
3 referenced on that because I like to read. I don't have a  
4 life, so I will read and every code that they want. I will  
5 read it, analyze it, and research it. That's what I get paid  
6 to do.

7 BY MR. DICKERSON:

8 Q Would you please take a look at Exhibit 162.

9 Give me one second. Going back to 149, Eric's  
10 sister, Nola Harber, was appointed as the distribution trustee  
11 on February 22nd, 2007; is that correct?

12 A Yes.

13 Q So from that day forward she would have been the  
14 person authorizing any distributions to Eric?

15 A Yes.

16 Q Okay. Now, if you take a look at Exhibit 162,  
17 Exhibit 162 appears to be another change of trustee for the  
18 Eric L. Nelson Nevada Trust; is that correct?

19 Is there a 162?

20 A Oh, yeah, I'm just looking at it.

21 Yes.

22 Q Why -- is that your signature on page 3?

23 A Yes.

24 Q Why did you make -- why did you sign this document

1 and make the changes that are set forth in this document?

2 A I met with Eric and a discussion was had regarding  
3 that position and he expressed desire to change it and I  
4 agreed.

5 Q So by way of Exhibit 162, this change of  
6 trusteeship, you did several things, did you not?

7 A Yes.

8 Q Okay. First you removed Nola Harber as the  
9 distribution trustee and you substituted Lana Martin; is that  
10 correct?

11 A Yes.

12 Q And then, in addition, it appears that you actually  
13 made amendments to Section 11.1 and 11.2 of the so called  
14 irrevocable trust, the Eric L. Nelson Nevada Trust; is that  
15 right?

16 A I made a change of trusteeship, yes.

17 Q If you take a look, it appears that you really  
18 revised Sections 11.1 and 11.2, would you agree?

19 A Yes.

20 Q And do you believe that would be authorized, that  
21 type of an amendment to a revocable trust would be authorized?

22 A Yes, just because the distribution trustee has the  
23 power to change trustees and those two sections relate to  
24 trustee changes.

1 Q But does the distribution -- does the trust advisor  
2 have the authority to remove a successor trustee before the  
3 successor trustee even becomes trustee?

4 A I would have to go back and look at the agreement  
5 again, if you want me to.

6 Q Look at Section 11.3.

7 A That was in 80

8 Q Eighty six.

9 A Eighty six. Yeah, it says, "Jeffrey L. Burr, Ltd.,  
10 shall have the right and power to remove any trustee named  
11 herein. That would include investment trustee or distribution  
12 trustee."

13 Q But do you believe that that gave you the authority  
14 to remove a successor trustee before that successor trustee  
15 even took over a service as either the investment trustee or  
16 the distribution trustee?

17 A Yes, because it goes on to say, "To remove any  
18 trustee named herein, and/or any successor trustee."

19 Q And you interpret that to allow you to do what you  
20 have done?

21 A Yes.

22 Q Now, do you interpret the provisions of Section 11.3  
23 to allow you to do any of this without giving ten days written  
24 notice to the trustee or the successor trustee that you intend



1 to remove?

2 A Notice would be an issue if there wasn't some type  
3 of waiver of notice or consent because the agreement does say  
4 there should be ten days.

5 Q It requires ten days notice, does it not?

6 A Right.

7 Q And isn't it true, Mr. Burr, that on either of these  
8 two occasions with respect to Exhibit 149 or 162, was such a  
9 ten day notice given to any of the trustees that were being  
10 removed?

11 A I am aware of no notice that was given.

12 Q And you have provided us with a copy of your entire  
13 file; is that right?

14 A Yes.

15 Q So as a result of Exhibit 162, pursuant to the  
16 request of Eric Nelson, you removed Lynita Nelson as the  
17 successor investment trustee of his trust; is that correct?

18 A Yes.

19 Q And that was done on June 11th June 8th, 2011?

20 A Yes.

21 Q And you were aware, Mr. Burr, that we were involved  
22 in these court proceedings?

23 A Yes.

24 Q In fact, you had testified in November of 2010?

1 A Yes.

2 Q Why would you do that without notifying either  
3 Lynita or her attorneys? Let's start out, did you ever notify  
4 Lynita or her attorneys that this was being done?

5 A No.

6 Q Why?

7 A I had done the same thing for Lynita earlier and  
8 because it was a divorce proceeding, I thought it was presumed  
9 that they no longer wanted each other to be beneficiaries. I  
10 might have erred, but that's the position that I took.

11 Q Is there a reason that you really would have even  
12 gotten involved in the middle of a divorce proceeding doing  
13 what you did with respect to both Lynita or Eric?

14 A Well, again, being unaware of family law, not the  
15 intricacies of it, I knew that there was a lot of, you know,  
16 acrimony, between the two parties and that if one of them were  
17 to pass way before the divorce proceeding were completed, it  
18 would work a very unfair result, so I was just trying to help  
19 out to change the estate plan documents.

20 Q Well, why would it why would it result in an  
21 unfair result? All a party can do is give away one half of  
22 their share of any community property, wouldn't you agree?

23 MR. SOLOMON: Object.

24 THE WITNESS: But Eric's half was beginning to

1 Lynita.

2 MR. SOLOMON: Hold on.

3 THE COURT: He can explain now what he did.

4 BY MR. DICKERSON:

5 Q Would it not make since, since you did not cater to  
6 the -- you do not have background in family law or divorce  
7 law, that you would at least contact the attorneys involved to  
8 determine whether such an action would be in violation of a  
9 joint preliminary injunction?

10 MR. SOLOMON: Irrelevant to anything that this Court  
11 is going to decide.

12 THE WITNESS: In this case I learned that.

13 THE COURT: I think he explained why he did that.  
14 He said maybe he should have, maybe he shouldn't have, but  
15 we'll leave it at that and move forward.

16 BY MR. DICKERSON:

17 Q Sir, if you would please take a look at Exhibit 28.  
18 Is that a letter that you sent to Mr. and Mrs. Nelson on  
19 May 30, 2001?

20 A It's a letter, yes, but it would have been presented  
21 at our office instead of mailed.

22 Q And is that your signature on page 2?

23 A Yes.

24 Q The third paragraph on there you recognized and say,

1 "As we discussed in our prior meeting, you have the option of  
2 having me represent you jointly or separately. If you choose  
3 to have me represent you jointly, then I will be under the  
4 legal duty to immediately tell the other spouse anything which  
5 one of you later tells me in confidence which relates to your  
6 estate planning. Failure to reveal information to the other  
7 spouse would be a violation of the attorney client joint  
8 relationship.

9           On the other hand, if you choose to have me  
10 represent each of you separately, then I must keep anything  
11 later told to me in confidence from the other, even though it  
12 may prejudice what the other had relied upon in making his or  
13 her own estate plan."

14           A     Yes.

15           Q     Is there a reason why you did not contact Lynita to  
16 let her know that Eric was removing her as the successor  
17 investment trustee?

18           MR. SOLOMON: Object. It's not relevant to this  
19 case. We're not here to (indiscernible - 15:05:02) or try  
20 Mr. Burr's issues. It has nothing to do with this case and it  
21 is irrelevant.

22           MR. DICKERSON: I don't think it is irrelevant. I  
23 think it goes to the issue of whether this Court even has to  
24 recognize what was done, including, including, Your Honor, and

1 I'll get to what he did for my client with respect to changing  
2 a will.

3 MR. SOLOMON: Those issues aren't in front of this  
4 Court, as far as I know.

5 MR. DICKERSON: Then why were why did this submit  
6 those documents into evidence? Because they want to argue  
7 that my client knew what was going on. That's where I'm going  
8 next with this questioning.

9 MR. SOLOMON: No, that's not why we offered them you  
10 want to hear the relevance?

11 Well, her separate property is her separate property  
12 to the exclusion of ours at the same time that you are arguing  
13 it is community; that's why we submitted them.

14 THE COURT: I'll read the report on that, but let's  
15 move on. (Indiscernible - 15:05:56.) Mr. Burr is not on trial  
16 here, so I don't want to (indiscernible - 15:06:05) his  
17 integrity. He's well respected, so I don't want -- I mean he  
18 can answer the questions.

19 You've been very forthwith so far, very  
20 (indiscernible - 15:06:06) on that, but I want to make sure  
21 that we don't put him in any unnecessary positions.

22 BY MR. DICKERSON:

23 Q Mr. Burr, let's look at the documents that counsel  
24 showed you. Let's take a look at Exhibit 77 -- let's take a

1 look at Exhibit 14. This is the total amendment and  
2 restatement of the Nelson trust originally dated July 13th,  
3 1993; is that correct?

4 A Yes.

5 Q When did you prepare this document for Lynita?

6 A I was signed on February 17th, 2009, so sometime  
7 probably several weeks before the signed date.

8 Q That was during of course of these divorce  
9 proceedings?

10 A Yes.

11 Q Did you ever contact me or any attorney representing  
12 Lynita to let them know that you were doing this?

13 A Not that I recall, no.

14 Q Take a look at Exhibit 75 -- I'm sorry, the power of  
15 appointment, is that 74?

16 A Eighty one.

17 Q Eighty one, when was 81 prepared by you?

18 A I believe the same time that the statement was done,  
19 which was July -- it's February 17th, 2009.

20 Q Any time prior to preparing this and having Lynita  
21 sign this, did you contact me to inquire whether this would be  
22 appropriate to do?

23 A No.

24 Q Did you contact any attorney representing Lynita in

1 this divorce case?

2 A No.

3 Q Take a look at Exhibit 77, please. Exhibit 77, what  
4 you've done is you've changed the distribution trustee under  
5 Lynita's Trust; is that correct?

6 A Yes.

7 Q Okay. Before doing that, did you contact me or any  
8 attorneys representing Lynita?

9 A No.

10 MR. SOLOMON: In the divorce, is that

11 MR. DICKERSON: Yes.

12 MR. SOLOMON: The divorce wasn't filed, was it?

13 MR. DICKERSON: Yes, it was.

14 MR. SOLOMON: I don't think it is filed in any of  
15 those documents that you just went through.

16 MS. FORSBERG: It's not.

17 MR. DICKERSON: It was filed in

18 MS. PROVOST: June.

19 MR. DICKERSON: June of '09.

20 MS. FORSBERG: No, May 6th, 2009.

21 MR. DICKERSON: After all of these documents were  
22 done, so ...

23 MR. SOLOMON: I object to that question, now.

24 //

1 BY MR. DICKERSON:

2 Q Wait a second. Did you -- you knew that I was  
3 representing Lynita at the time, did you not?

4 A Yes.

5 Q In fact, you originally brought Lynita to my office  
6 sometime in June of 2008, if I recall -- or was it -- it may  
7 have been May of 2008?

8 A Yes.

9 Q Is that correct?

10 A Yes.

11 Q Exhibit 19, from Lynita's will, when was that done?

12 A Yes, that was done February 17th, 2009.

13 Q Okay. And, again, did you contact me or any  
14 attorney representing Lynita, with respect to the divorce,  
15 prior to having her execute that will?

16 A No.

17 MR. SOLOMON: (Indiscernible - 15:10:55), so I  
18 object to the form of the question.

19 BY MR. DICKERSON:

20 Q Mr. Burr, do you know what was going on at that  
21 period of time, February of 2009?

22 A Yes.

23 Q Do you know of settlement discussions that were  
24 going on during that period of time?



1 A Yes.

2 Q Do you -- you originally referred Mrs. Burr [sic] to  
3 Bryce Duckworth, did you not?

4 MS. PROVOST: This is Mrs. Nelson.

5 (Laughter)

6 MR. DICKERSON: Don't refer Mrs. Burr.

7 (Laughter)

8 BY MR. DICKERSON:

9 Q You originally referred Mrs. Nelson to Bryce  
10 Duckworth; is that right?

11 A Yes.

12 Q And Bryce continued to represent Mrs. Burr --

13 MS. PROVOST: Nelson.

14 (Laughter)

15 BY MR. DICKERSON:

16 Q -- Mrs. Nelson up until shortly before he took the  
17 bench?

18 A Yes.

19 Q And then just prior to him taking the bench, both  
20 you and Mrs. Nelson came to my office and we had a discussion  
21 with Mrs. Nelson; is that right?

22 A Yes.

23 Q Now, that all occurred in the year 2008, correct?

24 A Best of my recollection, yes.

1 Q In fact, do you recall having discussions with Eric  
2 as early as September of 2007 wherein he discussed with you  
3 his desire to get a divorce, do you recall?

4 A I actually reviewed my records and our discussions  
5 with both parties began in August of that year.

6 Q Well, now, let's take a look at -- do you know what  
7 was going on in August of 2007?

8 A Again, in reviewing my billing records, there were  
9 two or three meetings that were had with Lynita and Eric and  
10 it says in my billing records to discuss property settlement  
11 issues.

12 Q Okay. And do you know specifically what you were  
13 discussing with Lynita?

14 A Just the fact that she and Eric had decided to get a  
15 divorce and they wanted to have some -- they knew they had to  
16 do a property settlement and they were hoping to do it  
17 amicably.

18 Q Now, Mr. Burr, isn't it true that under both these  
19 2001 trusts that you prepared for Mr. and Mrs. Nelson that the  
20 trust itself authorizes each of them to make distributions to  
21 the other without any approval of the distribution trustee?

22 A Yes.

23 (Pause.)

24 Q Mr. Burr, under the original separation agreement

1 that you -- separate property agreement that you prepared for  
2 the -- Mr. and Mrs. Nelson, that would be Exhibit 4 --

3 A Yes.

4 Q -- you prepared in 1993, there is a provision in  
5 there, and I'll refer you to paragraph four.

6 MR. SOLOMON: What exhibit are you in?

7 MR. DICKERSON: Exhibit 4.

8 MR. SOLOMON: Give me a second to get there. What  
9 paragraph?

10 MR. DICKERSON: Page 2, paragraph four.

11 BY MR. DICKERSON:

12 Q It provides, "The parties hereto shall each have a  
13 right of first refusal to match any offer of sale and purchase  
14 relating to each party's sole and separate property, whether  
15 held in trust or otherwise. Each party agrees to give at  
16 least 30 days notice prior to such sale and allow the other  
17 party 30 days from receiving said notice to purchase the  
18 offered property under the same terms and conditions as set  
19 forth in the offer to sell or purchase."

20 Did I read that correctly or reasonably correctly?

21 A Yes.

22 Q What's the purpose of that provision, why do you  
23 include that in?

24 A Again, the agreement was meant predominately to

1 protect the clients from outside creditors. To the extent,  
2 perhaps a cabin, any kind of asset might have been allocated  
3 to one spouse versus the other, the spouse that didn't possess  
4 that property in their trust would have the ability to retain  
5 or maintain or keep that property by having this right of  
6 first refusal. It just gave flexibility.

7 Q So before any asset could be sold, it would require  
8 30 days notice to the other party; isn't that correct?

9 A Yes.

10 Q Now, if you take a look at exhibit -- excuse me,  
11 paragraph seven which, again, makes reference to paragraph  
12 four that we just. It says, "Notwithstanding paragraph four  
13 above, husband and wife, each respectively may transfer his or  
14 her own property by gift or inheritance as they wish to a  
15 revocable trust without violating this agreement."

16 Did I read this correctly?

17 A Yes.

18 Q What is the purpose of that provision?

19 A As with many buy/sell agreements and right of first  
20 refusals, you have permitted transfers and here if they're  
21 going to do an equalizing gift to one another, we don't want  
22 that to fall within this 30 day provision. So it's meant, I  
23 think, to cover estate planning transfers or gifts or  
24 transfers between the parties especially.

1 Q But it also allows a transfer only to a revocable  
2 trust; isn't that correct?

3 A Yes.

4 Q And it doesn't authorize a transfer to an  
5 irrevocable trust, does it?

6 A No.

7 Q I think the answer to that, is that correct, that it  
8 does not?

9 A It does not.

10 Q It does not allow transfer to an irrevocable trust;  
11 is that correct?

12 A It does not allow transfer to an irrevocable trust  
13 without triggering Section 4.

14 If I may, too -- it's just coming to me -- another reason  
15 is if Eric, for example, did have this large liability and his  
16 assets were exposed and there was a personal asset that he  
17 owned like a cabin or something, this would allow Lynita to  
18 step in and take that asset before the creditors did. Of  
19 course you would have to substitute consideration for the  
20 asset, but that's another reason for it.

21 MR. DICKERSON: I have nothing further, Your Honor.

22 **REDIRECT EXAMINATION**

23 BY MR. SOLOMON:

24 Q Is the LSN Trust a grantor trust?

1 A For tax purposes?

2 Q Yes.

3 A Yes.

4 Q Okay. And Section 674 deals with trying to keep  
5 access out of a grantor's estate, correct?

6 A The one that Bob keeps referring to?

7 Q Yes.

8 A Yes, I believe so. I don't have it in front of me  
9 anymore. I'm kind of drawing a blank right now.

10 Q We'll argue that later.

11 And Eric's trust, self settled spendthrift trust, is  
12 a grantor trust?

13 A Yes.

14 Q And it's designed, in fact, he can substitute assets  
15 of equivalent value and you've made it intentionally  
16 defective, did you not?

17 A Yes.

18 MR. DICKERSON: I'm sorry, what was that question?

19 BY MR. SOLOMON:

20 Q In crafting the trust you made it an intentionally  
21 defective grantor trust?

22 A We drafted it so, yes, it would be a grantor trust.

23 Q Okay. Meaning that it's going to be taxable on  
24 their he states?

1           A     Yes.

2           Q     And if you have that situation you don't need an  
3 independent trustee as defined under 672 of the Internal  
4 Revenue Code; isn't that correct?

5                     MR. DICKERSON:  Objection, Your Honor.

6                     It's irrelevant.  The trust agreement provides for  
7 the appointment of an independent trustee.

8                     MR. SOLOMON:  No, it doesn't.  That's an argument,  
9 and not a question, and it doesn't refer to 672; it refers to  
10 674.

11                    THE COURT:  674 is what the trust said.

12 BY MR. SOLOMON:

13           Q     But in any case, the question stands.  Do you recall  
14 it?

15                    MR. DICKERSON:  Well, I object to it.

16 BY MR. SOLOMON:

17           Q     If you have a grantor trust

18                    MR. DICKERSON:  The ruling on my objection?

19                    THE COURT:  (Indiscernible - 15:20:53) the grantor's  
20 trust so that they're taxable under the estate -- amended the  
21 trust.

22                    THE WITNESS:  This trust was taxable, subject to  
23 estate tax when the party passed away and so that section  
24 wouldn't have any application tax wise.

1 BY MR. SOLOMON:

2 Q Exactly. With respect to Exhibit 4 that you just  
3 looked at, Mr. Dickerson asked you about whether the agreement  
4 provided that it could be assets could be transferred to an  
5 irrevocable trust, you met with both Lynita and Eric at the  
6 time that you proposed to use the two self settled spendthrift  
7 trusts, correct?

8 A Yes.

9 Q And the plan that you discussed with both of them is  
10 that they're going to be taking these assets that were in  
11 their separate property trusts, which were revocable, and  
12 transferring them to their respective irrevocable trusts;  
13 isn't that true?

14 A The idea was to roll the assets from one trust to  
15 another in addition to other assets that may have been outside  
16 the trust.

17 Q And they were both in agreement with that plan and  
18 signed on to it, correct?

19 A Yes.

20 Q Mr. Dickerson asked you about whether any  
21 distributions, in fact, were made that did not have prior  
22 approval of the distribution trustee, whether that invalidated  
23 it and you tried to explain that you're not trying to say that  
24 that would, per se. Isn't there Nevada statutes directly on



1 point on that issue?

2 A I'm sorry. One more time?

3 Q Aren't there Nevada statutes that directly address  
4 that issue?

5 A You might have to educate me. The only one that I'm  
6 aware of is the one that says that no distributions may be  
7 made to a trustor without the authorization of another person.

8 Q You don't recall the statute in 166 that says if the  
9 settlor makes distributions to himself on occasions, that is  
10 not evidence of invalidity of the trust?

11 MR. DICKERSON: To which I object, Your Honor.

12 That statute was not in effect in 2001.

13 MR. SOLOMON: It doesn't matter.

14 MR. DICKERSON: Sure it does it. That statute was  
15 not in effect in 2001.

16 THE COURT: Sustained. We'll get there in legal  
17 arguments, I'm sure.

18 THE WITNESS: I --

19 THE COURT: You don't need to answer that. You've  
20 already testified as to the distributions.

21 BY MR. SOLOMON:

22 Q Now, you said it was important to have prior written  
23 authorization for distribution if the creditor were ever to  
24 challenge the trust. Is that a requirement or is that just

1 good evidence?

2 A I think the statute -- I mean in my opinion, the  
3 statute says that before a trustor receiving a distribution,  
4 it's supposed to be authorized by another person.

5 Q Right. I'm talking about a writing.

6 A Oh, a writing?

7 Q The question that Mr. Dickerson asked you had to do  
8 whether it was important to have a prior written authorization  
9 should a creditor ever challenge whether the trust is  
10 operating in accordance with its terms and law?

11 A That's a good question. I would have to review the  
12 statute again to see if it suggests a written authorization or  
13 just an authorization. So I can't answer that, sorry.

14 Q We'll argue that at law, too.

15 In fact, do you recall that under the terms of your  
16 trust, in this case both Lynita's Trust and Eric's Trust, that  
17 it will allow prior authorization to occur by telephonic  
18 communication?

19 A Yes.

20 MR. DICKERSON: Which I object to that question. It  
21 mischaracterizes. It talks about the meetings --

22 THE WITNESS: What -- do you want me to review the  
23 trust?

24 MR. DICKERSON: -- and how a meeting would occur.

1 THE COURT: (Indiscernible - 15:25:28) that section  
2 because I thought that with the annual meetings I thought, but  
3 I can look and see what it says.

4 THE WITNESS: Can I --

5 THE COURT: What exhibit was it?

6 MR. DICKERSON: Exhibit 86.

7 THE WITNESS: Let me read the -- can I review the  
8 exhibit?

9 THE COURT: Yeah, why don't you look at 86.

10 THE WITNESS: Oh, I'm sorry.

11 MS. PROVOST: Eighty six.

12 THE COURT: Okay. Page 3, Section 3.3 maybe.

13 THE WITNESS: It does say

14 THE COURT: I'm not sure if that -- there's  
15 something else, but --

16 THE WITNESS: Yeah, it does say that the meeting  
17 held, which must include the distribution trustee can be  
18 telephonic -- can be done telephonically.

19 BY MR. SOLOMON:

20 Q That meeting can authorize the distribution and that  
21 distribution, if it was done telephonically, wouldn't  
22 necessarily be in writing, correct?

23 A Yes.

24 Q Thank you.

1 (Pause.)

2 BY MR. SOLOMON:

3 Q Can you turn to Exhibit 1.

4 A Yes.

5 Q There's a note there that says, "Julie, see if Dave  
6 Jones can meet with her for advise her on the agreement."

7 Do you see that?

8 A Yes.

9 Q Who's Dave Jones?

10 A You know, I was trying for remember the same thing.  
11 I know that there's a David Jones that's an attorney. Well,  
12 it must be the David Jones that I know. I forget which firm  
13 he was at, at the time, but he's a local attorney.

14 Q And that "her" in there would be Lynita?

15 A Yes.

16 Q Does this refresh your recollection as to whether or  
17 not you had discussed with Lynita various attorneys she might  
18 see?

19 MR. DICKERSON: To which I object. You never asked  
20 that question.

21 THE COURT: The notes -- basically your testimony  
22 refers to Dave Jones?

23 THE WITNESS: That's who we initially had in mind  
24 and then it changed to Richard Coke and I don't know why.

1 THE COURT: And with her it would have been Lynita.  
2 THE WITNESS: I believe it would have been someone  
3 we would have recommended.  
4 MR. SOLOMON: Nothing further.  
5 MR. DICKERSON: I have nothing further.  
6 MS. FORSBERG: Nothing.  
7 MR. SOLOMON: You're free.  
8 THE COURT: I don't know. I wouldn't say "free."  
9 (Laughter)  
10 THE WITNESS: Thank you.  
11 THE COURT: I apologize for making you come down a  
12 second time. It's always a pleasure to see you.  
13 THE WITNESS: Thank you.  
14 Good to see you, Your Honor. Thank you.  
15 THE COURT: We'll take a break.  
16 THE WITNESS: Am I free to leave?  
17 THE COURT: So far, but I wouldn't answer my mail  
18 for awhile or answer my door.  
19 (Laughter)  
20 THE WITNESS: My phone is going to be off for  
21 awhile.  
22 UNIDENTIFIED FEMALE SPEAKER: I'd run and run fast.  
23 THE COURT: We really apologize for that  
24 (indiscernible - 15:29:22).

1 THE WITNESS: That's okay. I know these things  
2 happen. We get a calendar call, you gotta do them.

3 THE COURT: Thank you.

4 It's 3:30, what did you want to do? Did you want to  
5 start your experts and get it going?

6 We can take a ten minute break until about a quarter  
7 to 4:00. The only thing is that a lot of times when we start  
8 that late, then we end up the next day going over everything  
9 that we did the last hour because people want to refresh.

10 I'll leave it up to you guys. I'm fine to keep  
11 going, so I'll leave it up to you, whatever you think.

12 MR. SOLOMON: He's here. He's waiting.

13 MR. DICKERSON: We can start with him and then I  
14 take it that you're going to probably take the rest of the day  
15 for him, I would imagine?

16 THE COURT: Yeah, why don't we take a ten minute  
17 break and at least get an hour or so of testimony.

18 (Break taken from 15:29:59 15:42:49)

19 THE COURT: Before we start, I just want to let  
20 me get this on the record. This is the time set in the matter  
21 of Eric Nelson and Lynita Nelson, case number D 411537. We  
22 are coming back from a brief recess.

23 Tomorrow I have mental health court at 1:30. It  
24 normally takes about 45 minutes, so if you want to go a little

1 bit longer in the morning like until 12:30 and take a longer  
2 lunch break so I don't tie you guys up on it, just so you can  
3 plan on your witnesses. I know you got your experts. Because  
4 my mental health court is at 1:30, I never know how many are  
5 on there because it depends on how many kids they throw in  
6 those locked hospitals over the last week.

7 MS. FORSBERG: Your Honor, if you have that -- it  
8 would at least last until about 2:30, I have just a quick  
9 return on an FMC return at 2:30. I just --

10 THE COURT: Okay.

11 MS. FORSBERG: I am trying to get somebody to cover  
12 it, but if I can go to it, I won't have to.

13 THE COURT: Yeah, just let us know. That should be  
14 quick on that.

15 MS. FORSBERG: Okay.

16 THE COURT: So we should be done by about 2:30, but  
17 let me know if you're running a few minutes late that way  
18 because I'll feel bad knowing that we tied up witnesses  
19 sitting there for an extra hour.

20 MR. SOLOMON: Appreciate it.

21 THE COURT: Of course after this trial, maybe I'll  
22 get on those psychotropic medications, myself.

23 (Laughter)

24 THE COURT: Get the kids off and I'll start taking

1 them.

2 MR. SOLOMON: Save some for us, counsel.

3 THE COURT: And it's on the record, so I guess there  
4 goes my campaign re election. They always like my  
5 transcripts, because throw stuff on the record that makes them  
6 smile when they're transcribing it.

7 (Laughter)

8 Are you ready to go forward at this time, Mr.  
9 Solomon? I take it you want to call Mr. Gerety?

10 MR. SOLOMON: I call Mr. Dan Gerety.

11 THE COURT: Watch your step when you go up on that  
12 step there.

13 MR. GERETY: Okay, Your Honor.

14 THE COURT: They got a book there for you. I see  
15 you got your own book, too. There's a lot of books up there  
16 for you, so we'll move it around for you just so make sure  
17 that you're comfortable.

18 MR. GERETY: Yeah, let me make sure.

19 THE COURT: Remain standing and raise your right  
20 hand and they'll get you sworn in and we'll get this started  
21 for you.

22 THE CLERK: Do you solemnly swear the testimony  
23 you're about to give in this action shall be the truth, the  
24 whole truth and nothing but the truth, so help you God?



1 THE WITNESS: I do.

2 THE CLERK: Thank you. You may be seated.

3 THE COURT: Could you state and spell your name for  
4 the record so we get it, first and last.

5 THE WITNESS: First name is Daniel, D A N I E L.  
6 Gerety is the last name, G E R E T Y.

7 THE COURT: Thank you.

8 **DANIEL GERETY,**  
9 called as a witness on behalf of the Intervenors, testified as  
10 follows on:

11 **DIRECT EXAMINATION**

12 BY MR. SOLOMON:

13 Q Mr. Gerety, you're a resident of Clark County,  
14 Nevada?

15 A I am.

16 Q How long have you been so?

17 A Since '96, January of '96.

18 Q You're a certified public accountant?

19 A I am.

20 Q Where are you licensed as such?

21 A In Nevada.

22 Q And how long have you been a CPA?

23 A Since 1982.

24 Q And what have you done between 1982 and currently,

1 with respect to your work experience?

2 A I started in 1982, I went to work for McGladrey &  
3 Pullen, a public accounting firm in Galesburg, Illinois. I  
4 stayed in Galesburg for nine years and transferred to our  
5 Peoria office in 1996 and transferred with McGladrey to Las  
6 Vegas in January of '96. Started off as an auditor with them  
7 and later became a tax partner with that firm. I was with  
8 them almost 23 years. I left in 2004 and started my own firm  
9 and that's where I'm at today.

10 Q Okay. Do you focus your accounting practice in any  
11 specific areas of accounting?

12 A At taxation as a whole, and also our best niche is  
13 estate and gift planning.

14 Q And in your accounting practice, do you prepare  
15 accountings for irrevocable trusts?

16 A I do.

17 Q How many do you do or have you done over the years?

18 A Hundreds. I mean I started in the '80s. We  
19 prepared the returns for four different banks, all their trust  
20 returns and even advised them as when their accounting was off  
21 and what they should allocate the income and principal. So  
22 I've been doing it for a long time.

23 Q And in your accounting practice, do you prepare  
24 accountings for self settled spendthrift trusts?

1 A I do.

2 Q How long have you been doing that?

3 A Since -- we've had them since '99. Well, not  
4 really. Probably about 2001, '02, somewhere around there when  
5 our clients first had them.

6 Q Have you ever served or do you currently serve as  
7 distribution trustee of any self settled spendthrift trusts?

8 A I do.

9 Q And you indicated that one of your niche practices  
10 is in estate and gift planning?

11 A That's correct.

12 Q Okay. Is part of that involved you in advising  
13 clients with respect to irrevocable trusts and self settled  
14 spendthrift trusts?

15 A It does.

16 Q And are you -- have you attended continuing  
17 education courses with respect to those types of trusts?

18 A A substantial amount. I've even taught courses in  
19 Steve Oceans (phonetic) and Dick Oceans and I have taught  
20 courses. I'm teaching one coming up in September which will  
21 cover material on trust and spendthrift trusts. I attended a  
22 lot. I go to the Hicklinger (phonetic) estate planning  
23 conference every two or three years which is down in Florida  
24 and the AICPA's estate planning conference. Actually, I'm

1 scheduled to attend that Monday, which I paid for and will  
2 probably miss.

3 Q What's the Heckerling --

4 A The Hicklinger [sic] is the University of Miami  
5 Hicklinger Institute, continuing legal education. It's  
6 probably the largest estate planning conference in the  
7 country. They probably have 4,000 attorneys that attend that  
8 down in Orlando. I'm one of the few accountants that actually  
9 attends that.

10 Q When were you retained by me to serve as an expert  
11 in this case?

12 A When we first started work I went with Angela to  
13 start going through tracing of the transfers into the trust  
14 and so forth, was in September of 2011.

15 Q And did that project take you a lot of time?

16 A It did.

17 Q Before I get more into that, what specifically were  
18 you asked to do?

19 A Originally we were asked to try to trace the assets  
20 from the separate property agreement that was in -- was it  
21 '93, if I remember it right, '93, I think -- from '93 all the  
22 way to September of 2011 at the time and we weren't able to  
23 get all of those old records. We were not able to do a  
24 tracing from '93. The best we -- with the records that were

1 available, was to go from 2001 to 2011.

2 Q Had you ever performed services for Eric prior to  
3 your retention as an expert in this matter?

4 A Yes.

5 Q What when's the first time you recall providing  
6 services to Eric Nelson in entities in which he was involved?

7 A If my memory is correct, it was '98, 1998. Chanel  
8 Castle, who was one of my partners at McGladrey referred me to  
9 Eric and we worked together on the Wyoming Downs transaction  
10 and the sale and the exchange with which was Dynasty, Inc.,  
11 now it became Phoenix Leisure -- I helped him structure that  
12 entire deal. That was the first time of working with Eric.

13 Q Okay. And subsequent to that time, did you remain  
14 involved in any of Eric's businesses?

15 A Yes. We became the accountants for Phoenix Leisure.  
16 We did all the tax work for that company after it sold The  
17 Jockey Club and it owned Wyoming Downs at that time. We  
18 any time Eric would have a complex transaction come up, even  
19 though I wasn't preparing his tax returns, he called on me to  
20 help structure the transactions if it was a complicated  
21 transaction.

22 So, the Washington card house, I was involved with  
23 intimately, and we did the returns for those when -- and you  
24 know, whatever needed to be done there -- looked over the

1 accounting. There was K-1 -- if I remember right, the Las  
2 Vegas casino, when that deal was closing out, Eric was  
3 bringing me those final K 1s to advise him on exactly how  
4 those should be treated for tax. I actually advised him CPA  
5 on how that should be handled. The Silver Slipper deal, I was  
6 intimately involved with that and a lot of the things that  
7 came up, reviewing the partnership agreement and stuff like  
8 that, with Eric.

9 Q Did you represent Eric or Lynita or any of the  
10 entities with respect to any tax returns or tax audits?

11 MR. DICKERSON: Object to the form of the question  
12 and the compound nature. I'm sure that you're going to break  
13 it down, if you do, but

14 MR. SOLOMON: I will break it down.

15 MR. DICKERSON: Thank you.

16 THE WITNESS: Yes.

17 BY MR. SOLOMON:

18 Q Who did you represent?

19 A I represented Eric, and it was a year -- I wasn't  
20 involved in the preparation of the tax return. Eric was  
21 actually handling the audit himself and they got to a sticking  
22 point with the auditor and it was a deal that had to deal with  
23 basis on Wyoming Downs and losses and whether there was enough  
24 basis to deduct that, so I had to go through with the IRS

1 auditor, the transaction on how we got basis and gave him a  
2 copy of a memo that I had done on tracking everything and we  
3 there was some substantial losses that were being carried back  
4 and, yeah, it resulted in a no change on that particular  
5 audit.

6 Q Did you do any other audit work for him?

7 MR. DICKERSON: Can we have a time frame for that?

8 THE WITNESS: That was -- God, what year was that.

9 You know, I'm not sure probably four years ago. I would  
10 guess four years, but I'm not positive. I don't remember.

11 BY MR. SOLOMON:

12 Q Okay. Did you do any other tax audit work with him?

13 A Yes. We just -- I actually filed a Tax Court  
14 petition with another attorney and took that through appeals  
15 and got that settled just recently, just last year, which had  
16 to do with The Silver Slipper, the deductibility of those  
17 losses and his basis in that entity.

18 Q Have you done any tax preparation services for Eric  
19 or his entities?

20 A Yes. We started preparing Eric's personal separate  
21 return in 2006 and we've been doing that since then.

22 Q Do you recall becoming aware of the separate  
23 property agreement between Eric and Lynita and their separate  
24 property trusts in connection with any other work you did for

1 them -- or for him?

2 A Yes, I was aware of the trust

3 MR. DICKERSON: And just for the record, Your Honor,  
4 I raise the same objection that I discussed earlier, that any  
5 questioning by the trust with respect -- by the ELN Trust with  
6 respect to the 1993 separate property trust, they do not have  
7 standing.

8 THE COURT: So noted.

9 THE WITNESS: Okay. Yes, I mean I was aware that  
10 the trust existed. You know, I don't exactly remember when.  
11 It would have had -- I had to have known because I reviewed  
12 all of the sales transactions of Wyoming Downs and I was  
13 intimately involved with all of the contract work which would  
14 have showed that it was his separate property trust, as the  
15 person transacting that, so I was aware of that at that time.

16 BY MR. SOLOMON:

17 Q At some point did you become aware of the self  
18 settled spendthrift trust that Eric had?

19 A Yes.

20 Q When was that?

21 A Again, I'm not sure how early. You know, obviously  
22 I was aware of it as early as 2006 because I prepared tax  
23 returns for the trust. Prior to that, I really don't recall  
24 how much -- I don't recall what year I became aware of them



1 prior that.

2 Q Do you recall -- do you have any recollection of  
3 speaking with Eric about transferring assets between his self  
4 settled spendthrift trust and Lynita's?

5 A I do.

6 MR. DICKERSON: Objection.

7 THE COURT: He answer the question.

8 BY MR. SOLOMON:

9 Q What do you recall?

10 MR. DICKERSON: Objection to any hearsay, Your  
11 Honor.

12 THE COURT: It's overruled. You can go ahead.

13 MR. SOLOMON: For the purposes of the truth.

14 MR. DICKERSON: Well, what's it being offered for?  
15 It's irrelevant.

16 MR. SOLOMON: No, it's not. It's pertinent.

17 THE COURT: Overruled. Have you finished your  
18 answer?

19 THE WITNESS: Eric -- we were going over some other  
20 transaction, I don't recall which one, but while we were  
21 meeting I know he then asked me -- he did ask me at one time  
22 what's the best way to transfer assets between the two trusts,  
23 as far as protecting? I want to put safer assets over in  
24 Lynita's Trust and transfer riskier ones in mine. He asked me

1 what was the best way and my advice was, you know, the best  
2 way I saw was do exchanges as if you were, you know,  
3 transferring property for value.

4 BY MR. SOLOMON:

5 Q In connection of your preparation of Eric's tax  
6 returns, did you regularly get financial information and  
7 records from his staff?

8 A Yes.

9 Q Did you ever work with Shelley Newell when you were  
10 helping Eric structure some of these transactions?

11 A Yes, I worked a substantial amount of time with  
12 Shelley, Shelley Newell.

13 Q How would you judge her confidence in bookkeeping?

14 A I thought she was very confident. She was very  
15 enthusiastic about what she was doing. She pretty much ran  
16 all of the details of the card houses in Washington. She was  
17 very involved with Phoenix Leisure and kind of a partial  
18 management position, it would seem like to me, in just the  
19 accounting, she was very involved and provided us with the  
20 information that we needed to do those returns.

21 Q Did you find her bookkeeping to be reliable?

22 A I did.

23 Q Have you ever worked with Lana Martin?

24 A Yes.

1 Q How would you judge her competence in bookkeeping?

2 A I think she's competent. She's not an accountant,  
3 but she's competent. We got everything that we needed to  
4 prepare the tax returns.

5 Q Did you find her bookkeeping generally to be  
6 reliable?

7 A Yes.

8 Q Now, you indicated earlier that I asked you to  
9 prepare a tracing analysis of whether the ELN self settled  
10 spendthrift trust and the LSN self settled spendthrift trust  
11 kept their assets separate. What did you do to perform that  
12 task?

13 A We gathered all the general ledgers that were  
14 available for 2001 through September of 2011.

15 MR. DICKERSON: I'm sorry, what was the start date?

16 MS. PROVOST: 2001.

17 THE WITNESS: 2001.

18 MR. DICKERSON: Starting in January?

19 THE WITNESS: The general ledgers went from January  
20 to -- yes, I answered the question, and we -- so then we  
21 looked at what the beginning assets were. We followed deposit  
22 coming in. We followed -- made sure that we could -- knew  
23 what assets were coming into the trust, where they were coming  
24 from. And so we looked at all of the capital contributions,

1 if they were recorded that way. We made sure to look at the  
2 income to make sure it was income from the assets owned by the  
3 trust. We looked -- we just traced really all of the money  
4 coming into the trust and in particular, we looked at a lot of  
5 expenses and made sure they belonged to the trust and traced  
6 and started asking questions and gather more information  
7 because we were missing bank statements. Some of the trust  
8 accounts, we had to get statements for because all of the  
9 activity wasn't actually posted there and even though it was  
10 just investment accounts is what it was, so when the money  
11 came in and out they were posting that.

12 BY MR. SOLOMON:

13 Q Okay. Did you also track outflows?

14 A Yes.

15 Q So you basically tracked all of the inflows and  
16 outflows during that time period?

17 A Yes.

18 Q And you indicated that if there were gaps in your  
19 information, what did you do to try -- if there were gaps in  
20 your information from what you had been initially provided,  
21 what did you do to fill in those sources?

22 A We put together a list of what the gaps were. We  
23 worked together with Lana and Rochelle and, you know, here's  
24 what we need. What is this? If we couldn't tell what it was,

1 where did this come from? Give us the backup on it.

2 They had to go back to the bank to get statements.

3 They had to, you know, Eric didn't have all of the original  
4 documents is why we had to go back to the banks, so it was  
5 and then once we got those questions answered, those gave us  
6 new questions. So as each time we got your questions  
7 answered, we had more questions, which caused us to keep  
8 asking for more information before we got through it all.

9 Q And besides bank statements, did you get transaction  
10 statements?

11 A We got deeds of trust. We got sales agreements. We  
12 got closing documents. We got assignments, some minutes, not  
13 all of them. We got spreadsheets on summaries of titles and  
14 summaries of what the transactions were.

15 Q And can you estimate how many transactions you had  
16 to look at over the course of that time?

17 A It thousands, obviously, of transactions. I mean  
18 each year -- each year -- so what, we were covering nine years  
19 ten. Yeah, one through -- 11 years, we had 11 years of  
20 transactions and each year had easily 400 transactions going  
21 through it, just one checking account. So, yeah, a lot.

22 Q And had -- were some of the accounts closed by the  
23 time you were looking?

24 A Oh, yeah -- yes.

1 Q That's why you had to go back to the bank to get  
2 some of the records?

3 A Yes. The bank had some problems because they were  
4 old. We only keep them for four years, five years, and we  
5 were trying to go back to 2001.

6 Q All right. You indicated that you had a balance  
7 sheet as a -- from January 1, 2001?

8 A Correct.

9 Q And what was that a balance sheet for, for what  
10 entity?

11 A What it appeared to us and it appeared to me, they  
12 had kept the GL for -- a general ledger, excuse me -- a  
13 general ledger for a separate property trust

14 Q You're talking about Eric's separate property trust?

15 A Eric's separate property trust.

16 And they just continued that general ledger for the  
17 Nevada trust, the Eric Nelson Nevada Trust. So all the assets  
18 in March, or as they were gradually transferred during 2001,  
19 they all show as being owned -- they're all on that general  
20 ledger on January and there was retained earnings and so  
21 forth. So obviously what they had done is taken their  
22 separate property trust and just continued going forward.  
23 They didn't start a brand new general ledger.

24 Q Okay. Did you make a conclusion from that as to

1 where the source of the 2001 trust assets originated?

2 A Well, it's -- if they just continued the general  
3 ledger, they were continuing the accounting for the separate  
4 property of Eric's on a previous general ledger and just, the  
5 conclusion you can make is they just carried it forward. Then  
6 we -- but we also looked at each of those assets that were  
7 listed there and then looked for the assignments and said  
8 where are the assignments? We made sure we tracked down every  
9 assignment and if there was one that we couldn't find or if  
10 there was an exception we would note it. Like the cars were  
11 never titled in the trusts name, for instance.

12 Q And as you had questions with respect to the issues,  
13 who would you discuss those with?

14 A With Rochelle, Lana and Eric, the three of them.  
15 Lana originally was kind of our main contact, along with Eric.

16 Q Did you make any inquiry whether the assets of the  
17 of any of them, whether the assets of the ELN separate  
18 property trust and the LSN separate property trust were kept  
19 separate?

20 A Yes, and I even went and spoke with Shelley Newell  
21 specifically because I was asking who was doing the accounting  
22 then, who has that knowledge? And Shelley had been working  
23 for Eric and had done the accounting for the separate property  
24 trusts from at least before 2000 -- from '93 -- excuse me. I

1 think she quit right around 2001. She didn't quit Eric, but  
2 she quit preparing the accounting for the trust.

3           So I met with her and spoke with her and she assured  
4 me that everything had been kept separate; that was her  
5 priority. She was doing the accounting. She made sure that  
6 everything was kept separate is what she had told me.

7           Q     Are you aware of any -- did you become aware of any  
8 loans that were made between the ELN Trust and the LSN Trusts  
9 from 2001 through the end of year period?

10          A     Yes.

11          Q     What did the books of accounts that remain paying  
12 for the ELN Trust contain to reflect those?

13          A     The general ledger kept -- there were actually two  
14 accounts that kept track of due to/due froms the two trusts.  
15 So when the loan was made, they would book that on the general  
16 ledger and show a liability. As it was paid off they would  
17 show it being paid off and show the assets being transferred  
18 that was used to pay that off.

19                The due to/due from went both ways though.  
20 Sometimes the trust would pay an expense for an asset of  
21 Lynita's Trust and they would show that from due from Lynita's  
22 Trust and back and forth. So it was debits and credits going  
23 back and forth, cash in and out, and they separated it and  
24 accounted for it every year.



1 Q Were you able to determine whether all of the loans  
2 that had been so booked had been satisfied?

3 A Yes. The first one was like a \$440,000 loan.  
4 Assets, there was some Mississippi property that was used to  
5 pay that off from Lucky, Lucky, Lucky and cash in and out, you  
6 could just I was just tracing the dollars going back and  
7 forth. And for the most part, it looked like the major notes  
8 were paid off, but there was still -- I had -- I had prepared  
9 an exhibit of the cash coming in and out. If you ignore some  
10 of the property transfers, there was still cash due to  
11 Lynita's Trust at September of '11, just looking at cash only.  
12 Like I said, some of those notes were paid off with property.

13 Q And did it appear from reviewing the general ledgers  
14 that those loans between the trusts occurred after they became  
15 the 2001 self settled spendthrift trust?

16 A The loans that I -- yes. Actually, there was -- the  
17 beginning balance sheet did not show any due to/due froms at  
18 January 1 of 2001. The first time there were transactions  
19 that appeared in those accounts, but obviously we didn't look  
20 back at prior years, but there was no prior balance. So in  
21 2001 was the first time and there was a \$440,000 loan signed  
22 document actually in that year.

23 Q Now, in reviewing the records from the ELN Trust,  
24 did you find any issues with bookkeeping had been done?

1       A     There was some issues, yes, that we saw. We made  
2 journal entries because we were able to track and look at  
3 everything and basically say, well, this should have been, so  
4 it was classified as this and it should have been classified  
5 this way and made any corrections as we went to what we  
6 thought was the proper accounting.

7       Q     Okay. Is -- and you've done this type of process on  
8 a number of occasions where you've reviewed bookkeeping done  
9 internally from a business or a trust and then reviewed it?

10      A     We make journal entries for just about every client  
11 that we do tax returns for.

12      Q     So it's a common practice that CPAs do when they get  
13 in house bookkeeping from clients to review those and  
14 determine whether or not things have been properly classified  
15 and posted?

16      A     That's correct.

17      Q     As you find things that have been classified or  
18 posted in a way that you would think is technically incorrect,  
19 what do you do?

20      A     We talk to the client and we make journal entries  
21 and give them to the client so they can post them to their  
22 books.

23      Q     And can you give the Court some examples of some of  
24 the mispostings that you saw in this case?

1       A     Yes. The biggest was we saw a lot of activity going  
2 through the capital accounts, capital contributions and  
3 distributions and there were a few -- Eric kept his main  
4 investment account was not actually kept on the books. So  
5 like the Mellon account, for instance, that balance was not  
6 tracked, only the transfers back and forth between that, and  
7 they were recorded as a capital contribution if money was  
8 coming from the Mellon account into a checking account into  
9 the trust or buying an asset.

10       Q     Before you go on, let's make sure that we understand  
11 that.

12               So they were recording -- when Eric was taking money  
13 out of the Mellon account and transferring it into some other  
14 account --

15       A     Owned by the trust.

16       Q     -- that was being tracked on the books, it was  
17 showing as if he was putting new assets into the trust?

18       A     Correct.

19       Q     A capital contribution?

20       A     A capital contribution is what it was showing.

21               And so we went and -- and so the transactions within  
22 that account were incorrectly shown as distributions and  
23 contributions and they were not; they were just transfers  
24 between one trust account and another trust account. So we

1 received all of the monthly statements for that account and on  
2 a monthly basis trans -- reported -- recorded the just and  
3 journal entries of every single transaction that went through,  
4 interest, dividends, and then the transfers, we booked that  
5 asset on the books, trust GL, as an asset, and so it  
6 eliminated all of those distributions and capital  
7 contributions on their GL.

8 Q You talked about the capital contributions. The  
9 distribution side would be if the trust wrote monies out of  
10 some accounts that were being booked for Eric that went into  
11 his Mellon account that was -- that looked like, at least on  
12 the books it was a distribution to him; is that correct?

13 A That's correct.

14 MR. DICKERSON: Objection; leading, Your Honor.

15 MR. SOLOMON: It's a recap, Your Honor.

16 MR. DICKERSON: Your recap is improper, too, then.

17 THE COURT: Let's move on.

18 THE WITNESS: There was -- but that was -- that's  
19 probably where most of our journal entries came from, as far  
20 as the number of journal entries because we were posting those  
21 on a monthly basis, so there would be 12 journal entries for  
22 one year, you know, for each month's activity.

23 Shall I continue?

24 MR. SOLOMON: Sure.

1 MR. DICKERSON: Is there a question pending?

2 BY MR. SOLOMON:

3 Q What other issues?

4 MR. SOLOMON: What's that?

5 MR. DICKERSON: Is there a question pending?

6 MR. SOLOMON: Yes, I said, "What issues did he find  
7 with the books?"

8 THE COURT: (Indiscernible - 16:16:22) some -- if  
9 you can give an example of some of the issues. You talked  
10 about the Mellon account.

11 THE WITNESS: Yeah, that was one issue.

12 We -- let me see if I remember here. We had the  
13 Terra Del Sol was told a year or two after that, there was  
14 still a note balance due. That was deposited in Eric's Mellon  
15 account, which was an asset of Lynita's Trust, belonged to  
16 Lynita's Trust. So that was -- we made the journal entry for  
17 that, that showed that that should have gone through the due  
18 to/due from.

19 Then there were expenses of Lynita's personal taxes  
20 were paid by Eric's personal trust and we posted that back as  
21 a due to/due from.

22 BY MR. SOLOMON:

23 Q Let me -- I'm going to stop you and go through some  
24 of the details on these before we move on to too many issues.

1 A Okay.

2 Q You indicated that the Terra Del Sol funds had been  
3 posted into his trust; is that right?

4 A One payment came into his trust, yes. Not all of  
5 the funds, but -- and it was after the sale, a year or so  
6 after the sale when the payment was made.

7 Q And do you recall how much that was?

8 You can refer to your report if you need to refresh  
9 your recollection.

10 A I think it was around -- let's see. It was just  
11 over a million dollars.

12 Q Do you know what happened to that million dollars  
13 after it was transferred in?

14 A Yes. Approximately -- it was immediately -- it was  
15 almost the same day that \$25,000 of it was transferred to  
16 Lynita's Trust. Then later that same -- I think it was that  
17 same year -- let me go back here again -- about \$600,000 of it  
18 went to pay Lynita's personal tax liability and that's where a  
19 majority of it went, was back to Lynita, actually, not all of  
20 it, though.

21 Q You said a little over a million. Was it \$1.4  
22 million? Can you tell us what the actual number is?

23 A Yeah. Sir, you're right. I was looking at the  
24 wrong number on that schedule. It was a million four, sixty

1 one ninety --

2 Q Okay.

3 A -- which came from Fidelity Title.

4 Q Were those Terra Del Sol proceeds commingled?

5 A No, I mean we've accounted for them separately.

6 MR. DICKERSON: Object to the form of the question.

7 What do you mean accounted for them?

8 MR. SOLOMON: I'm going to ask a follow up

9 questions.

10 BY MR. SOLOMON:

11 Q After these funds were deposited into the ELN  
12 separate property trust account, were there enough liquid  
13 assets in that trust to meet both all of its outflows and to  
14 reimburse the LSN Trust?

15 MR. DICKERSON: Object to the form of the question.

16 MR. SOLOMON: On what grounds?

17 MR. DICKERSON: How would he know it's enough? I  
18 mean let's give us a number and we can figure out whether it's  
19 enough.

20 MR. SOLOMON: Let me re ask the question. I'm told  
21 that I misstated it.

22 THE COURT: 1.461 was the number with some change on  
23 that.

24 //

1 BY MR. SOLOMON:

2 Q Let me ask it this way: Did you do an analysis of  
3 whether -- what the cash outflows were or the ELN's separate  
4 property trust after the Terra Del Sol's proceeds were  
5 deposited, that \$1.4 million dollars were deposited did I  
6 misstate it again?

7 MR. LUSZECK: You said separate property trust  
8 again.

9 MS. FORSBERG: Self settled.

10 MR. SOLOMON: It must be getting late.

11 MR. DICKERSON: You're getting like me -- not that  
12 bad. Sorry, that wasn't defensive.

13 BY MR. SOLOMON:

14 Q All right. Did you do an analysis, Mr. Gerety, of  
15 whether after the \$1,460,190 of Terra Del Sol money was posted  
16 into the books of the ELN Trust of what outflows thereafter  
17 came out of that trust at all times until the end of  
18 accounting period?

19 A Yes.

20 Q As a result of that analysis, were you able to  
21 conclude whether there was enough liquid assets in the ELN  
22 Trust at all times after that deposit of \$1.4 million dollars  
23 to return the money to the LSN Trust and to meet all of the  
24 outflows for the ELN Trust?



1 A Yes, there was.

2 Q Now, you also indicated there was some misposting  
3 I'm not sure how you characterized it -- of a property that  
4 was owned by both trusts?

5 A Yes.

6 Q What does that relate to?

7 A The Lindell commercial building was transferred so  
8 that it was a 50/50 ownership. Fifty percent of it was  
9 transferred from one trust to the other. When -- after that  
10 happened, it appeared that, and, again, I didn't review  
11 Lynita's Trusts, all of her GLs and so forth, but Eric was not  
12 receiving his 50 percent of the rent initially after that  
13 transfer for a number of months. But then after that Eric  
14 started receiving a hundred percent of the rents. His trust  
15 I shouldn't say Eric -- Eric's Nevada trust started receiving  
16 a hundred percent of those rents and was paying a hundred  
17 percent of the expenses on that property.

18 Q Either way, when you said Lynita's Trust was  
19 receiving all of the rent, was her trust paying all of the  
20 expenses as far as you could tell?

21 A It appeared that way, yes.

22 Q Okay.

23 A That's my assumption, but I wasn't able to confirm  
24 that.

1 Q Eric's trust wasn't paying them?

2 A No.

3 Q Okay.

4 A There was also a house -- Arnold, 830 Arnold.

5 Q All right. Before you move on away from the  
6 Lindell, what were you able to do to correct that posting  
7 errors or those booking errors?

8 A We showed the expenses and the rent that was  
9 collected by Eric and took 50 percent of that money and showed  
10 that Eric's trust owed that back to Lynita's Trust --

11 Q Okay.

12 A -- and then booked that into the due to/due from  
13 account and a payable between the trusts.

14 Q Okay. Were any of those funds commingled such that  
15 you couldn't account for any of them?

16 A No, we were able to account for all of those funds,  
17 and like I said before, there were plenty of liquid assets to  
18 satisfy those obligations.

19 Q Okay. And enough liquid assets in Eric's trust to  
20 satisfy all of his outflows, irrespective of those monies,  
21 right?

22 A Yes.

23 Q All right. You mentioned 830 Arnold, what's that?

24 A It's just a little house. It was minor. A small

1 amount of rent, maybe \$7,000 a year or something like that,  
2 but Eric's trust, for a period of time was receiving -- it  
3 looked like he was receiving the rents for that, that should  
4 have gone to Lynita's Trust.

5 Lynita's Trust had owned it since 2004 and from 2008  
6 through 2011 it looked like Eric's trust was collecting that  
7 money. I think it netted something less than \$7,000 a year.

8 Q Were you able to make adjustments to rectify that?

9 A Yes.

10 Q In your opinion, were those funds commingled

11 MR. DICKERSON: Object to the form of the question.

12 BY MR. SOLOMON:

13 Q Such that -- can I finish it?

14 MR. DICKERSON: Oh, I'm sorry. I thought you put a  
15 question mark there. I'm sorry.

16 MS. FORSBERG: It's getting late.

17 THE WITNESS: No. We were able

18 BY MR. SOLOMON:

19 Q Hold on. I gotta get the question out before you  
20 answer it. In your opinion, were those funds commingled such  
21 that you could not account for the same?

22 A No, we were able to account for them separately.

23 Q And, again, at all times while that money was on the  
24 books for Eric's trust, was there sufficient cash in his trust

1 to pay for all of his outflows?

2 A Yes.

3 Q And to reimburse that amount?

4 A Yes.

5 Q All right. Did you see any issue with respect to  
6 any tax refunds that had been received in any years?

7 A Just one. There was a refund of from a net  
8 operating loss carryback, I believe, to a year prior to the  
9 trusts. Let me see, let me make sure I'm getting the right.  
10 Not prior to -- in 2006, there were tax refunds of \$195,010  
11 that was received from the IRS due to the net operating loss  
12 carryback to 2001 and 2002. So they were 2001, 2002 refunds,  
13 and that was a joint tax return and that money was deposited  
14 into Eric's trust.

15 Q Okay. Whose property or losses generated that tax  
16 refund?

17 A It -- those refunds, I think were the same years  
18 going through audit and those losses had been generated from  
19 Eric's separate property is what created the net operating  
20 losses. So it was his losses that had caused the refunds.

21 Q Notwithstanding that, you did what with that in  
22 terms of your adjustment?

23 A Well, I wasn't sure, because I wasn't able to trace  
24 it. I didn't have which trust paid what in taxes, if it was

1 their separate property coming back and didn't do an actual  
2 true tracing of that refund. I split it 50/50, so I showed  
3 that half of it was due back to Lynita's Trust.

4 Q Did you feel that was the conservative methodology  
5 to handle that issue?

6 A I am certain that my approach to that favored  
7 Lynita, as far as the accounting went, so, yes.

8 Q So, for this entire period, did you find that any of  
9 the assets owned by the two self settled spendthrift trusts  
10 were commingled in a way in which you could not separately  
11 account for them?

12 A No.

13 Q Can you verify to this Court that the ELN Trust, at  
14 all times had sufficient funds to reimburse the LSN Trust for  
15 anything it owed it and to cover its own outflows?

16 A It did.

17 Q In preparing your analysis, did you also become  
18 aware that there were transfers of properties between the two  
19 trusts?

20 A Yes.

21 Q And when did those occur?

22 A The first one we saw was in 2002 which was property  
23 transferred to pay off a note and there was an agreement  
24 signed by both parties saying that we're transferring this as

1 satisfaction of this note.

2 And then in 2004, there was substantial -- all of  
3 the Mississippi property owned by Dynasty, owned by Eric's  
4 trust, owned by all the other entities, almost all of them, I  
5 should say, were transferred to Lynita's Trust.

6 Q Do you recall now, now that you've done this  
7 accounting, was this at or about the time that Eric had called  
8 you and asked your advice about how to transfer properties  
9 between the trusts?

10 A I just don't remember what year that was, so I can't  
11 say if it was. It may have been, but I can't say.

12 Q Were you able to confirm whether the transactions  
13 had been completed between the trusts?

14 MR. DICKERSON: I'm sorry. I don't understand the  
15 question so I need to object to it.

16 What transaction are we talking about?

17 MR. SOLOMON: The ones he just testified to, the  
18 transfers between the trusts in --

19 MR. DICKERSON: 2004?

20 MR. SOLOMON: -- 2004 through

21 THE WITNESS: It was explained to -- it was  
22 explained to me that the transfers were to start cleaning up  
23 the title on Mississippi and then that there was going to be  
24 transfers back, that it was part of an exchange and that in

1 the end result there would be some of the source notes and  
2 property that were related to source would be transferred to  
3 Eric's trust and that the -- in the end, the plan had been  
4 that 50 percent of the Mississippi property would be owned by  
5 each trust.

6           There was -- I was told that there were documents  
7 prepared that

8           MR. DICKERSON: May we have a foundation as to time  
9 and who he's speaking to?

10          THE COURT: Sure. Do you want to

11          THE WITNESS: During this -- the timing of this was  
12 during preparing my report. I was asking what's -- what is  
13 going on with the transfers and that's the response I  
14 received, was that there -- the goal was to

15          MR. DICKERSON: From whom?

16          THE WITNESS: From Eric, sorry. From Eric Nelson.

17          And that there were LLCs prepared to hold the  
18 Mississippi property and once the titles had been cleaned up,  
19 they would place those Mississippi properties into those LLCs  
20 and the LLCs would be owned 50/50. So whether it was complete  
21 or not, based on what I was told, the one piece that hadn't  
22 been completed on the exchanges was 50 percent of the  
23 Mississippi property or really all of the Mississippi property  
24 going into those was three or four LLCs which would have been

1 owned 50/50. That part was not done.

2 BY MR. SOLOMON:

3 Q What did you do to reflect that transaction since it  
4 had not been completed?

5 A As we went through the GL, I showed the transfers at  
6 book value for the most part, except for a source as just  
7 going through the due to/due froms. But then I looked at  
8 those transfers were supposed to be in exchange, so there  
9 shouldn't have been a due to/due from, other than making sure  
10 all of the property got transferred.

11 So what did not get transferred was the Mississippi  
12 properties, beachfront property, which was worth, according to  
13 the appraisals that were just prepared recently were worth  
14 about two million, the beachfront alone was. And I took a  
15 million dollars and said, okay, here's the net of those  
16 exchanges that occurred in '04 through '07 and say, well,  
17 there's still a million -- the property stills needs to be  
18 done and adjust the due to/due from between the two trusts for  
19 that million that was still a liability of Lynita's Trust back  
20 to Eric's trust for that Mississippi property.

21 Q If the transaction had been completed, that would be  
22 reversed?

23 A That would be reversed; that's correct.

24 Q Throughout your analysis, did you find any instance



1 in which the parties' community property was placed into the  
2 ELN trust?

3 A Repeat the question. I wasn't quite ready.

4 Q Yes. Throughout your analysis, did you find any  
5 instance in which the parties' community property was placed  
6 into the ELN Trust?

7 A No. Found no evidence of that.

8 Q In connection with your work, did you review the ELN  
9 Trust?

10 A Yes.

11 Q Okay. And as a result of that, were you aware of  
12 some of the formalities that were required by the terms  
13 thereof?

14 A Yes.

15 Q Did you observe any formalities of the ELN Trust  
16 which had not been complied with?

17 A No.

18 Q Did you review the distributions that had been made  
19 to Eric from that trust?

20 A Yes.

21 Q And from your observations, were the formalities of  
22 the ELN Trust complied with in connection with those  
23 distributions?

24 A Yes.

1 Q Did you observe any of the terms -- any terms of the  
2 ELN Trust that were violated?

3 A (No audible response.)

4 Q And were you able to trace all of the assets and  
5 liabilities that the ELN Trust since its inception to the end  
6 of your accounting period?

7 A Yes.

8 Q Are all of the assets currently in the ELN Trust --

9 A Mark?

10 Q -- traceable --

11 THE COURT: I think he wants to finish the question.

12 THE WITNESS: Mark, let me just clarify that --

13 MR. SOLOMON: Oh, I'm sorry.

14 THE WITNESS: -- just to be correct.

15 There was one account early in -- through '01, '02, a  
16 Bank of America money market account that we did not get  
17 statements for and that one I could not  
18 BY MR. SOLOMON:

19 Q Okay. Did you have an understanding from talking to  
20 parties what that account was for?

21 A It was a separate property account. It came from a  
22 separate property trust, yes.

23 Q Are all of the assets currently in the ELN Trust  
24 traceable back to the assets with which that trust was funded

1 in 2001?

2 A Yes.

3 Q Did you do an analysis of the liabilities associated  
4 with ELN Trust, either directly or through its holdings?

5 A Yes, I did.

6 Q And what materials did you review in order to do  
7 that analysis?

8 A Eric had put together a package for me which had all  
9 of the documents that supported those liabilities listing  
10 he listed them out and what the contracts were, the lawsuits,  
11 bankruptcy claims, things like that, that had been filed.

12 Q And was that the same information that was provided  
13 to Mr. Birch?

14 A Yes, it was, or I should say I assume it was. I was  
15 told it was, but I didn't

16 Q And as of the date of the report, how much in  
17 liabilities were there?

18 A As of the date of the report there was real -- I  
19 mean there were like book liabilities and then there were  
20 contingent liabilities which I broke out. As of September  
21 30th, Eric's Nevada trust owed Mellon Bank a million, one ten,  
22 that has since been paid off. We didn't review what the  
23 tenant deposits due back were, which we thought were minor,  
24 but there were \$945,000 of other liabilities that were

1 reflected on the books and there were \$6,744,000 of  
2 liabilities that were contingent, some of them, actually, I  
3 think are -- were for past attorney fees that hadn't been  
4 booked yet because they hadn't been paid, so not on the  
5 accounts accrual basis, but they were not booked.

6           So of that -- and then there were some that I just  
7 couldn't quantify. You know, some of them actually belonged  
8 to the Mississippi properties which you just couldn't quantify  
9 what contingency there might be. But the total of \$6,700,000  
10 in contingent and real liabilities that are not on his books.

11           MR. SOLOMON: I have nothing further, Your Honor.

12           THE COURT: Do you want to break down? It's about a  
13 quarter to 5:00.

14           MR. DICKERSON: Yeah, we can break.

15           I would like to just do one thing right now so we  
16 can just start

17           THE COURT: Sure.

18           MR. DICKERSON: I would like to move for the  
19 admission of his entire report. Do we have a copy for the  
20 judge?

21           THE WITNESS: I have one here.

22           MR. SOLOMON: Do you have one?

23           THE WITNESS: Actually, I can give you this whole  
24 binder. I'll pull out what wasn't in my report.

1 MR. SOLOMON: Or we can make one -- do you have one?

2 MR. DICKERSON: I can have one made and bring it  
3 tomorrow.

4 MR. SOLOMON: That's fine. We'll deal with it  
5 tomorrow then.

6 THE WITNESS: I have my digitally, so I don't mind  
7 giving you this.

8 THE COURT: Whatever you want to do, if it doesn't  
9 work out, he can just pull that out and

10 THE WITNESS: Except I'll need it on cross.

11 (Laughter)

12 THE COURT: We'll have it marked and admitted and  
13 give it back to you to review. I'm sure you're going to admit  
14 it.

15 MR. DICKERSON: If there's no objection, can the  
16 entire report be admitted?

17 THE COURT: No objections?

18 MS. FORSBERG: No objections.

19 MR. SOLOMON: No objections.

20 THE COURT: Mr. Gerety's report will be admitted as  
21 Intervenor's wherever we're at.

22 THE CLERK: Number 168.

23 THE COURT: Intervenor's 168. I want to say that  
24 was Intervenor's 168, Daniel Gerety's expert report.

1 (Whereupon, Intervenor's Exhibit No. 168 is admitted  
2 into evidence.)

3 THE COURT: He's got a right to -- did you pull out  
4 the stuff you need? Why don't you pull it out, that way she  
5 can mark it and keep it so we don't lose it.

6 THE WITNESS: All right.

7 THE COURT: He's going to pull out the stuff that's  
8 not in his report and we'll get it marked and then we'll be in  
9 recess until 9:30 tomorrow.

10 MR. SOLOMON: Sure.

11 THE COURT: We're off the record.

12 (Proceedings concluded at 16:47:58)

13

14 \* \* \* \* \*

15 ATTEST: I do hereby certify that I have truly and  
16 correctly transcribed the digital proceedings in the  
17 above-entitled case to the best of my ability.

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William J. Garling, CEF  
Certified Electronic Transcriber  
CET\*\*D-543

1 TRANS

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JUL 23 2014

4  
5 *Alma L. Sullivan*  
CLERK OF COURT

6 EIGHTH JUDICIAL DISTRICT COURT  
7 FAMILY DIVISION  
8 CLARK COUNTY, NEVADA

9 ERIC L. NELSON, )  
10 Plaintiff, )  
11 vs. )  
12 LYNITA NELSON, )  
13 Defendant. )  
14 \_\_\_\_\_ )

CASE NO. D-09-411537-D

DEPT. L

(SEALED)

15 BEFORE THE HONORABLE FRANK P. SULLIVAN  
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: NON-JURY TRIAL - VOL I

17 THURSDAY, JULY 19, 2012  
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1 APPEARANCES:

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3       For the Plaintiff:                       RHONDA FORSBERG, ESQ.  
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8       The Defendant:                           LYNITA NELSON  
9       For the Defendant:                   ROBERT DICKERSON, ESQ.  
10   KATHERINE PROVOST, ESQ.  
  1745 Village Center Cir.  
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  (702) 388-8600

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INDEX OF WITNESSES

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THURSDAY, JULY 19, 2012

INTERVENER'S WITNESSES

DANIEL GERETY                      --                      6                      --                      --

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ADMITTED

THURSDAY, JULY 19, 2012

DEFENDANT'S EXHIBITS:

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