

1 Q Now this may be more of a legal issue than a -- an
2 account issue. We could ask the judge to divide the
3 \$16,000,000. Or as he could say, you know, I order that the
4 \$16,000,000 be divided. But from your -- from your working
5 with the tax courts and the IRS, are they obliged to follow a
6 state court order from a domestic relations court like Judge
7 Sullivan?

8 A Not -- not on assigning tax attributes, no. Not at
9 all. No, they cannot.

10 Q Okay. And now let's assume it's part of a
11 settlement or a court order. We say listen, let's do our best
12 to give Lynita half of the tax credits, okay? What kinds of
13 professional costs, fees are you and/or Lynita's chosen CPA,
14 Holdeman or whoever else she selects, I mean, what is involved
15 in terms of fees to undo the filing separately by these
16 parties?

17 A Just to amend the amend the re -- tax returns is
18 probably about guessing around \$6,000 or six returns that have
19 to be amended. You also need -- before you even -- anybody
20 would even sign off on that amendment --

21 Q Would -- wouldn't that be eight, six, seven, eight
22 and nine?

23 A It would be eight. Sorry. Incorrect.

24 Q No, no problem.

1 A So it would be about 8,000. I was off. I was
2 counting about a thousand per return.

3 Q Okay.

4 A So about 8,000. You would have to have a court say
5 that not just as of today we're going to treat everything as
6 community because of some action that took place at some point
7 in time would go back to day one and say that nobody made
8 these agreements. And because if the -- I believe -- the IRS
9 would look at okay, when does this property -- they have to
10 follow the title of the property. They do have to follow
11 that.

12 So if it's -- if the court did rule that it's
13 community property as of today, that still doesn't change
14 those prior years. If the court ruled that on day one these
15 agreements didn't exist or they were void for some reason
16 which I have a hard time seeing that myself happening is
17 because it's always been treated that way.

18 Maybe, you know, the IRS would say well, okay -- but
19 -- but they -- I just see the IRS having a really hard time
20 ignoring all these legal contracts that were in place and the
21 prior treatment that was disclosed to them on the tax returns.

22 Q All right.

23 A It's a -- it's a risky proposition.

24 Q And let me change subject matters just slightly.

1 With the observation of the tax returns for Silver Slipper LLC
2 for 2008 and 2009 that you've seen recently, I -- I presume
3 that they issue K1s?

4 A I'm sorry, repeat the question for me.

5 Q So what type of reporting does the Silver Slipper
6 LLC do as it relates to --

7 A They've --

8 Q -- Eric Nelson's ownership interest?

9 A They file a partnership return and give -- schedule
10 K1s to each of the partners.

11 Q And a K1 is a tax form that is given to the
12 individual partners or, you know, interest holders --

13 A That --

14 Q -- members.

15 A That it shows their share of the partnership's
16 income that they're required to report on their personal
17 return.

18 Q All right. And just like you saw, I mean, these are
19 -- these are very difficult times we all live in. There's an
20 \$800,000 loss on Mr. Nelson's return for 2009. What was the
21 Silver Slipper's loss? And I presume it's a loss. I'm quite
22 confident it's a loss --

23 A It was --

24 Q -- for 2009.

1 A It was a -- it was a loss.

2 None of that though makes up to 800,000, because
3 none of the Silver Slipper's loss was deducted on this return,
4 because it was limited because of the at risk and the basis
5 rules.

6 Q So there's no ability to take a deduction for that
7 loss.

8 A No.

9 Q Okay. So the 800,000 are losses from other sources
10 unrelated to Silver Slipper.

11 A That is correct.

12 Q Because the limitation principals of the internal
13 revenue code.

14 A That is correct.

15 Q On regarding deductibility.

16 A Right.

17 Q Okay. Now getting back to my question, can you give
18 the -- the court a -- a ballpark of the magnitude of the loss
19 off Silver Slipper LLC?

20 A Yes, it is actually shown in the return of --

21 Q Well, it is.

22 A -- form 6198 --

23 Q This is not an exhibit.

24 A Let me find the -- it's actually Page 30.

1 Q Silver Slipper Casino Venture LLC, part of Exhibit
2 201, Page 30.

3 A That is correct.

4 Q And it shows a 16.8 million dollar loss.

5 A Yeah, that may include the carryovers too though now
6 that I'm thinking of it. That's the total that was available
7 that year. The -- let's see.

8 On second thought, that's the -- I -- I believe
9 that's the accumulated losses. I'm sorry.

10 Q So is this the loss carryforward?

11 A Yes.

12 Q The 16 -- so it's a -- a number --

13 A 878.

14 Q \$16,879,007.

15 A Right.

16 Q Okay. So is the Silver Slipper partnership return
17 loss reflected in -- in on -- as a line item on this tax
18 return?

19 A It's in -- in the -- on Page 1 and 2? No.

20 Q Okay. All I'm trying to understand is can you tell
21 us how the Silver Slipper is doing for the year 2009?

22 A It was a --

23 Q And we've seen some balance sheets (indiscernible)
24 better (indiscernible) that show massive losses.

1 A It was a substantial loss. It was a very large loss
2 in 2009. You cannot tell the --
3 MR. DICKERSON: Do we have those balance sheets?
4 THE WITNESS: That year -- what's that?
5 MR. JIMMERSON: They were introduced.
6 MR. DICKERSON: Do we have --
7 MR. JIMMERSON: They were already introduced.
8 MR. DICKERSON: Do you know what numbers?
9 MS. POLSELLI: I believe it was 8-K.
10 MR. JIMMERSON: 8-K?
11 MS. POLSELLI: 8-K on (indiscernible).
12 BY MR. JIMMERSON:
13 Q Okay. In the millions of dollars?
14 A Yes.
15 Q Okay.
16 MS. POLSELLI: So we're (indiscernible) 500 8-K.
17 Q Now --
18 A And that was just Eric's share of the loss.
19 Q Now that was just Eric's share.
20 A Right.
21 Q Okay. So that's --
22 A 40 --
23 Q -- 43 percent of the -- the overall loss. And
24 you've seen the balance sheets, right?

1 A I have.

2 Q Okay. And you've described them today as -- I think
3 you used the word over leverage or over borrowed.

4 A That is correct.

5 Q Okay. What does that mean?

6 A It means that they have very little capital in the
7 entity. And most of their assets are all covered by debt. So
8 everything they've done and purchased after these losses is
9 all -- it's -- they got negative equity is what -- what I'm
10 saying.

11 Q Negative equity.

12 A Yes.

13 Q And the only way to make positive equity would be in
14 a sale larger than all of their obligations.

15 A That is correct.

16 Q And are you aware that the company, the entity
17 operating entity has stopped making large portions of the debt
18 payments?

19 MR. DICKERSON: Object to the leading nature of the
20 question.

21 MR. JIMMERSON: Withdraw.

22 BY MR. JIMMERSON:

23 Q What information if any do you have regarding
24 whether or not Silver Slipper LLC's managers, Paul Alanis and

1 others have done relative to making regular payments or
2 defaulting on payments on their notes?

3 A I have been told that they had stopped making their
4 regular payments on the notes and they're actually in default.

5 MR. DICKERSON: That would be -- again, objection --

6 Q And have you talked to Paul Alanis --

7 MR. DICKERSON: Objection to the --

8 Q -- about this?

9 MR. DICKERSON: Objection.

10 THE COURT: You don't have any -- you don't have any
11 personal knowledge, it's what you've been told?

12 THE WITNESS: It's --

13 THE COURT: You haven't seen anything in writing or
14 documents that you've reviewed?

15 THE WITNESS: No.

16 THE COURT: Okay.

17 THE WITNESS: It's through my discussion with Eric.

18 MR. DICKERSON: And I would object, Your Honor.

19 Move to strike.

20 MR. JIMMERSON: I --

21 THE COURT: Sustained. We've got --

22 BY MR. JIMMERSON:

23 Q Have you talked to Paul Alanis?

24 A No.

1 Q Another subject I wanted to discuss with regard to
2 the party's balance sheet. Is the record that Eric have his
3 staff have maintained, are they regionally maintained?

4 A Yes. He has a general ledgers kept on each entity
5 and provided with all the information that we need to prepare
6 the return. And if we have questions, they're able to get us
7 the documentation we need to finish the (indiscernible).

8 Q And are the -- is the bookkeeping in the records you
9 maintained adequate for your purposes?

10 A They are.

11 Q And based upon how other people, other clients of
12 your firm keep their records, how would you say that Mr.
13 Nelson keeps his books and records?

14 A They're -- they're good. They're good compared to
15 other clients. We have pretty good clients as far as record
16 keeping overall. They're not -- I think they're good records
17 completely.

18 Q And when you use the word good, I want to know
19 whether or not you consider them reliable.

20 A I consider them reliable.

21 Q Reliable to the point that you feel comfortable in
22 preparing tax returns when you're stating their operations.

23 A Yes, because I mean, my reputation gets put on the
24 -- this tax return every time I sign a return.

1 Q Has there ever been any request for a record that
2 you have made that have not been honored by Mr. Nelson or his
3 employees?

4 A We've always received everything we've asked for.

5 Q Are there any tax court applications that we need to
6 be aware of regarding another asset in Mississippi at the
7 Hideaway Casino?

8 A There -- I'm trying to remember what the issues are
9 with that.

10 Q Well, it's a contingent liability. The -- the man
11 who made a \$4,000,000 loan did not secure it to the best of
12 our understanding a personal guarantee from Eric, lost his
13 money in the investments. There's this river boat that sits
14 unused and there's threats through demands of written
15 correspondence that we saw of -- of suit against Eric.

16 A Yes, I'm aware and I've seen the accounting records
17 and the general ledgers regarding that entity that the
18 gentleman you speak of lent money to that and it is a loan.
19 It's supposed to be a nonrecourse loan based on the --
20 security was the boat. There's nothing left in there other
21 than the boat that has very little value.

22 Q So absent and adverse judgment against Eric, Mr.
23 Nelson by Mr. Berry, are there any further tax consequences
24 associated with that asset?

1 A There is also negative capital there. There is --
2 that we've taken losses because you can pick up your share of
3 debt and so forth.

4 And we have -- that -- it's kind of the same issue
5 we have with the Silver Slipper.

6 Q Well, but here's the point. If -- if Eric buys a
7 million out it kind of solves that, but if the Court divides
8 in half, I'm just trying to make sure that I understand. I'm
9 trying to do my job that we cover any hidden obligations
10 taxwise with regard to the Hideaway which has been a loser as
11 the court's been advised.

12 A It's -- it's the same issue. If that debt goes away
13 or he takes the boat, the boat's not worth the debt. So
14 there's forgiveness of dead income which flows to the owner.

15 So there's phantom incomes if you would use that
16 term, but there is income. When that -- that gets cancelled.

17 You have all this income that flows to the owner of
18 that entity. And it's forgiveness of dead income and it's
19 taxable without having any cash to pay the tax.

20 Q And what is the likelihood of that event occurring
21 for that particular asset?

22 A Based on the way it stands today very likely.

23 Q Why is that?

24 A Because there's no assets left. There's nothing

1 going -- I mean, it's -- it's kind of a dead entity almost
2 other than this boat sitting there.

3 Q But what force is the recognition of a cancellation
4 of debt?

5 A Once that debt is no longer -- excuse me, just got
6 dry. Once that debt is no longer collectable it's forgiven
7 and you got the -- the income must be recognized.

8 Q Well, do you know that Mr. Nelson presently would
9 not be investing any money in Hideaway LLC, correct?

10 A Correct.

11 Q And you know that LLC has spent all of the money
12 that was loaned to it by Mr. Berry?

13 MR. DICKERSON: Object to the leading nature, Your
14 Honor.

15 THE WITNESS: I have --

16 THE COURT: Do you -- do you know?

17 THE WITNESS: -- looked at general ledgers -- I have
18 looked at the general ledgers on that entity and everything
19 it's -- that has been lent to it has been spent on developing
20 costs and so forth.

21 BY MR. JIMMERSON:

22 Q So all I'm trying to say to you is where do the
23 parties go now or where does Eric go now relative to reporting
24 that asset in the years to follow?

1 A Yeah, the only way that asset could -- it's going to
2 be taxable income for the forgiveness of debt unless somebody
3 -- some white knight comes in with a lot of cash to start that
4 development back up, pay off that debt so it's not forgiven.

5 Q But -- but is there any requirement like time wise
6 where the IRS says you must report as uncollectible and write
7 off the debt --

8 A Based --

9 Q -- by seven years from the first time nobody pays
10 them.

11 And is there -- I mean --

12 A It's -- it's --

13 Q -- you didn't write it out this year. So when does
14 that happen that you're going to regroup --

15 A It's when that --

16 Q -- recognize that?

17 A -- debt is no longer collectible under law. So when
18 a statute runs for that guy to collect on that debt, it's
19 forgiven. If he allows -- there's some cases I've reviewed on
20 this -- even within their family loans and stuff.

21 But once somebody is no longer allowed to collect
22 because there hasn't been a payment in two years or whatever
23 the statute is in that state or whatever state governs the
24 collection of that, once that statute runs uncollecting of the

1 debt it's no longer enforceable. It's recognizable at that
2 time.

3 Q So but the debtor in this case, you know, the
4 promisor is Hideaway Casino LLC. The lender was Mr. Berry or
5 one of his entities.

6 A Right.

7 Q I think he has an entity here. Okay. So now the
8 debt is forgiven for one of -- for -- for one of the ability
9 to prosecute, because the statute of limitations run. I'm
10 talking about a theoretical hypothetical point, okay?

11 A Right.

12 Q Okay. So now Hideaway no longer owes Mr. Berry
13 \$4,000,000.

14 A Correct.

15 Q Okay. And in Nevada it's a six year statute of
16 limitations, you know, can be extended by payments. So I
17 don't want to get too specific, but it's six years under
18 11.190.

19 So we're talking some years down the road. We're
20 talking five, six years from now. Now Hideaway says I'm --
21 Hideaway as a company or as an LLC says I no longer have to
22 pay Mr. Berry back the 4,000,000. I don't have anything to
23 liquidate. I've got a broken down boat.

24 So now Hideaway is owned by Mr. Nelson individually,

1 correct?

2 A Correct.

3 Q Okay. So now Hideaway \$4,000,000 obligation is
4 written off. It is no longer existing because there's no
5 longer a threat of it being pursued because of all the things
6 you just talked about.

7 What are the tax consequences and I presume adverse
8 tax consequences to Mr. Nelson in such an event.

9 A He has 4,000,000 of taxable income with nothing to
10 show for it. I mean, if -- if the debt -- if the debt's
11 4,000,000, he would have 4,000,000 in income. I -- I --

12 Q Now why wouldn't the debt -- does it stay with the
13 LLC? It -- it goes --

14 A Well --

15 Q -- to the person returned?

16 A That LLC is a -- again a single member LLC. And
17 it's disregarded entity. It flows directly to Eric's return.

18 Q So he would have to have loss carryforwards or
19 something to match up to the -- the 14 --

20 A That's correct.

21 Q Now here's another question I didn't ask you for
22 that was important and I'm glad that I remembered it. There
23 had been some suggestion and I don't think it's being pursued
24 now by opposing counsel, but there had been earlier

1 conversations we're now day five here, that the loss
2 carryforwards from Silver Slipper could be used to offset
3 gains at the Russell property.

4 And is that true?

5 A No, it's not true.

6 Q Why is that not true?

7 A Because that loss is an attribute just of the Silver
8 Slipper. So if the Silver Slipper has income, then there will
9 be income there which we could offset with that loss, but that
10 will zero out -- take you back down to zero again unless the
11 income is over the 16,000,000 here. So and the only other way
12 to be able to use that loss is for you to put money into that
13 entity. It's like I had said before if -- if you put a
14 million dollars so it would cost you a million dollars.

15 They -- you could use a million dollars of that
16 loss. That would be deductible at that time. And then you
17 can use it against your other income. But, you know, you're
18 -- you're investing a million dollars to get a 35 -- 350,000
19 in tax savings.

20 Q Got it.

21 A You're going backwards. But that's the only way you
22 would be able to use those losses against other income is if
23 you actually put money into the entity, invested money into
24 it.

1 Q And regarding Russell Road, Eric has, you know, done
2 a lot of great things for this family. He had two significant
3 appreciations of profits through Sugar Daddy's and the Matusk
4 investment.

5 Are you familiar with that?

6 A I am.

7 Q Okay. And you were involved in a structuring the
8 1031 exchange; is that right?

9 A That's correct.

10 Q And those gains were more than a million dollars,
11 correct?

12 A Correct.

13 Q All right. So the only question (indiscernible) why
14 is it -- and for the reason you've already stated; is that why
15 Eric couldn't use the Silver Slipper loss carryforwards to
16 offset the million plus gained from the Sugar Daddy's and
17 Matuska investments?

18 A That -- that's right. He would have to take the
19 money, the gain, the amount of that gain and dump it into the
20 Silver Slipper, another to use those losses. And that's just
21 -- doesn't make any sense.

22 Q So that answers that question. I'll put that to
23 bed.

24 And so what was structured for that transaction as

1 it relates to acquiring two-thirds of Russell Road was the tax
2 rate exchange.

3 A Correct.

4 Q Okay. And did the acquisition of Russell Road
5 provide a benefit to Mr. Nelson and to the community?

6 A I believe so.

7 MR. DICKERSON: Object to the form of the question.

8 A I believe it's a valuable asset.

9 Q And why is that?

10 MR. DICKERSON: Objection, Your Honor.

11 THE COURT: Sustained.

12 BY MR. JIMMERSON:

13 Q Why -- okay. What information do you have to
14 understand that this was a -- a good investment, a wise
15 investment?

16 MR. DICKERSON: Well, I -- again --

17 THE COURT: Do you --

18 MR. DICKERSON: Objection. What -- I mean, does he
19 have an expertise of determining this? He's a CPA.

20 MR. JIMMERSON: He is a CPA and he knows what the
21 tax --

22 MR. DICKERSON: Well --

23 MR. JIMMERSON: -- costs were going to be from Sugar
24 Daddy's and Matuska if they paid ordinary income. He would

1 know how much money they saved by doing a tax reexchange and
2 deferring the taxes. And he would know what was used, how
3 much money was used to invest the property and the
4 cancellation of the obligation that brother owed to the
5 family.

6 MR. DICKERSON: Then ask him it that way.

7 THE COURT: If he knows it.

8 THE WITNESS: Yes, it reduced -- it reduced debt.
9 It -- it brought in another asset into the -- you know, that
10 has the potential to reshape, provide cash flow. I think it's
11 -- it was a smart decision.

12 BY MR. JIMMERSON:

13 Q And how did it defer the taxes from the two gains of
14 more than a million dollars that had generated through Eric's
15 efforts?

16 A Through code section 1031 you can -- if you buy
17 replace sell property and buy replacement property within a
18 certain time period, short time window, you get the like kind
19 exchange treatment. And you avoid paying tax while allows you
20 to invest the entire proceeds in new property instead of
21 paying tax and only investing the remainder of the proceeds
22 after tax.

23 Q Okay. Now again, one of the things that hasn't
24 gotten a lot of attention before Judge Sullivan and that's why

1 I wanted to talk with here in this -- this format. The
2 parties decide -- in this -- in this market who knows, you
3 know, it's such a terrible market, but the parties decide to
4 sell Russell Road. Okay. And so it's a one-third, one-third,
5 one-third ownership. The two-thirds are divided equally
6 between and Mom and Dad here and the brother has a third for
7 the third third, okay?

8 A Yeah.

9 Q Now it's sold. As it relates to the fact that the
10 parties have deferred the taxes on the million dollar plus and
11 it was more than -- a lot more than a million dollars. I'm
12 just saying a million dollars as a number.

13 What are the tax consequences to Lynita and to El --
14 Eric --

15 A Well, what --

16 Q -- on sale of Russell Road?

17 A You have a -- a lower tax basis, because you -- you
18 have carryover basis from the property that was sold before.
19 So even though you've -- I don't remember the exact numbers,
20 but even though you invest -- say you invested in a million
21 dollars for example in this new property. But if you only
22 have the basis for a hundred dollars in the old property, you
23 only have a tax basis of a hundred dollars in the new
24 property. So that you've just deferred paying the tax on that

1 gain. What's happened until you sell that property.

2 Q So do I gather what -- the -- the taxes that were
3 deferred, long term capital, short term capital gain, ordinary
4 income? What -- what was it?

5 A It -- actually, I don't remember right now.

6 Q They were short term. Well, then they own -- then
7 they turn around --

8 A Would it be at --

9 Q -- the property --

10 A They turn --

11 Q -- within a few months?

12 MR. DICKERSON: We're going to object. Now he's
13 leading.

14 MR. JIMMERSON: I am leading, but can we agree that
15 it was short-term, Mr. Dickerson?

16 MR. DICKERSON: I'm -- I'm not so certain it is
17 though, Jim. This is from the sale of --

18 MR. JIMMERSON: Sugar Daddy's.

19 MR. DICKERSON: Sugar Daddy's?

20 MR. JIMMERSON: Sugar Daddy's is short term. I
21 mean, the facts are very clear.

22 THE WITNESS: Well, I can't say --

23 MR. DICKERSON: But why? I think they had the
24 investment for over a year.

1 MR. NELSON: No, I'm not going to (indiscernible) --

2 MR. JIMMERSON: But it didn't.

3 MR. NELSON: -- no to real property.

4 MR. JIMMERSON: It's what I said. It didn't.

5 THE WITNESS: If the asset was held for less than a
6 year, it's short-term property.

7 BY MR. JIMMERSON:

8 Q And what rate are they taxed?

9 A And that's taxing its ordinary rates with the top
10 rate currently being 35 percent.

11 Q All right. And if it was long-term it was at 15
12 percent of the current loan?

13 A That is correct.

14 Q Okay. So and then it's of the gain, but the gain
15 starts with a low basis, the basis that existed at Sugar
16 Daddy's and Mutuksa and then --

17 A That is --

18 Q -- whatever the ultimate sale may be.

19 A That is correct. And we still get the holding
20 period for the new property for Russell tacks on the holding
21 period for the whole property. So you -- now you're over the
22 one year period. So by you've given yourself more time to
23 incur long-term gains.

24 Q From January, February of '010 to October 10, those

1 nine or 10 months is added to the short-term less than one
2 year time for Sugar Baby's [sic] so that -- or Sugar Daddy's,
3 I'm sorry, so that now they're over a year.

4 A That is correct.

5 Q So that there will be capital gain tags at 15
6 percent more -- more likely than ordinary.

7 A That is correct, I believe.

8 Q Okay. And so whatever they gain is if the Court
9 would divide that as -- even later with the (indiscernible)
10 even they would be responsible for half, right?

11 A If -- yes, if it was transferred 50/50 there's in --
12 under -- in -- your basis carries over so each spouse has the
13 same basis as the other spouse and it carries over that way --

14 Q All right.

15 A -- 50/50.

16 Q Thank you. Why did Eric Nelson through his tax
17 returns of 201 lose 830 -- \$818,000 as both a -- a total loss
18 and also AGI, \$818, --

19 A He --

20 Q -- 984.

21 A He had -- from his real estate and auctions he had
22 lost 230,000 from the operations of -- of Eric Nelson.

23 Q That's just expenses of exceeded income.

24 A That's correct.

1 Q All right.

2 A There was -- there was -- there's hardly any income
3 and he -- he had all the expenses.

4 Q Okay. Continue, please.

5 A Dynasty Development Group outside -- like I said,
6 the Silver Slipper. None of those losses were deducted here,
7 but we had 165,000 in losses there.

8 Q All right.

9 A And rental real estate we had 846,000 in losses.
10 That is 494,000 in losses from re -- Benone LLC.

11 Q Benone.

12 A Benone?

13 Q Benone, yeah. We call it Benone, but Benone is
14 fine.

15 A Emerald Bay we had 69,000 in losses. And also on
16 the Arizona property we had another 282,000 in losses. And
17 then there's -- there's items of income.

18 Q Okay.

19 A But that, you know, bring it back down to the
20 800,000. Those losses I just mentioned exceeded that.

21 Q All right. Thank you. Have you had any
22 conversations with Bob Dickerson regarding this matter except
23 in the context of a mediation on June 15 of 2010?

24 A No.

1 Q Has he contacted you after that day?

2 A No.

3 Q Has he contacted you before that day?

4 A No.

5 Q Has Mr. Joseph Lowinow, a man you meant who's their
6 CPA in Mr. Dickerson's office in June 15, have you spoken to
7 him before or after that day?

8 A Not -- no, not that I recall.

9 Q Melissa Antanasio was another person who works for
10 Mrs. Nelson on Mr. Dickerson. And you met her on that day.
11 Have you talked to her, has she called you before or after
12 that day?

13 A No.

14 Q Okay. Last item is the parties understand that the
15 last year they filed a joint tax return was 2005 and that
16 there is a \$150,000 in change, tax assessment I guess of the
17 parties. Are you familiar with that?

18 A Yes, I am.

19 Q Okay. And although you've never had any
20 communications with Mr. Nelson except on June 15 before or
21 after. Are you trying to work on her behalf with Mr. Nelson
22 to fight that assessment?

23 A I was really working on yeah, Eric's behalf, but we
24 filed a petition in tax court for the joint return.

1 Q And it was a joint return.

2 A Yes, it was.

3 Q So Eric is offered to the court and to Lynita -- you
4 know, either he takes all the debt and he gets a credit for
5 the debt or they divide the debt in half I mean. But there
6 are costs associated with you doing that work; is that right?

7 A That is correct.

8 Q Okay. To date, do you have any estimate for the
9 court as to how much you've charged Mr. Nelson relative to the
10 \$150,000 assessment by the IRS in 2005?

11 A And I --

12 Q The 2005 joint tax return.

13 A I didn't look -- looked at it recently. I -- it was
14 -- but to write that court -- tax court petition it was over
15 \$10,000.

16 Q Okay. Now what are the procedural steps going
17 forward for which maybe Mrs. Nelson or make one-half
18 responsible on Mr. Nelson to fight this assessment?

19 A The --

20 Q To fight this adjudication or this determination.

21 A It depends. I have represented the -- with the IRS
22 and the attorney for the IRS that called me last month and
23 asked if he could add more time reviewing the court petition
24 before we responded which I granted to them. Depending on

1 what they decide we go to court and then we need to provide
2 all the documentation.

3 When you file a tax court petition you don't provide
4 any evidence. You just list your explanation and -- and
5 there's no material that goes with it. So then we would have
6 to provide all the support and work with the attorneys for the
7 IRS.

8 And trying to settle the matter or another option is
9 they can go wait, why don't -- let's let appeals look at it
10 and they may kick it back to the IRS appeals division and then
11 work with IRS agents on the matter instead of the tax court
12 first before they actually pick it up in tax court.

13 I'm not sure we talked about it going back to
14 appeals when I spoke with the IR -- attorney for the IRS. And
15 he -- he said he probably sent it to appeals which I was
16 agreeable to if we did that.

17 Q And I presume that at some point there could be
18 negotiations. I mean, Eric would say would you only find me a
19 hundred thousand and not a hundred and fifty-thousand and
20 we'll settle the issue.

21 A Yeah, appeals has -- if it goes back to appeals,
22 appeals has the authority to make any settlement offer. They
23 look at the cost of taking it to court on their part. And so
24 they may come in and say, you know, pay half, do whatever.

1 But they have the authority to settle for something less even
2 if they think they have the right position just to avoid the
3 cost of taking it to court.

4 Q And of course you have the same incentive too.
5 You've got your cost.

6 A Right.

7 Q Or our lawyers cost.

8 A That's exactly right. Yeah, we would pick up -- if
9 it -- we went to tax court we would bring in an attorney and
10 have them represent us too.

11 Q Yeah, those attorneys, those damn -- damn attorneys.

12 A Those damn --

13 Q All right. And what level of the IRS was the one
14 that made the assessment? In other words, is this just an --
15 an agent or is this somebody who reviewed an agent's -- well,
16 what level is the IRS at when they sent the determination that
17 we have introduced into evidence already that says Eric goes
18 100 -- or Eric and Wanita -- Lynita owe a hundred and
19 fifty-thousand?

20 A It was at the agent level. It -- there was an audit
21 of the Silver Slipper. And if the Silver Slipper represented
22 that and they -- the -- they didn't provide all of the
23 information of Eric's basis in the property contributed to
24 there. And so the agent just wrote up a thing. It's a

1 partnership item under TEFRA law that extended the statute of
2 the individual returns.

3 So they were able to open up Eric's return regarding
4 the Silver Slipper and go back past the statute of limitations
5 for Eric since the Silver Slipper had to voluntarily extended
6 the statute of limitations with the IRS. So and it was --
7 it's definitely a partnership item even though all the
8 information is outside of the partnership but your basis in
9 the partnership is treated as a partnership item under TEFRA
10 rules. And they were able to extend the statute of
11 limitations for that.

12 Q Got it. And so the level now is for you to hire a
13 lawyer. You mean Mr. Nelson, not Mrs. Nelson to hire a lawyer
14 and yourself to file a tax petition in the tax court?

15 A Yeah, we -- we filed the petition already.

16 Q You did. Okay.

17 A That's been done.

18 Q All right. The need for the lawyer is what then,
19 his wife?

20 A The need -- if -- if it -- if we go to court, I'm --
21 it just makes sense to bring in an attorney that knows --

22 Q Okay.

23 A -- that works with precedence.

24 Q But a lawyer is not required to file the petition.

1 A No.

2 Q Okay. Here in, you know, in a court case a lawyer
3 is supposed to sign the complaint, right?

4 A Right.

5 Q But you don't -- you had that privilege even though
6 you're not --

7 A Right. And --

8 Q -- a bar lawyer.

9 A And I -- if I've -- I don't go to tax court enough
10 to make it worthwhile. I could be certified to -- to
11 represent a taxpayer in tax court.

12 Q Got it. So non-lawyers can be certified --

13 A Yes.

14 Q -- if they're qualified in the area to do certain
15 tasks already need to do.

16 A Exactly.

17 Q All right. I want to thank you for your time, sir.
18 No further questions.

19 A Okay. Thank you.

20 THE COURT: You're not done yet.

21 THE WITNESS: Oh, yes. I forgot.

22 THE COURT: You thought you get off fast there. I'm
23 out of here.

24 MR. STEPHENS: Run. Run. Run.

1 THE WITNESS: Let me slip out here.

2 CROSS EXAMINATION

3 BY MR. DICKERSON:

4 Q All right. Mr. Geraty, do you have a copy of Eric
5 Nelson's trust?

6 A I do.

7 Q Can you -- this is a special type of asset
8 protection trust that is allowed under the federal tax codes,
9 isn't that correct?

10 A It's -- actually, it's allowed under the Nevada
11 statutes.

12 Q And also recognized under federal law?

13 A It's -- depending on -- it didn't -- would be
14 recognized. The -- this is written under Nevada law so it's
15 -- it's a trust written under Nevada law. The -- there hasn't
16 been any cases in federal courts of somebody that's suing --
17 there hasn't been a lawsuit or a bankruptcy trial that's tried
18 to pierce these yet that I'm aware of.

19 So we don't know what's going to happen as far as
20 federal courts when if -- if a creditor tried to pierce an
21 assessment protection trust.

22 Q And the -- and the purpose of this kind of trust is
23 to take an asset away from creditors being able to use that
24 asset to satisfy a judgment; is that correct? It's to protect

1 --

2 A That's one of them --

3 Q -- the assets from creditors.

4 A Yeah, there's -- there's many purposes, but that's

5 -- that's one --

6 Q Now --

7 A -- prudence, yes.

8 Q -- in this trust, who is the grantor?

9 A In -- in which trust?

10 Q In Eric Nelson's trust.

11 A Eric is the grantor.

12 Q And who is the -- the trustees? There -- there's --

13 how many trustees are there?

14 A There are two trustees.

15 Q Who is the distri -- distributions? Who's the --

16 excuse me. Who is the -- well, who are the two trustees?

17 A Eric Nelson is the investment trustee and Lana

18 Martin is the distribution trustee.

19 Q And where do you see that?

20 A The first paragraph.

21 Q Okay. Thank you. Because I was looking for it. I

22 found the successors.

23 All right. So Eric is the investment trustee and

24 Lana is the distribution trustee.

1 A Yes.

2 Q Now if you take a look at -- now that's unusual
3 there for an irrevocable trust to be truly an irrevocable
4 trust. A -- the -- the grantor cannot be a trustee, isn't
5 that correct?

6 A No, there are now 13 states that allow these. So
7 it's -- it's not anymore unusual -- 20 years ago yeah, it was
8 unheard of, but in the last -- see, was it 2001 I think that
9 Nevada enacted laws --

10 Q But you --

11 A -- been through a clause.

12 Q -- could not create an irrevocable trust with the
13 grantor being the sole trustee, isn't that true?

14 MR. JIMMERSON: Objection, Judge. That's not true
15 since 2001 in Nevada.

16 MR. DICKERSON: Well, I don't think he's going to
17 answer it that way.

18 THE WITNESS: You can I mean, create a trust.

19 BY MR. DICKERSON:

20 Q With just -- just the grantor as the trustee with no
21 distribution trustee?

22 A Well, if you have no distribution trustee it won't
23 be creditor proof. But yes, you can have -- a grantor could
24 trade a trust. It's a legal document. Be it it is a legal

1 entity under state law.

2 MR. JIMMERSON: It's what a revocable trust is.

3 THE WITNESS: Right. Well, it but -- the quest --

4 MR. DICKERSON: Do you want to testify?

5 MR. JIMMERSON: Okay. But what is -- I don't know
6 what you're confusing --

7 THE WITNESS: I think what you --

8 MR. JIMMERSON: An revocable trust is created by
9 every grantor and there the trustee.

10 THE WITNESS: What I think you're --

11 MR. DICKERSON: That's an irrevocable trust, Jim.

12 MR. JIMMERSON: No, it's a revocable trust. Go
13 ahead.

14 THE WITNESS: Whether --

15 BY MR. DICKERSON:

16 Q Whoa. Whoa. Whoa. We're talking about an
17 irrevocable trust, aren't we?

18 A Yes.

19 Q Okay. And the pur -- purpose of making irrevocable
20 is to protect the assets from creditors, correct?

21 A That's one purpose, yes.

22 Q And what are the other --

23 A There could be other purposes.

24 Q Now if you take a look at the provisions of this

1 trust. All right. If you take a look at section 3.3 at Page
2 3. This talks about distributions to Eric Nelson; is that
3 correct?

4 A That's correct.

5 Q And what it requires is that before any distribution
6 can be made to Eric Nelson to the trust, it requires the
7 approval of the other trustee; is that correct?

8 A That is correct.

9 Q Now have you -- over the years Eric Nelson just
10 distributes monies to him through the trust; is that correct?

11 A I -- I don't know. I --

12 Q Have you ever seen any authorizations from Lana --
13 from Lana Martin authorizing all the distributions to Mr. --

14 A I have not reviewed any. So I -- I don't know one
15 way or the other.

16 Q And there are other potential beneficiaries under
17 this trust, are there not?

18 A There are.

19 Q And those are Lynita and their children; is that
20 true?

21 A I don't think Lynita's a beneficiary. If you go to
22 -- let's see, article 2.1. It says that it's for the benefit
23 for Eric and other beneficiaries. It lists the name of the
24 spouse, but it doesn't list her as a beneficiary. It says it

1 just lists her -- here is the spouse.

2 Q Okay.

3 A And then it goes the names of five -- now living
4 children. List there. And -- and they shall appear under be
5 referred.

6 Q So it's your understand that Lynita --

7 A That's the children of the trustee and also be
8 permissible beneficiaries. So that's all one sentence with
9 the children, but it never says anything about Lynita being a
10 beneficiary.

11 Q So you understand the stress not to include Lynita
12 as a beneficiary.

13 A That's how I read this section 2.1, yes. Actually,
14 it's -- I think it's pretty clear.

15 Q Okay. Now with respect to the -- let's go in
16 reverse order. Well, first of all, let's start with the --
17 the cast -- the lost carryforwards that Eric Nelson has
18 available to him. What -- are -- does he have any loss
19 carryforwards that the sources from something other than
20 Silver Slipper?

21 A Yes. If you go to the form 6198.

22 Q What page is that?

23 A It starts on Page 30 is the Silver Slipper. I --
24 well, I take that back. It looks like it's just the Silver

1 Slipper. All the losses were allowed for Eric Nelson
2 Auctioneering. So there's no carryover there. And those are
3 the only two listed. So I'm sorry. It's -- it is just the
4 Silver Slipper.

5 Q What is the --

6 A We have loss --

7 Q What is --

8 A We have loss --

9 Q What is --

10 A I'm sorry.

11 Q What is the difference between Page 30 and Page 32?

12 A One's for alternate minimum tax purposes.

13 Q And what --

14 A We have to compute the tax and basis once under
15 regular tax and then once for alternate minimum tax.

16 Q Okay.

17 A And Bob, we als -- also have in that operating loss
18 that we -- that needs to be carried somewhere else of -- of
19 over 800,000.

20 Q And where is that?

21 A That's from Page 1 -- or Page 2 of the return.

22 Q And -- and how does that net operating loss work?

23 A That if -- I believe we elected to carry it back to
24 -- let's see. There's an election in the return. We could

1 elect and pick years. Let's see. It's -- there's been
2 election to carry it back three tax years.

3 Q And has that been done?

4 A No, I don't -- I don't think it has been done yet.

5 Q Can it be carried forward?

6 A It has to be carried back first and then carried
7 forward. And I believe there's enough income and that --
8 let's see, in 2006 to use it all up.

9 Q What was the income in 2006?

10 A I -- I don't remember without looking, but --

11 Q Well, let's take a look at that. What tax return is
12 that?

13 MR. JIMMERSON: 85.

14 A I believe it was over a million.

15 MS. NELSON: Number 85 -- exhibit there -- right
16 there, yeah.

17 MR. JIMMERSON: It's the 80s, Bob.

18 MR. DICKERSON: Yeah, I know.

19 MS. POLSELLI: 85, 86, 87.

20 MR. DICKERSON: Yeah.

21 MR. JIMMERSON: 85 then.

22 MR. DICKERSON: I have 85, 86 and 87.

23 BY MR. DICKERSON:

24 Q Here you go. I'll just -- I'll just use mine. Show

1 them how do you do that. I'm showing you what's been admitted
2 into evidence as Exhibit 85. And this is Eric Nelson's 2006
3 federal income tax return?

4 A Uh-huh (affirmative).

5 Q And what was his adjusted gross income that year?

6 A His adjusted gross income was 9,303,000.

7 Q Okay. Now could it be applied to that year?

8 A That's the year we've elected to carry it back too.

9 Q And does that mean that he would be entitled to a
10 tax refund?

11 A Yes, it does.

12 Q How much?

13 A That would be about a third of 80 -- well, see most
14 of this is capital gains that is on this return that makes it
15 --

16 Q Okay.

17 A -- most of the income. I think it's -- it depends
18 on the mix of the income and what rates we're talking about,
19 Bob, but --

20 Q Now this is (indiscernible) --

21 A We were looking at maybe a hundred and some -- a
22 hundred and fifty-thousand.

23 Q Approximately --

24 A Approximately.

1 Q -- that -- that Eric Nelson will now receive.
2 A Right.
3 Q Have you filed for that refund?
4 A Not yet.
5 Q And when do you plan on doing that?
6 A In the near future, yeah.
7 Q Okay. After the divorce?
8 A What -- no. I mean, we just -- we just got through
9 our October 15th deadline and we'll then carry these back.
10 Q Now you say that the majority of this is capital
11 gains. Where do you see that on here? Business income is
12 treated as (indiscernible).
13 A See, I don't have my reading cheater glasses on.
14 Q Can you see out of the bottom of mine?
15 A Probably. Yes, I can. It's line 13 is --
16 Q It's business income, isn't it?
17 A Let's see.
18 MR. JIMMERSON: There's a capital gain loss of
19 9,000,000 --
20 A Capital gain is line 13.
21 Q Okay. And what does line 13 say?
22 MR. JIMMERSON: Capital gain or loss --
23 A 9,000,000.
24 Q 9,000,000 --

1 MR. JIMMERSON: -- \$9,000,000.

2 Q -- is capital gain.

3 A Yeah.

4 Q Okay. Well, then the -- I'm looking at -- I need my
5 glasses. All right. Okay. So capital gain is 13. All
6 right. So taking a look then -- so he has about a \$150,000 --

7 A Approximately.

8 Q -- refund --

9 A Yes.

10 Q -- refund. Which again that would be community
11 property, do you agree?

12 A No.

13 Q Why not?

14 A Well, it's separate from the property loss and it's
15 --

16 Q And you're just talking about because of his tax
17 returns, but you've heard Mr. Jimmerson's statement is that
18 ths is -- all this is being treated -- everything is being
19 treated as community property, do you understand that?

20 A I just thought Eric agreed to split everything in
21 half. Whether it's treated as community property is a whole
22 another matter. That's --

23 Q All right. Well, then we need to go into the
24 purpose of the trust.

1 MR. DICKERSON: So I didn't know you wanted to raise
2 that as an issue, do you?

3 MR. JIMMERSON: I'm going to raise it as an issue
4 because of the consequences of the -- of Mississippi. I will
5 tell you that she is wanting us to divide this in half has
6 been from day one.

7 BY MR. DICKERSON:

8 Q All right. If you'll take a look at --

9 MR. JIMMERSON: The tax return was filed last
10 Friday, wasn't it, Mr. Geraty, the 15th?

11 THE WITNESS: Yes.

12 MR. JIMMERSON: I'm just saying we've had -- we've
13 had all four days to catch our breath after that filing.

14 BY MR. DICKERSON:

15 Q Take a look at the 2007 tax return. Can you find
16 the first page of that? And what was Mr. Nelson's adjusted
17 gross income for the year 2007?

18 A It's -- it's a million two, a million three.

19 Q And if we take a look at the 2003 tax return.

20 A He's got a loss of 664,000.

21 Q Okay. Great. Thank you. Now would he be able --
22 is there -- did he get any credit for that loss?

23 A Yes, that loss was carried back.

24 Q Carried back to what year?

1 A I think it was 2006.

2 Q Okay. So had -- so when did he receive that refund?

3 A I'm not sure.

4 Q And when was that done?

5 A That would have been filed around October of 2009.

6 MR. JIMMERSON: That's the a hundred and
7 ten-thousand that's in Mr. Stephens's account, isn't it?

8 MR. NELSON: Yeah, we've got that. That's what
9 you've got.

10 MR. JIMMERSON: All right.

11 MR. NELSON: That's what Dave has. Well, I didn't
12 receive it.

13 Q Okay. Then with respect to -- you made a statement
14 I -- I didn't fully understand that you indicated that you're
15 talking about the basis test and the basis of the property.
16 And you indicated that gains would increase the basis.

17 A Correct.

18 Q Now explain that. I don't understand that.

19 A Okay. The tax basis on the partnership or even an
20 escort is computed by first what you put in, what you invest
21 in it, an original investment. It increases by gains
22 recognize that flow out to you on your K -- scheduled K-1
23 which you have to report as income. You increase your basis
24 by all gains and you increase your basis by additional capital

1 contributions. You decrease your basis by distributions and
2 you decrease your basis by losses.

3 So it -- Eric put in 2,000,000 into the Silver
4 Slipper and there was 16,000,000 of losses or 18,000,000 of
5 losses he would be able to deduct the two million he put in
6 and the 16,000,000 gets carried over.

7 Q All right. But are you talking about undistributed
8 gains?

9 A Like I said, yes. First --

10 Q Okay.

11 A -- you increase -- well, it's all gains. First,
12 it's all gains. You increase your basis by all gains whether
13 they're distributed or not. Then you decrease your basis by
14 distribution. So in -- in net, yes.

15 Q So the only thing that would increase the gains is
16 the -- the basis would be the undistributed gains technically.
17 I mean, when we look at what is his basis.

18 A Yes, in -- in additional capital contributions, yes.
19 yeah. And there's -- there's other minor -- a lot of more
20 issues that you could increase your basis by. Liquidating out
21 a partner for an excess of what his basis is.

22 You can make a 754 election and increase everybody's
23 basis. There's -- there's other ways to get there, but that
24 --

1 Q Now why would the -- we're talking about the -- if
2 he is to occur a loss with respect to the Silver Slipper
3 casino. I believe if I -- understood you correctly that you
4 believe that it would be treated as ordinary income, the --
5 the regain on that loss.

6 A Repeat the question, because --

7 Q Yes.

8 A -- I'm not clear.

9 Q Well, I don't know if I really understand the
10 question I'm asking. You mentioned that it would be treated
11 as ordinary income.

12 MR. JIMMERSON: Objection, Your Honor. He doesn't
13 understand the question that he's asking.

14 MR. DICKERSON: And I've really admitted I -- I have
15 no ego.

16 A The gain depends on what it's derived on. Okay. So
17 I think what I had said earlier is if there was a sale of the
18 casino and if that sale is allocated to the building, the real
19 estate and to equipment, slot machines and so forth, install
20 that, it's fully depreciated. And then that depreciation
21 would the -- especially on the equipment and any accelerated
22 depreciation which the real estate is taken, it's recaptured
23 as ordinary income up to its original basis. So that would be
24 ordinary if that's what the transaction was.

1 If there was debt forgiveness, they re -- they
2 didn't sell and they restructured the debt. That would be
3 ordinary, because debt forgiveness income is all ordinary
4 income.

5 MR. JIMMERSON: Can I just interrupt you for a
6 moment? But if you are in a banker's context, don't you avoid
7 that tax --

8 THE WITNESS: The individual partners have to be in
9 bankruptcy, not the partnership. It -- it isn't determined
10 that the partnership level whether you get an exem --
11 exemption from or exclusion of that debt forgiveness income.
12 The individuals would have to file bankruptcy.

13 So if the Silver Slipper went bankruptcy, wiped out
14 all the debt, there would be forgiveness of debt income
15 reported on the K-1. It would flow to Eric and if it was
16 split 50/50 flow to Eric and Lynita. In order to exclude that
17 debt forgiveness from income you would have to show that you
18 were either in bankruptcy.

19 So Lynita would have to file bankruptcy or she would
20 have to show that she's insolvent. And there's some other
21 exceptions and there's qualified real estate indebtedness
22 which may or may not apply where you might be able to write
23 down your basis of assets if you have other real estate with
24 depreciable real estate that you have to write down. Raw land

1 doesn't work. It has to be depreciable real estate.

2 But there's a number of exceptions under section 108
3 of the internal revenue code that allows you to exclude that,
4 but most of them wouldn't -- if you're solvent taxpayers most
5 of them don't apply.

6 MR. JIMMERSON: I'm sorry to interrupt.

7 MR. DICKERSON: That's all right. I enjoyed.

8 THE COURT: It's about -- it's about 4:30. I know
9 you -- this is a key witness.

10 MR. DICKERSON: I'll -- I'll be real quick, because
11 I don't want him to have to come back.

12 THE COURT: Okay. Okay. Can you finish up, guys?
13 I just wanted to get a time on it.

14 MR. DICKERSON: Yeah, absolutely.

15 THE COURT: All right.

16 BY MR. DICKERSON:

17 Q Let's move into Hideaway Casino. The \$3,000,000
18 that Mr. Berry claims that is owed to him. If Mr. Berry is --

19 MR. JIMMERSON: I think it's four, Bob.

20 MR. DICKERSON: I think he's claiming is four with
21 interest.

22 Q Okay. I believe he invested. There was -- whether
23 it was -- if the 3,000,000 was alone -- excuse me. If the
24 3,000,000 was an investment that he was investing into the

1 project.

2 MR. JIMMERSON: It's a capital contribution.

3 Q It was being treated essentially guaranteed by way
4 of a promissary note secured by the property. Would it not be
5 treated differently for the purposes of the --

6 A Debt forgiveness?

7 Q -- debt forgiveness?

8 A Yes.

9 Q And is it your understanding that that is what
10 occurred and Mr. Berry's was treated as a \$3,000,000
11 investment that was secured by the property?

12 A It was my understanding that it was a -- that he --
13 it was a note with an option to acquire the investment.

14 MR. JIMMERSON: That's right.

15 Q Now taking a look at that trans -- have you -- have
16 you seen the agreement between Mr. Berry? Have you seen the
17 specific agreement? I believe it's called --

18 A Yeah, I have a long time ago and I don't recall.

19 Q It's called an investment agreement, is it not? Let
20 me see. Let's see here. Let's see.

21 You have --

22 MS. NELSON: How about the --

23 Q Have you read the definitive investment agreement by
24 which Mr. Berry --

1 A I believe I have.
2 Q -- invested the \$3,000,000?
3 A I -- I don't remember now, Bob, if I have or not. I
4 -- I'm pretty sure I have though.
5 MR. DICKERSON: Is that definitive investment
6 agreement one of your exhibits?
7 MR. JIMMERSON: It is.
8 MR. DICKERSON: What is it numbered?
9 MR. JIMMERSON: We're looking for it.
10 MS. POLSELLI: That's what I'm looking for right
11 now. I think it's 20 -- 36, but I'm going to look.
12 MR. JIMMERSON: Can we call for a 36, madam clerk?
13 MS. POLSELLI: I don't think we admitted it.
14 MR. DICKERSON: It has not been admitted.
15 MS. POLSELLI: I think it was an admission.
16 MR. JIMMERSON: By Bob.
17 MS. POLSELLI: Uh-huh.
18 MR. JIMMERSON: What do you have for 36, madam
19 clerk, in terms of admission and offer --
20 MS. POLSELLI: No. No. That's not it.
21 MR. JIMMERSON: That's not it.
22 THE CLERK: It hasn't been admitted.
23 MS. POLSELLI: The (indiscernible) liability to
24 (indiscernible).

1 MR. JIMMERSON: Yeah, that's one of the
2 (indiscernible).

3 MS. POLSELLI: 33 is also (indiscernible).

4 MR. DICKERSON: What number?

5 MR. JIMMERSON: 33 -- 33 also --

6 MS. POLSELLI: That's -- that's Hideaway, but I
7 don't know if that's the agreement.

8 MR. JIMMERSON: Oh, okay.

9 THE CLERK: 33-B -- or C has been admitted and
10 that's it.

11 MR. JIMMERSON: What is the name of that document?

12 THE CLERK: An 8/27 letter regarding Hideaway
13 liability.

14 MR. JIMMERSON: Okay. Then I don't think it's been
15 admitted, Judge.

16 MS. POLSELLI: Yeah, I don't think so.

17 MR. DICKERSON: I don't see it anywhere. Do you
18 guys -- you don't have it as one of your exhibits?

19 MS. POLSELLI: Here you go. 37 --

20 MR. DICKERSON: Yes, it is.

21 MR. JIMMERSON: 37, I think. Let's see. 37, Your
22 Honor. Is it -- is 37 admitted, madam clerk?

23 THE CLERK: No.

24 MS. POLSELLI: No, it's been -- and it's -- it

1 wasn't offered.

2 MR. JIMMERSON: Okay. So we have it as Exhibit 37.
3 All right. May we have Exhibit 37 admitted? Any objection?

4 MS. POLSELLI: It is not -- it has not been offered.

5 MR. JIMMERSON: Yeah, I see no problem. Bates stamp
6 number EN2803 through 2846.

7 MS. POLSELLI: Yeah, that's 37 in our books.

8 THE COURT: We got the -- is 37 the correct one? Is
9 that the --

10 MS. POLSELLI: And it's book four if that helps the
11 Court. Book four, Exhibit 37.

12 MR. DICKERSON: Yes, I -- I have no objection.

13 MR. JIMMERSON: No objection.

14 THE COURT: Hereby admitted as Exhibit Number 37.

15 (Plaintiff's Exhibit 37 admitted)

16 MR. JIMMERSON: Thank you, Judge.

17 BY MR. DICKERSON:

18 Q I don't know if you -- I'm showing you what's been
19 marked as -- or admitted as Exhibit 37.

20 A Okay.

21 Q This is the definitive investment agreement. Have
22 you reviewed that?

23 A I believe I did at one time. It's just been a long
24 time since I've --

1 Q Okay.

2 A -- looked at it last.

3 Q Is there a way that you can skim through that and
4 tell us whether my -- my interpretation is correct that Mr.
5 Berry has made an investment into this business that is simply
6 being secured by way of -- of promissary note?

7 MR. JIMMERSON: Well, from your mouth the
8 (indiscernible).

9 MR. DICKERSON: May I answer this? It's my gate
10 calling me for some reason.

11 THE COURT: Sure.

12 MR. DICKERSON: Okay. Hi, this is Bob. Hi. I'm
13 not at home and I don't know -- what would you be going there
14 for?

15 MR. JIMMERSON: To rob your house.

16 MR. DICKERSON: Oh, my goodness. I -- I didn't know
17 -- I don't have anybody there to let him in. I -- let him in
18 and I can get somebody over there.

19 Okay. All right. Thank you. Bye-bye.

20 MR. JIMMERSON: And Judge, you should just swear on
21 your private student here pretty soon.

22 MR. DICKERSON: May I make one more call?

23 THE COURT: Let's go off record for a second

24 MR. DICKERSON: I have a --

1 (WHEREUPON, COURT RECESSED AT 16:38:28 AND RECONVENED AT
2 16:29:39)

3 THE WITNESS: The answer to the question in Section
4 1.4 of this agreement --

5 Q Just one second.

6 MR. DICKERSON: (Indiscernible), this is Bob
7 Dickerson again. If Becka (ph) -- I know he's probably
8 already left, but somebody will be there to let him in in 15
9 minutes.

10 Okay. Okay. Thank you, sir. I appreciate it.
11 Bye-bye.

12 THE COURT: You can continue.

13 BY MR. DICKERSON:

14 Q All right. Sir --

15 THE COURT: You said Section 1.4?

16 THE WITNESS: 1.4 states that GE LLC shall have the
17 option to determine the nature of the funding which may be in
18 the form of a capital contribution, a hideaway, comma, loans
19 from or facilitated by a GE LLC, comma, or a combination
20 thereof.

21 MR. JIMMERSON: The record should reflect GE LLC is
22 Mr. Berry.

23 THE WITNESS: Yes.

24 THE COURT: That is the Greenville Entertainment,

1 LLC.

2 THE WITNESS: So --

3 BY MR. DICKERSON:

4 Q That's really good.

5 A And this --

6 Q You did great.

7 A And there is a -- I -- I'm just -- without going
8 through reading this, there is a sec -- secured promissary
9 note attached to this agreement as an exhibit which would
10 indicate that the intention was that it would be a loan where
11 they -- but let me read this a little bit further.
12 Irrespective of the funding it will be preferred return of 12
13 percent maximum.

14 Q So do you agree that it really -- at -- at this
15 point in time we don't know whether it's a loan or an
16 investment.

17 A I -- I'm not saying that yet. It says here if the
18 funds are lent, the debt shall be evidenced by a promissary
19 note with interest at a rate of 12 percent per annum evidenced
20 by a secured promissary note or security agreement. And the
21 form and substance of Exhibit 3 --

22 MR. JIMMERSON: Could -- could I just approach the
23 bench --

24 THE WITNESS: So with --

1 MR. JIMMERSON: -- approach the bench for a minute,
2 sir, please, Judge?

3 THE COURT: Sure.

4 (WHEREUPON, COURT RECESSED AT 16:31:51 AND RECONVENED AT
5 16:33:23.)

6 MR. DICKERSON: Just ask me to shut up. Let me see.
7 I think I have a few more questions.

8 MR. JIMMERSON: See, I knew it wouldn't be
9 effective, Your Honor.

10 MR. DICKERSON: Should have listened.

11 THE COURT: It was worth a try though.

12 MR. DICKERSON: For 34 -- for 34 years he's been
13 telling me to shut up and I've been doing it.

14 So --

15 THE COURT: I've been trying to, not as many as 34
16 and I haven't been successful either.

17 So --

18 BY MR. DICKERSON:

19 Q Now with respect to the liability for the 2005 joint
20 tax return, that liability all relates to the deductions
21 relating to the Silver Slipper; is that correct?

22 A That is correct.

23 Q And can you -- do we still -- I know it's not called
24 the innocent spouse doctor anymore. It's given another name.

1 A Yeah, there is -- but there is an innocent spouse
2 relief, yes.

3 Q But they -- they call it a different name nowadays,
4 don't they, under the --

5 A Well, they're still using the innocent spouse.

6 Q And -- and how does that work?

7 A That works as if -- because I've actually received
8 that for a doctor client of mine. You need to show that the
9 spouse is -- was unaware of the tax transactions that took
10 place and that there was -- if there was income not reported
11 and things like that they were truly unaware of it and that
12 they should have -- should not have been aware of it they
13 weren't living off of the funds of it buying jewelry of it or
14 whatever, you know.

15 But it's -- but you didn't receive any benefit from
16 it and you were totally unaware of it. That's what an
17 innocent spouse relief is provided by.

18 MR. JIMMERSON: Relates to misconduct, intentional
19 withholding of income.

20 THE WITNESS: Yes.

21 MR. JIMMERSON: Things like that. It doesn't relate
22 to people signing joint tax returns and have an IRS
23 assessment.

24 THE WITNESS: No, I mean --

1 MR. DICKERSON: What are you talking about?

2 MR. JIMMERSON: It wouldn't apply to the facts of
3 this case I'm talking about.

4 BY MR. DICKERSON:

5 Q Why you -- are you saying that Lynita Nelson could
6 not claim innocent spouse documents?

7 A I'm -- I'm not saying one way or another. What I
8 would say is it's not normally what you would see for this
9 type of fact, a basis issue. It's usually when it -- when --
10 when the IRS grants it, it's when there's been income
11 withheld.

12 There's fraud, there's the -- overstated of
13 deductions and -- and that case. I mean, well, one -- only
14 one case that I've worked with that where I've received the
15 benefit of that was actually was a radiologist. His wife had
16 stolen funds from the community, was buying real estate
17 claiming deductions. And he never signed the returns, never
18 saw them. And we were able to get it for him.

19 Q Well, Mr. Geraty, is there a reason that the tax
20 refund that Mr. Nelson is going to be entitled to as a result
21 of that \$800,000 losses that you've referred to real --
22 earlier that you're going to -- I believe take back to 2006?

23 MR. JIMMERSON: By the what (indiscernible)?

24 A No. No, I was talking about the 2005 --

1 Q Yeah.

2 MR. JIMMERSON: The joint tax return.

3 Q No. No. No. But I'm talking about you -- you had
4 indicated earlier that Mr. Nelson is going to be entitled to a
5 -- a tax refund as a result of the loss that he incurred this
6 year.

7 A That is correct. I did say that.

8 Q And you -- if I recall you indicated that you're
9 going to apply that to the 2006 tax return.

10 A Yes. That is correct.

11 Q Is there a reason you wouldn't apply it to the 2005
12 tax return should the IRS determine if there's a liability
13 owed by the Nelsons?

14 A It -- we thought we'd get a better benefit for 2006.

15 MR. JIMMERSON: Well, hang on a second. I thought
16 you said it was a three year return. How can you apply 2009
17 to 2005?

18 THE WITNESS: We -- no, there normally is a two year
19 carry back for net operating losses.

20 MR. JIMMERSON: Yeah.

21 THE WITNESS: And with -- since the recession,
22 congress put in laws though that we can elect to carry back
23 five years.

24 MR. JIMMERSON: Five years. Okay.

1 THE WITNESS: So we -- we could -- could have gone
2 back, but we -- we had -- we had 9,000,000 of income in 2006.
3 There's plenty of income to use that 800,000 there. It was
4 easier -- it gets more complicated when you carry a separate
5 return loss back to a joint return, because then you have to
6 calculate as if they filed separately on that joint return and
7 because you can only apply it against the separate -- the
8 person --

9 MR. JIMMERSON: So the (indiscernible).

10 THE WITNESS: -- whose loss it is.

11 BY MR. DICKERSON:

12 Q Now again, it --

13 A And it cost more to do -- do '05 and we had plenty
14 of income so we picked to '06 is why we did that.

15 MR. JIMMERSON: But you haven't submitted it yet; is
16 that right?

17 THE WITNESS: That is correct.

18 BY MR. DICKERSON:

19 Q Now as you sit here today and I -- I can't -- but
20 the -- the amount of the tax refund you believe is going to be
21 approximately how much?

22 A 150,000.

23 Q Which is similar to what this part of the liability
24 is for 2005.

1 A It's -- yes.

2 Q Thank you, sir. I have nothing further.

3 MR. JIMMERSON: At this time I don't either. I'd
4 like to have the -- reserve the right to recall him. Maybe we
5 can have a preliminary discussion with Mr. Berr on the stand
6 and Mr. Geraty, because I -- I want to be right on this.

7 Judge, you can order it be divide it in half if you -- if --
8 if you -- if you decide Eric can buy this, that will solve it.

9 Eric does not buy this, you know, then you divide it
10 in half. You can issue an order that transfers that. The
11 problem is it -- you don't have the ability to bind the IRS in
12 the assessment. That's the heartache here. And we're trying
13 to find a way that Lynita can enjoy the same benefits if you
14 go down the road of -- of Mississippi.

15 The other -- the other part of that of course is as
16 we're going through this case is that it may not be wise to
17 divide the asset in half if you have a \$3,000,000 one person
18 obligation which is why we brought this up, because I want
19 Lynita to know the can of worms she's going be taking if she
20 gets involved in half of Mississippi, that's all.

21 MR. DICKERSON: And you know something, we --

22 THE COURT: I -- I think the issue is for the --

23 MR. DICKERSON: -- we --

24 MR. JIMMERSON: And that's okay.

1 MR. DICKERSON: -- we understand that.

2 THE COURT: I think the issue is for the -- the
3 issue for the parties is the tax consequence if they're
4 comfortable. I don't want anyone -- I'm not --

5 MR. JIMMERSON: Yeah, I don't want to complain to
6 you later on.

7 THE COURT: -- a big -- I'm not a big supporter of
8 government spending. So I don't want to give the money to the
9 government. I'd rather put it in their pockets. So I'm not
10 there just to divide it in half just to screw you guys on tax
11 benefits.

12 I mean, you guys need to sift through and see what
13 you think the tax consequence is. Mr. Geraty's thought was
14 his opinion was and maybe Mr. -- I can't think of his name.
15 Jeffery Berr may have a different opinion.

16 The issue is you guys get to decide if there is
17 different opinions which one you want to take the chance on,
18 because there will be taxable consequences if there's money in
19 there and you want to get the best bang for the buck if you
20 can transfer the carry loss forwards and all those things. I
21 don't know if you can or not.

22 We heard Mr. Geraty explained that it stays with the
23 transaction, it stays with the taxable entity. So but that's
24 what you guys need to decide, because that's a big ticket.

1 I'd rather have that money go in either one of your pockets or
2 both your pockets than go to the IRS. So but you guys need to
3 decide that. But I liked it.

4 Mr. Geraty, you can -- you can go back to the --
5 what I'd like --

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: -- for you guys to do is you can meet on
8 if you got those issues, maybe you need to sit there with --
9 with both of them there, Mr. Geraty, Mr. Berr to see what you
10 guys agree on that so the parties can make that decision what
11 they think are the taxable consequences, because as I said,
12 easy for me just to divide everything down the middle. But I
13 don't want -- you guys worked hard to get where you're at.

14 You put a lot of years to get where you're at and I
15 want you guys to get the best bang for your buck that you guys
16 can get out of it. If not, you know, I divide it. I hate to
17 see you guys get nailed on those tax consequences, but at the
18 same token, it -- it's your life to kind of decide what you
19 want to do.

20 I will try to figure out its community property and
21 it's an easy way for the Court just to divide everything into
22 half, but I don't want to do that if you guys you got better
23 solutions to it on that so it comes out for the -- for the
24 best for both of you guys. You work hard for your money and

1 would you have a problem of putting them up for sale
2 immediately?

3 A I think it would be -- I -- I have a problem, yes.
4 I think it's foolish because again we're selling them -- it's
5 in the midst of the highest recession, the worst time of -- of
6 vacant land sales ever.

7 Q And so what are you looking at as far as the sales
8 period?

9 A Five years.

10 Q So again, then your suggestion that you and Lynita
11 stay tied together for this five year period.

12 A No, I asked to that -- I would carry her on a note.
13 I would work diligently to clear all the titles up and pay her
14 off.

15 Q All right. The Arnold property you suggested that
16 Lynita take that property?

17 A Yes, sir.

18 Q Okay. Can you give us the name of the management
19 company I -- I am assuming that there is no problem with
20 Lynita contacting the -- the management.

21 A I don't have it. Rachelle would have it though.

22 Q And I -- I assume you have no problem with Lynita
23 contacting management.

24 A No, no problem.

1 MR. JIMMERSON: Is that for the Arnold property?

2 MR. DICKERSON: The Arnold property.

3 MR. JIMMERSON: That's McGarr, M-C-G-A-R-R. We went
4 over it last night.

5 BY MR. DICKERSON:

6 Q I was a little confused with respect to your
7 suggestion on the division of the promissary notes that are
8 held in the name of Benone Nevada. If you'll look at Exhibit
9 A-1.

10 A I think I gave it back.

11 MR. JIMMERSON: Your Honor, the spelling for the
12 management company for the little house in Mississippi on
13 Arnold Street or Clay Street is McGarah, M-C-G-A-R-A-H --

14 MR. STEPHENS: You got that?

15 MR. JIMMERSON: -- Agency, McGarah Agency. I don't
16 have a telephone number.

17 MR. DICKERSON: Well, will you give it for us?

18 MR. JIMMERSON: I will, then I might become an
19 owner.

20 BY MR. DICKERSON:

21 Q Okay. All right. The promissary notes. Let --
22 hold on one second. The -- the top of Page 8 is a Mesa Vista
23 lot that is held in the name of Benone.

24 What are you suggesting be done with that lot?

1 A Let's see. It's deeded back to Benone. So we would
2 split and sell it. I suggest selling it in five years.

3 Q Now take a look at the promissary notes that are
4 listed on that page and onto the next page.

5 A Okay.

6 Q I don't -- I didn't understand from your discussion
7 here earlier today. What is your proposal with respect to
8 those promissary notes?

9 A Well, let's see here. All of these up to Amanda,
10 those are the notes -- or those are notes from Mesa Vista.
11 The Mesa Vista notes would be upon collection would be split
12 50/50.

13 Q Okay. Now are any of these in default right now?

14 A I believe there are several in default which would
15 be -- they were not able to --

16 Q About eight of them in default?

17 A Let's see here. We've got lots 16 and 17 which is
18 --

19 Q First one.

20 A Yeah, the first one.

21 Q That's in default?

22 A That is in default. And lot number 50 is in
23 default.

24 Q Okay. And that's the last one of the ones from Mesa

1 Vista.

2 A Yeah. We don't really want to press everything too
3 hard on those or make -- or stir it up too much until after
4 December, because most of the notes come due and payable in
5 December, I believe.

6 Q Okay. Now starting then with Amanda's note. What
7 do you propose be done with that?

8 A Let's see here. Well, we would split that

9 Q How about the -- the Joan -- the J.B. Ramos?

10 A I would take that.

11 Q Okay. And how about Catherine Stevens (ph)?

12 A I would take that.

13 Q Would you have any objection to Lynita taking that
14 note?

15 A Let me take a look here. That have been -- that has
16 -- let's see here. No, I don't have an objection for her to
17 take that.

18 Q How about Chad Ramos? Do you have any objection to
19 Lynita taking that note?

20 A Well, okay. I got to have cash flow. I got to have
21 some cash come out. So the answer is yes. I would have to
22 object to something or give me some additional properties that
23 are producing income, because I'm not -- so I -- the answer is
24 yes, I object to it.

1 I was trying -- my proposal was trying to level
2 things off where I could survive and he -- she could survive.
3 So we're just restarting negotiations. The answer is yet --
4 is whatever the courts would say, but I would say that's the
5 way throughout my offer that we had talked about earlier
6 today.

7 Q Okay.

8 A And so I would not have an objection for her if we
9 are going to redo all of the stuff that I talked about earlier
10 today.

11 Q Okay. Well, I'm -- you confused me, but I am not
12 going to even bother to even go there. We'll figure that out
13 on Monday.

14 A Okay. Thank you.

15 Q So your answer then both with Catherine Stevens and
16 Chad Ramos is is that you would not want those --

17 A Let's just split it. Split it. I agree we split
18 it, split Amanda's, split everything.

19 Q Okay. Same thing with Alicia Harrison's (ph)?

20 A Yeah, split it.

21 Q Now Keith Little (ph), you've already recovered
22 those monies; is that correct?

23 A Those properties were -- were paid off after the
24 September or the July 30th date. They're in Benone or they've

1 been utilized into the repairs, replacements of the
2 properties.

3 Q But those are monies that you --

4 A But they're all accounted for.

5 Q Those are monies that you received after July 31st
6 of this year, isn't that correct?

7 A Yes, sir.

8 Q You received those monies on August 27th; is that
9 right?

10 A I believe so.

11 Q And --

12 A So everything I've said previously about wanting
13 Lynita to manage any of the assets the answer is no to that.
14 I thought we were talking about the settlement of my stuff and
15 what I was agreeing to that, Mr. Dickerson.

16 Q I'm trying to understand your settlement, sir.

17 A I apologize, because I really had thought we were
18 talking about in the event that we are working on these
19 issues. So I do not want Lynita managing my properties. I
20 don't want her having any control of this.

21 Q Okay. So now you've made it clear. We're now on
22 your settlement proposal number --

23 A Okay.

24 Q -- 1,806.

1 A Okay. Okay. I'm sorry. Yes.

2 How many have you had?

3 Q Okay. All right. So Eric T. Nelson note
4 receivable, what do you want done with that?

5 A Let's split it.

6 Q All right. Well, thank you, sir. I have no further
7 questions.

8 A Thank you.

9 THE COURT: Do you want to defer your redirect in
10 the --

11 MR. JIMMERSON: With the Court's permission, I would
12 ask to reserve my redirect, Your Honor.

13 THE COURT: Okay.

14 MR. JIMMERSON: The plaintiff would like to call
15 Daniel Geraty to the witness stand, Your Honor, with
16 substantial agreement between closing counsel and myself.

17 THE COURT: Sir, we'll have you come up the -- we're
18 going to have you remain standing for a second. Raise your
19 right in. We'll get you sworn in and then we'll --

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

23 THE WITNESS: I do.

24 THE CLERK: Thank you.

1 MR. JIMMERSON: Would you mark this madam clerk as
2 Exhibit 209, please?

3 THE CLERK: 208?

4 MR. JIMMERSON: 209. Thank you so much.

5 MR. DICKERSON: 209?

6 MR. JIMMERSON: Exactly.

7 DANIEL GERATY

8 called as a witness on behalf of the Plaintiff, testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. JIMMERSON:

12 Q Mr. Geraty, would you please state your name and
13 your business and address to the record, please?

14 A My name is Daniel T. Geraty and my add -- business
15 address is 6817 Southeastern Avenue, Suite 101, Las Vegas,
16 Nevada 89119.

17 Q Okay. Mr. Geraty, are you a licensed and certified
18 public accountant here in Nevada?

19 A I am.

20 Q Okay. I hand you proposed Exhibit 209 a summary of
21 what I call your resume or curriculum vitae that you provided
22 at my request.

23 A It is.

24 Q Okay. And the spelling of your last name is

1 G-E-R-A-T-Y?

2 A That is correct.

3 Q All right. And to the best of your understanding is
4 the information contained in your resume proposed Exhibit 209
5 accurate?

6 A It is.

7 MR. JIMMERSON: I move for its admission, Your
8 Honor.

9 MR. DICKERSON: I having never seen it before and
10 not even had a chance to read it I would object. I think it
11 would be proper for him to lay a foundation.

12 I'm assuming he's testifying as an expert?

13 MR. JIMMERSON: He is.

14 MR. DICKERSON: Then I would ask that he qualify him
15 as an expert.

16 MR. JIMMERSON: Fine.

17 THE COURT: Absolutely. I'll give you some voir
18 dire if you would like to --

19 MR. DICKERSON: All right.

20 THE COURT: I mean --

21 MR. DICKERSON: Thank you.

22 BY MR. JIMMERSON:

23 Q Mr. Geraty, your name has been mentioned over the
24 last five days of trial on -- on different issues mostly about

1 Mississippi, but then there's some other issues as well. But
2 before we turn those issues, then to meet the objection of
3 opposing counsel, I'd like to ask you some questions about
4 your background, okay?

5 A Okay.

6 Q All right. Would you tell us the -- the extend of
7 your formal education and schools?

8 A Well, I graduated with a BA in accounting and
9 business from St. Ambrose College in Davenport, Iowa. Then
10 went on, took the CPA exam and passed that in -- in '81. I
11 receive my results in '82.

12 Q So you have been practicing CPA work at least since
13 2 -- 1981 to 19 -- 29 years?

14 A Actually from January of 1982 is when I started
15 working in CPA.

16 Q 28 years.

17 A Yes.

18 Q All right. Plus. This January would be 29 years.

19 A It's -- I'm getting old.

20 Q How old are you?

21 A 52.

22 Q 52. All right.

23 MR. DICKERSON: God, he's ancient, isn't he?

24 MR. JIMMERSON: He is young. What I wouldn't give.

1 All right.

2 THE COURT: I would have allowed you to plead the
3 fight on that. I would have covered you.

4 THE WITNESS: Okay. Thank you, Judge.

5 BY MR. JIMMERSON:

6 Q Okay. With the CPA degree in Illinois and Iowa and
7 now you're practicing in Nevada. Have you have a CPA
8 credential for the state of Nevada as well?

9 A I do.

10 Q All right. So this references your work starting I
11 guess with one job before (indiscernible). So tell me what
12 work did you have after graduating in the two degrees you
13 reference?

14 A Through my senior year and two years after college I
15 worked with -- at Ralston Purina. I was a property accountant
16 for them doing investment tax credit work and cross
17 segregation studies for the plant and construction.

18 Q Okay. Nevada for licenser of CPAs I think there's a
19 -- like a work requirement post graduation.

20 A There is.

21 Q Was there a similar requirement in -- in Iowa or
22 Illinois?

23 A Yes, there is. You needed to work X number of
24 years.

1 Q And was that Ralston Purina, that job helpful to
2 meet the state requirement?

3 A No. No. Then in 19 -- January of 1982 I went to
4 work for McGladery & Poland (ph) in Galesburg, Illinois and
5 was in Galesburg for about nine years. Transferred to the
6 Peoria, Illinois office for about four years. And then in
7 1996 transferred to the Las Vegas office. And was with them
8 for almost 23 years before I left and started my own firm.

9 Q Okay. When did you leave and start your own firm
10 after 23 years in McGladery?

11 A In October of 2004.

12 Q So you've been out on your own now for six years.

13 A Correct.

14 Q Okay. And in the course of 30 -- nearly 30 --
15 there's 28 years, 29 years of CPA work, have you developed a
16 particular field of emphasis or expertise?

17 A Yes, on --

18 Q What is that?

19 A Been a -- considered a tax specialist since the
20 early '80s for McGladery & Poland and was also a lead
21 specialist for that national firm in the state and gift
22 taxation and also the taxation of trust. So I was one of
23 their national experts for the firm itself.

24 And I hold myself out in specializing in -- in

1 complex tax transactions and the state and gift planning.

2 Q All right. And as part of your duties and
3 responsibilities at McGladery, did you also have some
4 oversight relative to the auditor's opinions and positions
5 that were taken regarding taxes and tax consequences of
6 complex business transactions?

7 A Yes, I've written --

8 Q Tell us about that.

9 A I've written a number of letter rulings and received
10 favorable results from them starting in the '80s and corporate
11 spinoffs to splitting trusts for generation, skipping tax
12 issues on the trust side of stuff in -- and I've also written
13 three tax court petitions in that time.

14 I've -- and then handled numerous -- numerous audits
15 throughout the years.

16 Q Over the years here in Nevada McGladery pulling
17 partners, Irving Steinberg (ph), Cliff Beadle (ph), Charlie
18 Wilcox (ph) and have appeared in court on different matters
19 that I personally handled, were they partners of yours during
20 those years?

21 A Charlie and Cliff were. Irv was not. He actually
22 passed to join up -- join my firm actually after I left, but
23 we -- we didn't make arrangements.

24 Q Okay. All right. Now you were retained by Mr.

1 Nelson's trust in the past; is that true?

2 A That is correct.

3 Q Okay. And so how long have you been doing any work
4 with Mr. Nelson or his separate property trust?

5 A If I re -- I remember right it was right around
6 1997, I believe, '97, '98 when I was not doing the compliance
7 work. In other words, I wasn't preparing tax returns for Mr.
8 Nelson's trust, but was helping him in some complex
9 transactions and structuring some sale of real estate that was
10 on the script.

11 Q And was that the Polo Towers property?

12 A It was the jockey club.

13 Q Jockey club.

14 A Yes.

15 Q Thank you. Across the street. All right. And so
16 from 1998 to -- '97 or '98 approximately through the present,
17 have you provided professional accounting services to Mr.
18 Nelson or to a separate property trust?

19 A Yes. Throughout that time any big deals that came
20 up or special tax issues that may have flown through from Kls
21 like from the Silver Slipper for example, Eric would bring
22 that stuff to me instead of the person preparing his return
23 and we'd work on deals.

24 We worked on the -- the Card houses up in

1 Washington, the acquisition of those and Wyoming Downs and
2 things like that.

3 Q The horse track in Wyoming.

4 A The horse track, yes. And -- and then in 2007 I --
5 I believe it was 2007 I started preparing Eric's personal tax
6 work -- tax returns.

7 Q All right. I would like to introduce you to Lynita
8 Nelson, this woman on the left. Do you see?

9 A Yeah.

10 Q Before June 15th, before I made my first appearance
11 in this case relative to try to settle this case in a
12 mediation effort at Mr. Dickerson's office on June 15 of 2010,
13 had you ever met Mrs. Nelson?

14 A No, I do not recall ever meeting her before that.

15 Q Have you provided any professional accounting
16 services to Mrs. Nelson?

17 A Never.

18 Q Have you filled out any of her tax returns?

19 A No.

20 Q The party has been filing a separate tax return for
21 some years now; is that right?

22 A That is correct.

23 Q Okay. At least in 2006 through the present day.

24 A That's correct.

1 Q All right. Okay. I -- I don't know that I -- I
2 mean, this is the first time I've worked with you in terms of
3 you being a witness.

4 Have you served as an expert witness in any other
5 matters?

6 A I have.

7 Q And on how many occasions?

8 A It's been over ten, 15, somewhere around there over
9 the years.

10 Q Now you have no stake in the outcome of this unhappy
11 divorce case?

12 A I do not.

13 Q And the work that you do for Eric Nelson's separate
14 property trust or other entities; is that billed on an hourly
15 basis?

16 A It is.

17 Q Okay. And how often do you send your bills out?

18 A We send our bills out monthly.

19 Q Okay. And does the fact -- and what is your hourly?

20 A 420 an hour.

21 Q And does your hourly rate or your -- your -- the
22 fact that you do this work for Mr. Nelson's trust, does that
23 any way color or change or influence the quality or accuracy
24 of your testimony here today?

1 A Absolutely not.

2 Q And what you're going to tell us here best
3 understanding and opinion is based upon your 29 years of
4 experience as well as your work in the tax field?

5 A It will be, yes.

6 Q Okay. All right. So now I want to turn the three
7 or four issues that are relevant to this divorce case and to
8 yourself. How long have you been involved working with Mr.
9 Nelson relative to what we call the Silver Slipper investment
10 in Mississippi?

11 A The -- right towards the beginning it's probably the
12 second year I think Eric brought me some of the K1s that came
13 from the Silver Slipper to take a look at them and make sure
14 that the person preparing his returns were picking up
15 everything that needed to be done on some -- debt forgiveness
16 I believe was one of the issues on there.

17 And we were looking at -- I was invited to their
18 grand opening. Did not attend, but --

19 Q What year is that?

20 A I don't recall the exact year. It would have been
21 -- it would have been in 2005 or 4.

22 Q Okay. And --

23 A I think it would have been on the 2004 K1.

24 Q And do you understand that may have been about the

1 time that Mr. Nelson's trust made an investment in Mississippi
2 at the Silver Slipper?

3 A That's correct, yes.

4 Q Okay. All right. So you've been working with Mr.
5 Nelson and his trust since -- near the point of when the trust
6 became a minority owner in this entity called the Silver
7 Slipper LLC; is that right?

8 A That is correct.

9 Q And does -- does Eric own his interest through an
10 entity called Dynasty?

11 A Yes.

12 Q Okay. And we went over this outside waiting for
13 today. Dynasty's membership interest may be owned by one
14 other LLC; is that right?

15 A That's -- I believe that's correct. I don't
16 remember the name of the other LLC.

17 Q All right. And then in turn is owned by Eric --
18 Eric Nelson's separate property trust.

19 A That's -- it's -- it's an irrevocable trust, yes.

20 Q Irrevocable trust, DBA and Nelson & Associates.

21 A Correct.

22 Q Correct? Okay.

23 A That is correct.

24 Q All right. And the issue for this divorce case has

1 to do with how the Court will distribute the interest that the
2 parties have in Dynasty that Eric owns and the several
3 property trust of Dynasty and whether or not it will be
4 divided or whether or not Eric will buy out a -- the
5 (indiscernible) interest and stuff, because it's kind of the
6 choice of the court.

7 But one of the big things that's come up in the
8 course of this that I've learned about is a loss carryforward
9 matter. And I've discussed that with you this afternoon
10 waiting for Mr. -- for -- for this court; is that right?

11 A That is correct.

12 Q So first, I know the Judge knows this, but just for
13 the good record how do the parties have lost carryforwards and
14 what is a lost carryforwards?

15 MR. DICKERSON: May I object to this point with the
16 respect to the qualifications? May I -- I -- may I voir dire?

17 THE COURT: Sure.

18 VOIR DIRE EXAMINATION

19 BY MR. DICKERSON:

20 Q Mr. Geraty, you had indicated that you have been an
21 -- an expert, retained as an expert in several cases. Have
22 you ever testified in court before?

23 A Yes.

24 Q As an expert?

1 A Yes.

2 Q And what -- how many times?

3 A Actually testified two, three times in court and
4 then arbitration or twice during arbitration.

5 Q As an expert witness?

6 A As an expert.

7 Q And on what type of issues, sir?

8 A They were -- they -- what -- trust and estate
9 matters mostly. There's two of them that have testified in
10 court that had to do with trust and estate matters.

11 I've been a special master to the court on two other
12 cases. One was a trust and estate matter. The other was the
13 William Perry (ph) case where I working with Judge -- Governor
14 Miller and Judge Richardson, were co-special masters in
15 determining what to do with the 22,000,000 that the police had
16 confiscated from him and how it should be invested.

17 Q Okay.

18 A So I was -- I wrote the report for that.

19 Q All right. Now in this case, what have you been
20 asked to opine on? What -- what is -- what is the specific
21 issue you have been asked to come to this court and render
22 your opinion on?

23 MR. JIMMERSON: There's more than one, Mr.
24 Dickerson.

1 Q Okay. So what are the specific issues?

2 A The issues that I was -- thought I would be asked
3 about were the investment in Silver Slipper, the tax
4 consequences of that.

5 Q Is it specifically with respect to the issue of the
6 lost carryforward; is that true?

7 A Yes.

8 Q All right. And with respect to that issue, have you
9 prepared a written report?

10 A No.

11 Q When were you first asked to render an opinion on
12 the lost carryforward issue? Let me ask it this way. Isn't
13 it true that it was sometime after September 1st of 2010?

14 A I'm -- I'm not sure. Originally I was asked to be
15 available to help with any issues that may come up --

16 Q Correct.

17 A -- with the divorce.

18 Q Understand. But isn't it true that the first time
19 you were ever asked the question about whether the tax loss
20 carryforward could be divided between the parties in this case
21 was sometime after September 1st of 2010?

22 A No, be -- I believe we discussed that prior to that.
23 I know we talked about the -- Eric had even brought up phantom
24 losses that would follow that during their July -- was it June

1 or July?

2 MR. JIMMERSON: June 15th.

3 A June 15th meeting.

4 Q Oh. Specifically the issue of whether a -- the loss
5 carryforwards could be divided between parties in this divorce
6 action, that specific issue. You were requested to opine on
7 that after September 1st of 2010.

8 A I -- Bob, I don't remember the -- the date.

9 Q And you -- you were asked that question by Eric
10 Nelson himself; is that correct?

11 A I believe that's correct, yes.

12 Q And when he asked that of you he had indicated to
13 you that the position that was taken -- being taken by Lynita
14 in the divorce case.

15 MR. JIMMERSON: Objection, Your Honor. This is not
16 voir dire.

17 THE COURT: Well, what --

18 MR. JIMMERSON: It's not got nothing to do with his
19 qualifications.

20 MR. DICKERSON: Well, there's no -- what -- what --

21 MR. JIMMERSON: It's cross examination.

22 MR. DICKERSON: Have you done a report on this?

23 Well, the -- the point is then he's objectionable, because
24 where is his report? I'm not -- I'm not going to object to

1 him because I want to hear from him, but what I want to do is
2 establish foundation.

3 MR. JIMMERSON: He was disclosed as an expert
4 witness in --

5 MR. DICKERSON: That's fine.

6 MR. JIMMERSON: -- June of 2010 --

7 MR. DICKERSON: And where is his report?

8 MR. JIMMERSON: -- on these issues.

9 MR. DICKERSON: Under the rules he has to submit his
10 --

11 MR. JIMMERSON: Not under 16.2. There's not a
12 requirement for a report, counsel

13 MR. DICKERSON: Take a look at 16.2.

14 MR. JIMMERSON: I have.

15 MR. DICKERSON: It sure does. It requires the
16 report to be submitted. That's the -- that's the issue.

17 MR. JIMMERSON: He's also listed as lay witness as
18 well, Your Honor.

19 MR. DICKERSON: Well, then he's here to render an
20 opinion. Now I have no problem with his testifying, but what
21 I want to do is establish that this issue came up as a result
22 of the last court proceedings in August and September.

23 MR. JIMMERSON: That's not true.

24 MR. DICKERSON: Well, the issue of the -- the split

1 of the carryforwards. They don't even put the loss -- the --
2 the loss carryforward on any of their paper. We put it on as
3 10,000,000.

4 We now know it's 16,000,000. And I'm anticipating
5 that as we heard from Mr. Nelson yesterday this gentleman is
6 going to testify that it cannot be split.

7 I intend to call Jeff Berr as a rebuttal witness.
8 Now they have designated Jeff Berr as a witness. I have not
9 specifically designated, but I intend to call him and with the
10 Court's permission of my ability to be able to call Mr. Berr
11 to be able to rebut his testimony.

12 I have no objection to this man testifying. If --
13 if Mr. Berr is not going to be allowed to testify, then I do
14 object.

15 THE COURT: Is there going to be any objection to
16 Mr. Berr? I mean, normally I like to get the reports, because
17 I think they are mandatory. It gives the other side a chance
18 to look at their expert reports so they can get counter
19 experts on that.

20 But do you have any problem with Mr. Berr being
21 called in the normal course?

22 MR. JIMMERSON: We list him as a witness, Your
23 Honor.

24 MR. DICKERSON: Okay. So is that -- you have no

1 objection to me calling Mr. Berr as a witness?

2 MR. JIMMERSON: I don't have an objection to call
3 him as an witness.

4 MR. DICKERSON: I have no objection to this witness
5 then.

6 THE COURT: Okay. Good. Thank you, counsel.

7 MR. JIMMERSON: May I move for the admission of
8 Exhibit 209? I renew my motion, Your Honor.

9 MR. DICKERSON: You -- 209 is not admissible, Judge.
10 It's just simply what he's put together talking -- he's
11 testified. He's accepted as a -- as an expert based upon his
12 testimony.

13 I have no objection to his testimony.

14 THE COURT: I don't think I --

15 MR. DICKERSON: I do object to 209.

16 THE COURT: I don't know if you need that rec
17 purposes, but this Court is going to recognize as expert based
18 on his testimony that he's been noti -- that he's already been
19 recognizes as an expert witness by the Clark County Court you
20 said two to three times you testified by the Clark County
21 Court recognized as an expert plus in arbitration is two times
22 and serving as a special master as appointed by the district.

23 THE WITNESS: That is correct. One -- one of the
24 two times actually testifying was up in Reno, not in Clark

1 County though. Just to clarify.

2 THE COURT: Okay. But -- but it would be in Nevada.

3 THE WITNESS: Yes.

4 THE COURT: Okay. This Court will qualify him as an
5 expert based on his testimony. I don't think I need Exhibit
6 209. I think he's done a good job explaining his background
7 and education on that.

8 So I don't think I need that as --

9 MR. JIMMERSON: Very good, Judge.

10 THE COURT: -- an exhibit, but I think he's made it
11 clear with his testimony that he's been recognized as an
12 expert by the court.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. JIMMERSON:

15 Q Did you attend a mediation session in Mr.
16 Dickerson's office on June 15th?

17 A I did.

18 Q What did you understand your role was at that
19 meeting?

20 A To explain whatever came -- you know, really was
21 there as support. If any -- if there's any questions
22 regarding the assets, the tax issues and things like that to
23 be able to go over them.

24 Q And did Mr. -- Mrs. Nelson have her representatives

1 present?

2 A She did.

3 Q Mr. Dickerson, Ms. Probose (ph), Mr. Lowinow (ph),
4 CPA and Ms. Antanasio. Four people currently.

5 A I believe that's correct.

6 Q Plus Mrs. Nelson herself.

7 A Correct.

8 Q All right. The -- what is a loss carryforward?

9 A Well, there's many different types of loss
10 carryforwards.

11 Q Well, as it relates to the --

12 A The Silver Slipper.

13 Q The -- the trust's loss carryforward at the Silver
14 Slipper.

15 A The -- the Silver Slipper loss carryforward in -- in
16 particular is a at risk loss carryforward or a basis loss
17 carryforward. To explain, tax payer is not allowed to take
18 losses in excess of the amount that he has invested or has
19 basis in an asset or that he's at risk for. There's two
20 different tests actually. There's a basis test and then
21 there's an at risk test where you could have basis, but
22 because it's nonrecourse debt you're not liable for the losses
23 and you would not be able to deduct them.

24 This is really a combination of those two. And it

1 only be applied against that particular investment, that
2 particular partnership. The only way for that loss to be
3 deducted by the taxpayer is either for him to invest more into
4 the partnership.

5 For example, you know, Eric setting was zero amount,
6 zero basis, zero at risk in that partnership. If you put
7 another million dollars into that investment he would be able
8 to deduct a million dollars up to his investment.

9 Or if there was future gains that were distributed
10 from the partnership -- or not distributed but earned by that
11 entity, those additional gains would increase his basis and
12 increase the amount he was at risk for. And you could then
13 take losses to offset future gains just from that particular
14 entity only.

15 Q All right.

16 A And --

17 Q Now as a result of the shall I say the losses of
18 Silver Slipper over the years, has there been loss
19 carryforwards accrued?

20 A There has.

21 Q All right. And we've heard two different numbers
22 and it may just be tax year differences. Through December 31
23 of 2009, tax year 2009, what is the amount as you understand
24 it of the Eric L. Nelson separate property trust loss

1 carryforward?

2 A If my memory serves --

3 MR. DICKERSON: To which I object to the leading
4 nature of the -- of the question.

5 BY MR. JIMMERSON:

6 Q Who is the tax payer?

7 THE COURT: Sustained.

8 Q Pretty simple.

9 A It -- well, the taxpayer is Eric Nelson is who the
10 taxpayer is in this particular issue.

11 Q Okay. And that -- and who -- who -- I don't know if
12 you own -- if you don't -- if you own a loss carryforward, but
13 to whom is a loss carryforward attributed?

14 A To the taxpayer who owns that property.

15 Q And Whittier was the taxpayer?

16 A Eric Nelson.

17 Q Fine. What is the amount of the accrued loss
18 carryforward?

19 MR. DICKERSON: And to which -- to which -- okay.
20 To which I object, because he's just rendered a legal opinion
21 with respect to community property law.

22 MR. JIMMERSON: No, he's just talking tightly, Your
23 Honor. He's not talking community property law. I didn't ask
24 him about community property law.

1 THE COURT: To your knowledge it's in Eric Nelson's
2 name? Is it the trust name?

3 THE WITNESS: It is in Eric Nelson's name -- trust
4 name, excuse me.

5 BY MR. JIMMERSON:

6 Q Okay. And what is the amount of the loss
7 carryforward?

8 A If my memory is correct it's over 16,000,000.

9 Q Okay. And in earlier years was there a figure of
10 \$10,000,000 that I heard?

11 A Yeah, that -- it is -- I don't remember what it was
12 on each year, but it's grown each year.

13 Q So through 12/31 of '09 it's 16,000,000?

14 A Correct. Over --

15 Q And --

16 A Yeah, over.

17 Q And I saw the separate -- the -- I saw the tax
18 return that Eric Nelson filed through you, also for a calendar
19 year 2009 it showed a greater than \$800,000 loss.

20 A That's correct.

21 Q Okay. So if you were to -- if we were all together
22 in this room to look at Silver Slipper operations of 2010, do
23 you have an understanding whether or not that loss is greater
24 than \$16,000,000 or less than \$16,000,000 as we sit here now

1 in October of 2010?

2 A I have not seen any of the financial information for
3 2010.

4 Q All right. The -- as I understand do you -- have
5 you followed the transaction in talking with Mr. Nelson enough
6 to know that Dynasty owns a minority interest in the Silver
7 Slipper?

8 A Yes.

9 Q And that there is conflict between the majority
10 owners and the Nelsons.

11 A Yes, I have been privy to the conversations --

12 Q All right.

13 A -- regarding that.

14 Q And the --

15 MR. DICKERSON: And may I ask -- are these just
16 conversations between Eric and him?

17 MR. JIMMERSON: That's what I want to know.

18 Q What is this basis for your understanding? Who's
19 the source of your information?

20 A Eric Nelson

21 Q Okay.

22 MR. DICKERSON: Then I would object, Your Honor.
23 It's hearsay.

24 MR. JIMMERSON: Yes, it's hearsay, Judge, but he's

1 testifying as an expert and an expert can pursuant to Nevada
2 rules of evidence rely upon hearsay.

3 MR. DICKERSON: No, not hearsay from -- not hearsay
4 from the client.

5 MR. JIMMERSON: Of course. Absolutely.

6 MR. DICKERSON: No, I mean, you're talking about
7 like a doctor being able to rely on other doctors reports.

8 MR. JIMMERSON: Is it something that is regularly --

9 MR. DICKERSON: And if he gives -- if he gathers all
10 his information from -- from Eric, and what -- what
11 information -- how do we really know there's a dispute?

12 MR. JIMMERSON: Well, then you can try to impeach
13 the testimony.

14 THE COURT: I think the problem is --

15 MR. DICKERSON: How do you impeach him?

16 THE COURT: And if you get information, your -- it's
17 as only good as the information that you're relying on. If
18 it's -- it's only coming to us from Eric, then we need to go
19 there, but overall, I'm going to give you a little leeway.
20 Let's try to see what he's got to say, because we're going to
21 being in other people to --

22 MR. DICKERSON: Yes, is this tax return?

23 BY MR. JIMMERSON:

24 Q And you've been preparing Mr. Nelson's --

1 MR. DICKERSON: 201.

2 Q -- personal 1040 returns since 2007?

3 A That's correct.

4 Q Okay. So three years, seven, eight, nine. Marked

5 as Exhibit is the 2009 personal tax return of Eric Nelson.

6 Can you identify it, please?

7 A Yes, this is a return we prepared for Eric.

8 Q And is it the personal 1040 return?

9 A It is.

10 Q And it -- and looking at it, is this a true and

11 correct copy of what was submitted to the Internal Revenue

12 Service?

13 A If -- it -- it appears to be the return we filed

14 with the Internal Revenue Service, yes.

15 Q And Mr. Nelson and our office asked for you to

16 provide these tax returns that I introduce them before Judge

17 Sullivan.

18 A That is correct.

19 MR. JIMMERSON: Move for the admission of Exhibit

20 201.

21 THE COURT: Any objections, counsel?

22 MR. DICKERSON: No objection.

23 THE COURT: Hereby admitted as Exhibit 201.

24 (Plaintiff's Exhibit 201 admitted)

1 MR. JIMMERSON: Do we have the other two? Let's
2 just do the other two if we can.

3 MS. POLSELLI: Exhibit -- the other ones are already
4 in evidence.

5 MR. STEPHENS: They've been admitted
6 (indiscernible).

7 MS. POLSELLI: They're Exhibits 83, 80 -- I'm sorry.

8 MR. JIMMERSON: Oh, that's right. Judge, I just
9 want to fill in -- we have the Exhibits 206, 7 and 8 already
10 admitted into evidence and 80, Your Honor.

11 THE COURT: Yeah, had those admitted.

12 MS. POLSELLI: All the other exhibits you mean?

13 MR. JIMMERSON: Tax returns, 86, 80 --

14 MS. POLSELLI: 85, 86 and 87.

15 MR. JIMMERSON: 86 --

16 THE COURT: 85, 86 and 87 we already have admitted.

17 MS. POLSELLI: Yes.

18 MR. JIMMERSON: So 85, 86 and 87 and 201 would be
19 Mr. Nelson's tax returns of the last four years.

20 BY MR. JIMMERSON:

21 Q Okay. Continuing. So you have learned through your
22 work both since 1988, but certainly as part of doing the tax
23 returns that Mr. Nelson and Mrs. Nelson file separate tax
24 returns; is that right?

1 A That is correct.

2 Q And they have done so since 2006.

3 A That is correct.

4 Q 2005 being the last jointly filed return; is that
5 right?

6 A That is correct.

7 Q And do you prepare Lynita Nelson's separate tax
8 returns for the years 2006, 2007, 2008 and 2009?

9 A No.

10 Q Do you know who does?

11 A It's -- I -- I'm not pos -- I'm not sure.

12 Q Okay. Fine. And has Mrs. Nelson consulted with you
13 in any way regard regarding her personal taxes and her filings
14 with the IRS?

15 A No.

16 Q And has her -- anyone who you would recognize to be
17 her CPA contacted you regarding her filings?

18 A No.

19 Q So that you and whoever Mrs. Nelson's representative
20 is -- CPA is have worked independently of each other; is that
21 right?

22 A That is correct.

23 Q And you have not shared information between
24 yourselves.

1 A That is -- that is correct except for I once called
2 him regarding Eric's return when he was preparing it to gather
3 some basis information that I remember the last -- last year.

4 Q Do you know the name -- if I suggest the name
5 Holdeman (ph), would that be --

6 A Yeah, I believe that's the gentlemen, yes.

7 Q The gentleman representing Mrs. Nelson.

8 A Well, I think that she -- he is, but I'm not
9 positive.

10 Q Okay. Fair enough.

11 A I was called him and not about -- it was about
12 Eric's personal return and these at risk loss carryovers.

13 Q Okay. Are you aware that the parties executed
14 separate property of trust created them in 2001? May of 2001.

15 A Yes, I am. I have copies of those exhibits.

16 Q All right.

17 MS. POLSELLI: Right here. 80 and 81.

18 MR. JIMMERSON: Which one 80, Eric's?

19 MS. POLSELLI: Eric's is 80.

20 MR. JIMMERSON: All right.

21 MS. POLSELLI: Lynita's is 81.

22 MR. JIMMERSON: Madam clerk, would you mark this as
23 Exhibit 80, please?

24 MR. JIMMERSON: Here's 80. And then if we could

1 mark Exhibit number 81.

2 MS. POLSELLI: And 81 includes A and B which is -- A
3 is the change of distribution trusteeship for the trust and B
4 is the certificate of irrevocable trust.

5 MR. JIMMERSON: Okay.

6 MS. POLSELLI: It's all part of (indiscernible).

7 BY MR. JIMMERSON:

8 Q So just going to break them down one by one. Are
9 you familiar with the Eric Nelson trust?

10 A I am.

11 Q Are you familiar with the LSN Nevada trust which was
12 (indiscernible) Nelson's?

13 A I am.

14 Q And can you just flip through these. I'm going to
15 say that I believe these will be true and correct copies, but
16 if you'll look at the to -- you're not trying to reduce
17 anything other than the -- you know, accurate.

18 A No, this -- just from the start looks like the
19 similar copies that I -- I have in my office.

20 Q All right.

21 MR. JIMMERSON: So I move the admission of number
22 80, Your Honor, and 81 respectively.

23 MR. DICKERSON: No objection, Your Honor.

24 THE COURT: Hereby so admitted.

1 (Plaintiff's Exhibits 80 and 81 admitted)

2 MR. JIMMERSON: Thank you, Judge.

3 MR. DICKERSON: And it's for the record I believe --
4 Jim, you'll agree we saw these for the first time yesterday;
5 is that right?

6 MR. STEPHENS: I don't know about --

7 MS. POLSELLI: No, it was in your exhibit books.

8 MR. STEPHENS: Yeah.

9 MR. DICKERSON: Oh, it's in my exhibit book? All
10 right.

11 MS. POLSELLI: Yes, sir. It's 80 and 81 in the
12 exhibit books.

13 MR. DICKERSON: Oh, okay. So the first time I saw
14 it was --

15 MR. JIMMERSON: And I agree that Mr. Dickerson has
16 misrepresented inadvertently --

17 MR. DICKERSON: Okay. No, so the first time I saw
18 it was in August 28th, August 29th. Okay.

19 MR. STEPHENS: I provided this years ago. I
20 provided this years ago.

21 MR. DICKERSON: All right.

22 BY MR. JIMMERSON:

23 Q All right. And at least from your side as Eric
24 Nelson's side, has he --

1 MR. DICKERSON: Excuse me one second. If it's in
2 the exhibit book, why am I receiving it now?

3 MR. JIMMERSON: It's in your exhibit books.

4 MS. POLSELLI: It's -- I just made extra copies --

5 MR. DICKERSON: Oh.

6 MS. POLSELLI: -- for convenience.

7 MR. DICKERSON: Thank you very much. Never mind.

8 MS. NELSON: It's a gift.

9 MR. DICKERSON: Well, okay.

10 BY MR. JIMMERSON:

11 Q And -- and you -- when you report like his personal
12 tax return, Exhibit 201 for 2009, would you look at things
13 like 1099s and 1098s to see what income has been received or
14 what interest expense might exist relative to preparing a
15 personal tax return?

16 A Yes, well, we -- we look at all the information
17 that's reported on those forms you mention. We look at this
18 trust to make sure how it's taxed. We looked at how things
19 are owned and just make sure we're recording them on the right
20 turn in the proper way.

21 Q And so that it's clear to the judge, to your
22 knowledge, is there any assets that reported on Mr. Nelson's
23 tax returns that reflect an asset owned only by Lynita
24 Nelson's trust?

1 A No.

2 Q Is there any bank account that is owned by Eric and
3 Lynita Nelson?

4 A Not that I'm aware of, no.

5 Q So they have separate bank accounts and they
6 maintain their investments separately.

7 A Everything I have reviewed shows that.

8 Q And that's been in place now for several years
9 predating this divorce.

10 A That is correct.

11 Q Now so I -- I like now to return to the loss
12 carryforwards. What is the effect of -- because of the
13 discord that exists between the majority shareholders of
14 Dynasty -- I'm sorry, the majority shareholders of Silver
15 Slipper and the minority interest to the Nelsons, there may be
16 differences on how to operate that asset, you know, continuing
17 to operate it, selling it.

18 I mean, there's different things. Filing bankruptcy
19 to cram down debt that -- that is suffocating the company. I
20 mean, there's a lot of different choices, agree?

21 A There's always even when people are in a -- work
22 together well there's disagreements.

23 Q Okay. All right. And so for purposes of -- of the
24 tax return, Mr. Nelson's tax return, how do you report

1 operations of the trust ownership interest in Dynasty?

2 A It is report --

3 Q Which in turn owns through the other company, the
4 Silver Slipper.

5 A We re -- we report -- we file a tax return for the
6 trust which has a grantor trust which means that all of the
7 income really is -- flows from the trust and is picked up on
8 Eric's personal return.

9 So the K1 from Silver Slipper, Dynasty is a single
10 member LLC. So it's disregarded entity for income tax
11 purposes. So it doesn't file its own separate return. But
12 the -- the trust is filing a separate return.

13 But all that income then flows to Eric's personal
14 return and is -- we picked up on his 1040.

15 MR. JIMMERSON: If I have no (indiscernible) to the
16 Judge, have we now admitted 81 and 82?

17 THE COURT: Yes.

18 MR. JIMMERSON: Okay. Great.

19 THE COURT: Yes.

20 BY MR. JIMMERSON:

21 Q These trusts are irrevocable trusts by their own
22 terms; is that correct?

23 A That is correct.

24 Q And how is it that you're able to report operations

1 if you will, gains and losses from an irrevocable trust upon
2 Eric Nelson's personal return just like maybe Mr. Haleman --
3 Holdeman would report operations from Lynita's separate
4 property trust upon her personal 10 -- 1040?

5 MR. DICKERSON: Object to the compound nature of the
6 question.

7 MR. JIMMERSON: Well, it is compound.

8 MR. DICKERSON: It they would --

9 MR. JIMMERSON: How -- let's just focus up on Eric.

10 MR. DICKERSON: If they would limit it to Mr.
11 Nelson's finding. I agree.

12 BY MR. JIMMERSON:

13 Q How is it that you prepare returns that reflects the
14 gains and losses of the -- Eric Nelson, the Nevada trust on
15 his personal tax return?

16 A This particular document Eric is the grantor or
17 trustor of -- of this trust and also a beneficiary. There is
18 a independent trustee who has the power to distribute assets
19 back to Eric.

20 I -- I -- it's either code section 675, 676 or right
21 in that area. I may be off a digit, but 6 -- it states that
22 if the assets of a trust can revert back to a grantor, it'll
23 be ta -- the assets of that trust will be taxed as if they
24 were owned by the grantor which causes everything to be picked

1 up on Eric's return.

2 Q Yeah. Now I want you just to -- to assume for a
3 moment that the majority of the Silver Slipper is looking for
4 way to sell this property, okay? And as these parties have
5 operated this entity, this Silver Slipper, they've taken the
6 -- or writedowns and depreciations; is that right?

7 A They've taken some very aggressive writedowns on
8 depreciation because of -- they're in the hurricane federally
9 designated zone which allowed them to pretty much ride off all
10 of the improvements from the hurricane damage. So I know
11 they've written everything that --

12 Q All right.

13 A -- substantial -- almost a zero, pretty close on the
14 --

15 Q And -- and therefore if there were a -- if there
16 were a sale, would there be a gain?

17 A There would.

18 Q Okay. And would that gain proportionately be passed
19 on down to Dynasty and then ultimately to Eric Nelson's trust?

20 A Yes, it would.

21 Q And all right. And would the lost carryforwards
22 occasioned by the accrument of losses over the years be able
23 to be used to offset the gain that might be realized from a
24 sale?

1 MR. DICKERSON: Object to the leading nature of the
2 question. He can ask it open ended and let the -- let this
3 gentleman explain himself.

4 MR. JIMMERSON: I did. I said would.

5 BY MR. JIMMERSON:

6 Q What if any effect would the loss carryforwards have
7 upon a gain caused by a sale?

8 A If -- let's go back and look at if they sold the
9 assets of this entity, most of the proceeds would be used to
10 pay off debt which means there would be no cash distributed to
11 the owners of the entity, but there would be a very large
12 gain. It's no cash to pay the taxes on it.

13 If on Eric's -- because he has these at risk loss
14 carryovers, those losses would be able to offset that gain up
15 to the amount of the 16,000,000 in loss carryovers he has.

16 Q Okay. Now you understand that from Eric's
17 perspective he's offered, and I've told you this. He's
18 offered the judge to divide Mississippi in half down the
19 middle in assets, liabilities and everything, headaches or
20 maybe one party by the other party, yeah, correct? You've --
21 I've --

22 A Correct.

23 Q -- I've told you that, right? Okay.

24 A Yes.

1 Q All right. So if there is -- if the Court were to
2 divide Mississippi in half, is there any ability to allow
3 Lynita \$8,000,000, one-half of the loss carryforwards that had
4 been accrued on Eric's returns over the years?

5 A In my opinion no. and it's because tax attributes
6 belong to individual taxpayers. This loss is a tax attribute.
7 If this -- everything that this trust shows that there's
8 separate property. It's -- the agreements that were written
9 before that show that this asset was Eric's asset, all the tax
10 attributes have always been reported throughout the history of
11 this ownership in this asset on Eric's return.

12 An individual cannot and the court cannot transfer
13 tax attributes to another taxpayer. They can't be sold, they
14 can't be bartered. It stay -- they stay with that individual
15 and when that individual dies they go away. I talked --

16 Q Please.

17 A Talked to Jeff Berr about this this afternoon
18 actually and -- and because I was told that he was saying
19 different and he was saying well, if we ignore the separate
20 property agreements, if we ignore this trust and -- and have a
21 state court rule that all this was void and never happened,
22 then we could file -- you know, I said well, you got to file
23 amended returns.

24 And we've have to go back and amend. And I -- I

1 couldn't even -- I don't think I could have signed those
2 returns, because -- I mean, there's -- everything that's been
3 in place and the way the parties have always operated has
4 shown it as separate property. Their agreements contract is
5 signed by everybody and it just -- I don't think IRS would buy
6 off on it either that you can do that.

7 Q Now listen. If there was a way to give the wife
8 half if the Court chose that dividing the asset in half was
9 the -- the choice of the court, you understand Eric is willing
10 to cooperate to do that.

11 You understand that, right?

12 A Yes.

13 Q Okay. But you're talking about the downside or the
14 -- the challenge here is if in a sale where you might have
15 let's just say a \$16,000,000 gain and a \$16,000,000
16 carryforward. If only Eric is allowed to use that, then
17 Lynita's half of the 16,000,000, \$8,000,000 would result in a
18 tax of two or three \$3,000,000 I presume, right?

19 And how would that work?

20 A It would -- depending on how much of the gain is
21 ordinary, because a lot of it's -- if they sold the assets
22 would be depreciation recapture.

23 Q Right.

24 A And taxes, ordinary income, but I mean, you can be

1 taxed as high as, you know, 35 percent of the 16,000,000.

2 Q Of half of the 16,000,000.

3 A Of half of the 16,000,000, yes. Excuse me.

4 Q So that would be two and a half million.

5 A It -- it's a very risky asset to transfer to
6 somebody who doesn't have these loss carryovers, because there
7 could be gain -- even if they restructured the debt. Let's
8 say they don't sell it. Let's say they restructured the debt
9 and there's a big breakdown of the debt, because they're over
10 leveraged if you look at their balance sheet.

11 So if they --

12 Q The company is not doing well, right?

13 A It's -- that's my understand and looking at their
14 balance sheet --

15 MR. DICKERSON: Well, again, objection. Objection,
16 Your Honor. The leading nature and objection to the statement
17 because it's hearsay.

18 MR. JIMMERSON: He's seeing the balance sheet, Mr.
19 Dickerson.

20 MR. DICKERSON: No, he --

21 MR. JIMMERSON: Listen to his answer.

22 THE WITNESS: He's done the balance sheet --

23 THE COURT: Did you see the actual balance sheet?
24 Do you know who prepared it or --

1 THE WITNESS: Yes.

2 THE COURT: -- did you prepare it or you've just
3 seen it?

4 MR. DICKERSON: When's the most current one?

5 THE WITNESS: It was the tax -- it was part of the
6 tax return that was -- I got a copy of their tax returns from
7 2009 and I think 2008. I got a complete copy of their
8 returns.

9 MR. JIMMERSON: Okay.

10 THE WITNESS: And I was looking at their balance
11 sheet and just like the M Resort here, just like Hooters here,
12 these casinos are over leveraged and they're going -- the
13 banks are foreclosing on them. I think there's substantial
14 risk looking at their balance sheet. And let's say the --
15 they renegotiated their debt and cut it in half. That would
16 be a substantial gain on debt forgiveness passed out to the
17 shareholders. And if you don't have those loss carryovers to
18 use against that, you have a huge tax liability with no cash
19 to pay it and no losses to offset it.

20 And I -- I just -- it's a very risky asset to play
21 with in my opinion.

22 BY MR. JIMMERSON:

23 Q Okay. The -- since the parties are re -- reported
24 this asset as Eric's separate property on the trust and then

1 the report on his personal tax return collapsing the entities
2 for the reasons you've articulated, you might do the parties
3 -- or the parties have to -- do they set aside the trust? Do
4 they amend six or seven years of tax returns?

5 I'm sorry. They filed jointly in 2005. Do they
6 amend four years of tax returns, six, seven, eight and nine?

7 A If -- if I understand your question correctly that
8 if we were going to take the position that these law -- that
9 property, the court rules that despite all these agreements
10 this was community property from 2006 on.

11 Q Right.

12 A You would have to amend Lynita's individual return
13 and Eric's return and each person's income would have to be
14 split 50/50 to show that all the income was community which is
15 not how anything has been prepared in the past by either
16 party. And some people -- I'm not sure which, because I
17 haven't done the calculations, but one party is going to end
18 up owing more tax and owe interest and late payment penalties
19 and the other party probably will have a refund to offset
20 that, because I'm not sure who had the greater amount of
21 income each year.

22 But you have to go back and restate the positions
23 taken on the prior tax returns, because that's not how they've
24 ever been treated in the past.

1 Q Now I want you to understand that these are asset
2 protection trusts to protect Lynita as well as Eric, but to
3 put the rest of your stuff in Eric's name and the safer stuff
4 in Lynita's name.

5 Do you understand that?

6 A I do.

7 Q Okay. So we're not saying that, you know, that the
8 asset or income of Mississippi would not be divided in
9 anything other than equal. We're -- we're treating it as --
10 as for purposes of divorce as half and half. The challenge
11 that's come up is if there's no ability to transfer half of
12 that \$16,000,000 in loss carryforward, this judge would not I
13 don't think be motivated to give her half of Mississippi if it
14 results in a two or \$3,000,000 liability that's going to
15 happen when the controlling shareholder takes a decision
16 that's outside of both Eric's and Lynita's, you know, total
17 control because they're a minority shareholder and now
18 suddenly there's a two or \$3,000,000, you know, capital gain
19 or income tax that's due, you know, that we see.

20 A Because of the negative capital that's there, that
21 huge tax liability I just -- it -- it's -- it's an upside down
22 asset and I wouldn't -- I would not recommend my client take
23 it if that was the -- if they had that liabilities hanging
24 there.

1 10,000 in income. That's -- that's 25,000 right there. Close
2 enough.

3 So then you've got Arizona properties. I would take
4 them. That gives me some cash flow. I have to have cash flow
5 too to survive. And so we're about even on cash flow.

6 Arizona is a little more problematic. But the properties I'm
7 not doing her any favors either which way even though I think
8 the Nevada properties are better suited for someone in Nevada.

9 Q How are you -- how are you pretty near equal on
10 income? I mean, you're receiving 15 to her 6,800?

11 A No, I'm sorry. When you take into -- into account
12 all the other properties on the back pages they'll come into
13 about 14, 15,000.

14 Q All right.

15 MR. JIMMERSON: Can we just point to that so the
16 Judge can follow us?

17 THE WITNESS: Yeah, if you go to --

18 MR. DICKERSON: I don't mean to -- I -- we can get
19 to it. I -- I don't mean to have him jump around. We can get
20 to that.

21 THE WITNESS: Okay. You get to Grata, that rolls up
22 into number 8. We're going to split or she'll sell her
23 interest and I'll -- and I'll carry a note with her somewhere.

24 All the cash investments pretty darn equal. So

1 we're down to -- from 13 to 30 split as -- split as described.
2 Now all he -- all he's using is the 7/30 date. 31, I put that
3 okay, nobody's responsible to buy Eric a car.

4 Maybe that's something me and Lynita can agree on in
5 the future. We promised it to her, but we'll take it off here
6 so we don't have to argue about it.

7 Garrett's car, I've already bought it for 25,000.
8 She shows Garrett's (indiscernible) up at number 15. So I left
9 the ledger there just to make it easy meaning I'm responsible
10 to give her the 30, but she's responsible to give me the 25.

11 BY MR. DICKERSON:

12 Q Say that again? What are you talking about now?

13 A The --

14 MR. JIMMERSON: Well, he shows a 30,000 on line 15.
15 So you have a double issue here. And then he has the car at
16 line 32. So as long as we understand that 25 of the 30 has
17 been spent.

18 It's not 55,000 there.

19 MR. DICKERSON: Why is he putting --

20 MR. JIMMERSON: It is 30,000.

21 MR. DICKERSON: -- any portion on Lynita's side?
22 Why is he doing that?

23 THE WITNESS: The 30 was -- not that it's an error,
24 but as of 7/30 we accounted for as book reasons. That's the

1 check that came back from Ameristar. And so I cashed it and
2 used it to buy Garrett's car. So right now I owe her \$5,000.

3 BY MR. DICKERSON:

4 Q But -- but again, whether, you know, you buy
5 Garrett's car with the money or -- it's Garrett's money.

6 Why do we put any --

7 A Bob, you just asked me to do the presentation.

8 Q I'm asking you a question.

9 A We're -- we're dinking around with the car now.

10 Q Why are you putting \$30,000 on Lynita's side of the
11 ledger for Garrett's money? Why?

12 A Because that's when this was originally bought and
13 the check came in. And when the check came in whenever it
14 came in the last month, I didn't want to change the accounting
15 because we were using my understanding of -- for accounting
16 purposes 7/30 and I was responsible for everything as of 7/30.

17 Q I don't think you understand my question. If --

18 A So I went read through it.

19 Q If --

20 A I -- I said either I'm going to give her 30,000 in
21 cash or -- or give her that check. And since I took the
22 check, I'm going to give her 30,000 in cash.

23 Q It's Garrett's money, sir.

24 A No, it's not. It's my money.

1 Q All right.

2 A It's not Garrett's money. It was money that was
3 allotted in my account for Garrett's car and his college or
4 mission fund. And it's going to be split. So anyway, but
5 it's been spent.

6 Anyway, and are we clear on that?

7 Q No, but go ahead.

8 A Okay. 33 through 34, if we agree in a scenario that
9 we have a price, I would take all the responsibilities of
10 those. If we do not, then we just split all the liabilities.

11 Then we roll up to number eight, Your Honor.

12 Everything -- is yours -- I think it's yellow.

13 THE COURT: Yeah.

14 A 41 and 42, those would go to the Arizona. I think
15 that's a gracious scenario on my end. I'll take the source
16 liability which is real and the Paul Alanis liability which is
17 real. Manis lawsuit, I take both of them. Exemplify her as I
18 asked her on this indemnification I don't know if we entered
19 it to the court.

20 MR. JIMMERSON: That's only if you're taking
21 Mississippi and (indiscernible).

22 THE WITNESS: If I take Mississippi exemplify her or
23 she takes all of exemplify me. But that -- that's not going
24 to happen. It's got to be a 50/50 or I take her out.

1 Chris Stromboard had put him down as zero. If she
2 doesn't want to pay and I don't want to pay, then we don't
3 have to pay him. Nobody's liable for something in the future.

4 The cars are the cars as we said. I reduced the
5 price on 50, 51, 52 and 53 by 10,000 as we talked about last
6 night from our basis, Your Honor. So we gave some
7 adjustments.

8 If you look at -- look at the original court option
9 A to bring them into more of a true market value.

10 MR. JIMMERSON: So 50 through 53 you reduced by
11 10,000.

12 THE WITNESS: 10,000 a piece.

13 MR. JIMMERSON: After assumed to our conversation
14 last night.

15 THE WITNESS: Those would go to Lynita. 54 would go
16 to Lynita and free and clear homes.

17 MR. JIMMERSON: And you -- you set forth the -- you
18 set forth the rent that she would receive on the right here,
19 right?

20 THE WITNESS: Excuse me?

21 MR. JIMMERSON: You set forth her rent there on the
22 right too for those same items.

23 THE WITNESS: Yes.

24 MR. JIMMERSON: And go ahead. Please continue, sir.

1 THE WITNESS: We would split and sell 55 and 56. I
2 suggest --

3 MR. JIMMERSON: Hang on. Hang on. Hang on. Help
4 the judge.

5 54 is a home that is your daughter resides in.

6 THE WITNESS: Yes. And that Lynita requested it.
7 If -- if Erica (ph) stays at home or moves up in between the
8 two homes, we bought her furniture for my house too now so we
9 probably be back and forth.

10 Lynita could rent that probably fair market rent
11 probably a thousand a month to 900.

12 MR. JIMMERSON: Okay. So that would be awarded to
13 Lynita.

14 THE WITNESS: Yes, that's what she -- yeah, that was
15 her thoughts last night.

16 MR. JIMMERSON: Okay.

17 THE WITNESS: I suggest on all the vacant land to
18 hold it for five years and we split it. Those are good things
19 coming back.

20 There's some strategy if we foreclose or start to
21 settle those lots now could injure the notes that are 62 to
22 69. Those are things that could be down the road. Lindale I
23 had split it and we can either sell it.

24 If I stay there, get fair market rent. Brian Head

1 --

2 BY MR. DICKERSON:

3 Q Would you be able to guarantee that she would
4 receive at least 5,000 a month?

5 A While I'm there or for 18 months I believe that
6 could work out, yes.

7 Q Well, when would it be sold? I -- I --

8 A Well, if we sold it after -- I think we should sell
9 it -- I have to give this some thought, but I would say that
10 we should hold it for five years if Lynita could do that. If
11 it drops less than five, us getting her 5,000, then we would
12 list the property and sell it.

13 I think that a stipulation like that would be fine.

14 Q And why couldn't you guarantee that she would
15 receive at least 5,000?

16 A Well, I don't know what the rents will be, but I
17 will guarantee it for the first 18 months. I think that's a
18 fair proposal.

19 Q And you would -- and you would pay fair rental
20 value?

21 A Fair rental value.

22 Q For your -- so what would you pay for your space?

23 A Well it is about 65 cents a foot right now. That's
24 what the last ones we paid.

1 MR. JIMMERSON: How much -- do you have the square
2 footage?

3 THE WITNESS: About 3,000.

4 MR. JIMMERSON: So what, 2,000 a month? 20 --

5 BY MR. DICKERSON:

6 Q So -- so --

7 A But if I'm guaranteeing the 5,000, I'm guaranteeing
8 your five.

9 Q Right. That's what -- but you're saying for 18
10 months. That's the problem.

11 A Yeah.

12 Q If you say you guar --

13 A Well, then --

14 Q If you guarantee --

15 A -- then after 18 -- Okay. Let's do this. And then
16 --

17 Q If you guarantee her five --

18 A -- after eight --

19 Q Hold on.

20 A Okay.

21 Q If you guarantee her 5,000 until it's sold, we don't
22 have an issue.

23 A I know, but I might have to move out if --
24 financially if I get destroyed in Mississippi. This is very

1 real reality in the world in this recession and it being all
2 related to real estate. So I'm just trying to do something
3 that she can guarantee and that I can guarantee.

4 I can do it for 18 months and then we'll see where
5 we're at. But I believe we should sell it for five years, but
6 I had said that if Lynita is inclined and -- and pushed the
7 option to sell that we would sell it.

8 In 18 months, we can reevaluate it and if it's just
9 below the five I'd be paying fair market. It's very unlikely,
10 Bob, that I'll do less than 5,000 to her even after the 18
11 months. The tenants have been in there extremely long time
12 and the rents are fair and low.

13 Brian Head we should -- if -- if agreed, I think we
14 should keep it for three to five years and then split it.
15 I'll maintain it. It's a luxury item. We have a lot of money
16 into that -- that deal there, but I would maintain she doesn't
17 want to use it. If she wants to use it, that's fine too.

18 I would agree to a cabin use scenario with her. I
19 think it's a mistake to sell that. However, I agree that if
20 -- if you want to put it up on the market we would, but we
21 could sell it.

22 I was hoping that we could use part of my equity on
23 the Mississippi side of it to secure that as additional
24 collateral for the Mississippi note just as having a -- if I

1 -- if I was able to purchase a agreeable price from Lynita
2 that we would tag that and we would put it at something plus
3 four percent interest to give me a motivation to pay off that
4 note.

5 The Wyoming --

6 Q But you -- what do you believe the value of the
7 Brian Head property actually is? Do you believe it's pretty
8 (indiscernible)?

9 A I believe it to be approximately \$3,000,000.

10 Q Okay. And do you believe you could sell it for
11 3,000,000 today?

12 A In today's market, no, sir. I don't know, because
13 not a cabin sold up there in two years. It's such a luxury
14 item. I don't know where it is.

15 It is probably one of the -- there's only probably
16 four or five cabins that challenge it on the mountain. None
17 of them have sold. To sell it would be -- would be really,
18 really difficult and bad mistake.

19 We should list it at three if she wants to list it
20 for at least three to five years and then start lowering the
21 price. If she needs the money it would be one thing.
22 However, I think we're showing that she will have 35,000 a
23 month income.

24 She's going to have at least \$5,000,000 coming in

1 the future. And she's not going to have any debt or liability
2 in these areas here. Wyoming is an \$800,000 split. This
3 allows me to take that 80 -- 80 lot subdivision and work to
4 develop it. It's at least a three to five year project
5 though.

6 But I'm happy to work it and pay at my expense the
7 expenses and then take it out on the back end. Those expenses
8 would be approved by Lynita.

9 Clay's (ph) house, number 60 we reduce the -- reduce
10 it by 10,000 and Lynita said she would take it. Gives her
11 income of about 450. 500 gross, but 450 net is what we
12 receive, I believe. Lot 6 --

13 THE COURT: Number 60, you didn't reduce it. It
14 shows the same as on the first one, 40,000, 40,000 or did I
15 miss it?

16 THE WITNESS: It was -- let's see.

17 MS. POLSELLI: Reduced from (indiscernible).

18 THE WITNESS: I think on our first option --

19 MS. POLSELLI: Reduced from this one.

20 THE WITNESS: -- it was 50,000. Oh, it does show
21 40.

22 THE COURT: It does show 40 on option A.

23 MR. JIMMERSON: So there was no redemption, Judge,
24 is there?

1 MS. POLSELLI: Mr. Dickerson showed me.
2 MR. JIMMERSON: It's also operated by a --
3 THE WITNESS: Oh.
4 MR. JIMMERSON: -- third-party --
5 THE WITNESS: There it is.
6 MR. JIMMERSON: -- property manager in Mississippi.
7 THE WITNESS: Sorry, Bob. Mr. Dickerson's list it
8 showed 50 so I reduced it to 40.
9 MR. DICKERSON: Actually --
10 MS. NELSON: It could have been a --
11 MR. DICKERSON: -- my -- my list was from his
12 previous ones.
13 THE WITNESS: Well, these have been reduced
14 according -- I was trying to keep up on the values.
15 Anyway, according -- and thanks for pointing that
16 out, Jim or Judge or whoever it is. 61 was one of the Mesa
17 Vista lots. That should be held and split when it's sold, but
18 I don't it should be up on the market for three to five years.
19 MR. JIMMERSON: And you told me this is not a great
20 investment of these properties.
21 THE WITNESS: No, they were lots that we sold. I
22 bought them in bulk 80 to -- let's see a hundred vacant lots
23 and 20 homes. I purchased them in 5,000,000 plus, sold them
24 at an auction, made a couple million in profit which is

1 reflected in these notes.

2 However --

3 MR. DICKERSON: And that's a business decision.

4 THE WITNESS: -- the market has fallen off and
5 nobody's building a house and they're probably back to what I
6 originally purchased them for.

7 So if we -- I don't want to injure 62 to 69, two of
8 them that are -- I think two are in default anyway. If I
9 start selling lots at far below value, people won't pay their
10 notes off that come due I believe in November or December of
11 this year or there's a good chance they'll extend.

12 Now my thought with 61 through 69 we split them or
13 she's welcomed to take her pick of the notes that are
14 performing. And then I'd get the balance of them and then she
15 would take whatever lots or whatever. So pretty even there.

16 I'm happy to manage them. They're in Benone and
17 split them as they come through. It does give her a little
18 bit of extra income.

19 Lot 70 is gone. Number 71 on the list through 77 I
20 would take, be responsible for those.

21 BY MR. DICKERSON:

22 Q I'm sorry, Which ones?

23 A 71 through 77. Those are notes that I sold houses
24 to relatives or related parties that work for me. Number 78

1 we split. That's the Nicki (ph) note. And -- and income is
2 2,000 a month. So it's a good rate of a return. And we would
3 split 79 thereafter.

4 In a nutshell, it -- I would pay Lynita at the end I
5 believe 275,000 in cash to equal it. And the way I look at it
6 she would have approximately Your Honor with Lindale and her
7 cash now would go back up to approximately a million five.
8 She would get an additional 5,000 income from that.

9 She will have 35,000 a month in income. She would
10 have approximately 5,000,000 in future income. She would have
11 no debt, no liabilities that I'm aware of. And I'd be
12 defending all the actions for us. And we come up pretty even.

13 Q And where did you get all those last number -- I
14 don't see them here. I'm trying to -- where did you get the
15 income? Where is the -- the total income number?

16 A Well, if we take Russell Road --

17 Q No, but do you have a number here for --

18 A I didn't -- I didn't have time to add it up.

19 Q Okay.

20 A And so --

21 Q I -- no. So you were just speaking. It's not --
22 you were speaking from the document.

23 A I can give it to you though.

24 Q Okay. Well, we can figure that out ourselves. I

1 mean, we --

2 A Okay.

3 Q -- maybe we can meet at another time and --

4 A Okay.

5 Q -- go into more detail, but this is --

6 A Sure.

7 Q -- helpful. Okay. All right.

8 Is there anything else you want to suggest?

9 A Well, I didn't want to give the guarantees or be
10 held to those if we have to fight everything out in court.

11 MR. JIMMERSON: Eric, did you want to talk about
12 Mississippi?

13 THE WITNESS: Well, Mississippi my thought was --
14 thank you. Was that if we could agree on a number, I had
15 offered a million. Bobby had suggested two.

16 Gave it a lot of thought last night. My number was
17 a million two. However --

18 BY MR. DICKERSON:

19 Q Well, your number originally was 3,000,000, wasn't
20 it?

21 A Well, let me remind you that was back three years
22 ago.

23 Q No, I wasn't involved three years ago.

24 A No, three years ago. That's before you were

1 involved --

2 Q Okay.

3 A -- it was with -- Jeff Berr was -- it was -- it was
4 3,000,000.

5 Q I'm talking about January of this year when I was
6 involved.

7 A Yeah, but those numbers have deteriorated to -- to
8 receiving a buy/sell purchase agreement from Paul Alanis, my
9 partner, where he forced me to buy him. That gives him the
10 right to buy me. So we've engaged these areas, but you can
11 analyze it, because this is simple.

12 I had suggested we split it in the middle. You talk
13 2,000,000, I talk a million. \$1,000,000 or 1.5 million which
14 would give Lynita a note for 750,000. I take all the
15 liabilities in Mississippi.

16 It does not include the -- what do you call it,
17 Nicki note. It does not include the Clay house. It includes
18 all the liabilities, everything else there. We tie it to a
19 three to five year note that's tied against my equity in the
20 cabin at four percent interest. Gives me a motivation to sell
21 it to do it.

22 The other option is you take Mississippi and I take
23 Mississippi 50/50. We both know we can't work together on
24 that project. And that's kind of where we're at.

1 BY MR. DICKERSON:

2 Q Now in order for Lynita to be able to make a
3 decision with respect to Mississippi --

4 A You -- and of as of this moment I'll give you un --
5 unlimited access to Paul Alanis.

6 Q Okay. But you need to put that in writing to him.

7 A I'll put it into writing. You can have it.

8 Q So if you want to send him an email that he can talk
9 to me, will you do that?

10 A I'll text him right now or call him, get him on the
11 phone if you want to talk to him in front of the court.

12 Q I -- I would appreciate that. I don't know if the
13 judge wants to be involved, but I think Mr. Alanis would be
14 very helpful in assisting Lynita to understand what issues
15 she's dealing with there and what would be appropriate.

16 A But now the bigger picture what I prefer first is we
17 have an issue where Dan Geraty is on -- at odds apparently
18 with your tax expert.

19 Q Well, I talked with Jeff Berr yesterday and he
20 disagrees with you --

21 A Okay.

22 Q -- with respect to the trust, how the trusts are set
23 up, the trusts are set up --

24 A injury

1 Q -- under specific --

2 A Then --

3 Q -- IRS provision. And he can expl -- he's the
4 person that drafted the trust, right?

5 A Yes.

6 Q And he's --

7 A Okay.

8 Q -- a CPA.

9 A Then that's fine. Then you're welcome to go the
10 50/50 scenario and you're welcome to -- that's -- that's one
11 of your options and we decided that.

12 Q Okay.

13 A And -- or your other option is to take the money and
14 put it out on the cabin for future three to five years out as
15 a goose egg going down the road. Those will be your options
16 there.

17 And you're welcome to call Pal -- Paul Alanis and we
18 can text him. We can get him on the phone. Remember that the
19 Dynasty is set up different with the tax issues. And I would
20 challenge Jeff Berr against Dan Geraty at any time unless Jeff
21 Berr brings to light some issues here, because I have a
22 hundred percent faith in Dan Geraty and the changes and the
23 provisions in those -- in those areas there.

24 He may be wrong, but if he were -- is wrong, you're

1 accepting the responsibility. What Jeff's given indication I
2 would prefer to get it in writing which is okay. So do you
3 want --

4 Q Do you understand, sir? Here's what the issue is,
5 okay?

6 A Yes, sir.

7 Q You have a trust that you say is an irrevocable
8 trust, correct?

9 A Yes, sir.

10 MR. JIMMERSON: She has the same.

11 Q You -- yeah. And you were the grantor.

12 A Yes, sir.

13 Q Correct? And you understand that under tax laws a
14 grantor cannot convey property to an irrevocable trust and
15 still be the trustee?

16 Do you understand that?

17 A I don't understand that.

18 Q And do you understand the exception that you have as
19 the way this trust is set up is there's a co-trustee, correct?

20 A I'm not sure.

21 Q Well, there's supposed to be a co-trustee?

22 A Hey, it doesn't matter.

23 Q But that co --

24 A You can do whatever you want

1 Q But that co-trustee is supposed to authorize all
2 distributions to you as the grantor. That's why it's setup --
3 it's setup simply for asset protection purposes.

4 A Okay. Then you're fine.

5 Q And the IRS treats it --

6 A Take half of it, Bob.

7 Q Okay.

8 A Quit arguing with me.

9 Q Oh, sorry, sir.

10 THE COURT: That's not -- we -- we don't need that,
11 but --

12 Q I'm sorry.

13 A Just take half.

14 THE COURT: So that's an issue you need to resolve
15 as far as -- that it's split in --

16 Q This is the way it always goes though, Mr. --

17 A And have her team of attorneys --

18 Q Mr. Nelson, this is the way it --

19 A I'm just trying to get it done.

20 Q -- always goes.

21 A I don't know why you always argue with me. That's
22 the way I look at it.

23 Q When anyone questions you on something and takes a
24 different position from you, you blow up.

1 A No, I just say I'm done and then you keep going --

2 Q Your wife has a right to know.

3 A -- and keep going. She has a right to know.

4 Q She has an absolute right to know.

5 A I agree. Two years she's had the right to know this
6 and you found out when?

7 Q When did your attorney find out about this trust?

8 A I knew about it for two years.

9 Q When did your attorney find out about it?

10 A But that's not the issue there. When did your
11 client buying into half of it? I told everybody.

12 THE COURT: We've -- we don't --

13 Q You didn't tell anybody.

14 A But anyway, that's here or there.

15 THE COURT: We're making progress.

16 THE WITNESS: We're making progress.

17 THE COURT: Slow, but we're making progress.

18 THE WITNESS: So --

19 MR. JIMMERSON: Well, anyway --

20 THE WITNESS: But -- but that being said, I -- I
21 don't know, Bob. What do you think? Do you want to do it?

22 BY MR. DICKERSON:

23 Q Well, I'm looking at my calendar. I know we're
24 going to be in court here this afternoon. I'm in trial

1 tomorrow. I am tied up in a supreme court settlement
2 conference the afternoon on Friday. I could meet with all of
3 you guys Friday.

4 I can meet on Saturday, all day long Saturday until
5 maybe 5:00 o'clock and I could probably meet Sunday morning.

6 A Great. I'm available all those days. I believe
7 Dave could do it if you can't or if you can do it, boom, boom.

8 MR. JIMMERSON: I'm out of town on Saturday and
9 Sunday.

10 THE WITNESS: Okay. Dave?

11 MR. STEPHENS: I'm out of town on Saturday.

12 THE WITNESS: If -- with their permission I'm happy
13 to meet with you.

14 MR. JIMMERSON: Okay.

15 BY MR. DICKERSON:

16 Q MR. DICKERSON: I -- I actually think quite frankly
17 we need both Mr. Stephens and Mr. Jimmerson to be present.

18 A Well, I think either one's fine.

19 So --

20 Q My -- my preference is to have both of them if you
21 don't mind, sir. I find that --

22 A Well, I'm just trying to save --

23 Q I find that --

24 A -- conserve capital.

1 Q When we have them involved the conversation goes
2 much more --

3 A Well, could -- do we have time Friday?

4 MR. JIMMERSON: I'm open -- I have time on Friday.

5 MR. STEPHENS: I have time on Friday.

6 THE WITNESS: Great. What time Friday?

7 MR. JIMMERSON: Do you know what your first half of
8 the day looks like (indiscernible)?

9 MR. DICKERSON: Yeah, can we meet -- do you mind
10 meeting at my office? Do you mind meeting at my office?

11 MS. NELSON: Friday morning.

12 THE WITNESS: We can meet at Jim's. The thing --
13 but --

14 MR. JIMMERSON: No. No.

15 MR. DICKERSON: I'll deal with this.

16 MR. JIMMERSON: Either one is fine.

17 THE WITNESS: And I see you have all the documents
18 there by --

19 MR. DICKERSON: But the reason -- the --

20 MS. POLSELLI: So Friday you have an 11:00
21 mediation.

22 MR. DICKERSON: I'll tell you what. We can meet at
23 Jim's. I just need to then probably leave earlier. I can
24 meet 8:00 o'clock, 9:00 o'clock, you name it. 7:00 o'clock.

1 MR. STEPHENS: 6:00.

2 THE COURT: I'm up at 5:00. So I can be there at
3 5:00 if you want.

4 MS. POLSELLI: I go 4:00.

5 MR. DICKERSON: I'm up at 5:00 also, but I need to
6 need to get some exercise this week. I'm --

7 THE COURT: Least it's our (indiscernible). Yeah,
8 that's probably the best way to start your day.

9 MR. JIMMERSON: What time is the mediation?

10 MS. POLSELLI: 11:00.

11 MR. DICKERSON: Do you want to meet --

12 MR. JIMMERSON: Can we -- can we start like at 8:30?

13 MR. DICKERSON: That would be great. 8:30 at your
14 office.

15 BY MR. DICKERSON:

16 Q And Mr. Nelson, do you have any objection to Lynita
17 meeting with the -- with -- with Ms. Antanasio (ph) with the
18 people at Russell Road say today or tomorrow?

19 A With me?

20 Q No, alone.

21 A That's fine, but I don't know if that is fair --
22 well, that's fine. That's -- it's -- I mean --

23 Q What would -- what problems would be caused if she
24 met with the people at the church to discuss issues with

1 respect to the property without you there?

2 A Well --

3 Q I mean, if there's a problem let -- let's know --

4 A Yeah.

5 Q -- what it is, because --

6 A My -- my word is good with them, they know that.

7 And I've worked with them very diligently to support them in
8 areas and understanding the mechanical part of the -- the
9 building itself and their troubles and the empathy that has
10 gone through to divide their congregation while they're trying
11 to get this church built.

12 I have a sense of loyalty to -- to work on those
13 areas there. And so I would be concerned if somebody comes in
14 and say hey, we own half. We're going to demand this and
15 we're going to kick you out.

16 It wouldn't be my style.

17 MS. NELSON: Just like me.

18 THE WITNESS: But if --

19 MS. NELSON: That's just like me, isn't it?

20 THE WITNESS: Well, I don't know. And -- and so
21 it's -- it's sensitive. But you're welcome to do it, but I'm
22 -- I'm just challenging you to be careful with your tenants,
23 because they're in a tough position too in the world.

24 BY MR. DICKERSON:

1 Q All right.

2 A But I'll set it up. I'll give you pass for John's
3 number and you can call them.

4 Q Great. That will work too. Thank you.

5 THE COURT: My understanding with the church the
6 problem was is that the school has to be hooked up water and
7 sewer and right now it's on septic.

8 So that's the problem with them getting the -- firm
9 it to put the school at the same site because of the --

10 THE WITNESS: So they -- yeah, they had to move the
11 school off to a different location right now because the
12 county wouldn't let them over there. So they got their
13 congregations meeting on Sunday and they got it kind of split.
14 So now they had double expenses.

15 THE COURT: And your goal is to get it all unified
16 and -- and --

17 THE WITNESS: Exactly.

18 THE COURT: -- the Russell Road on that once they
19 can get the --

20 THE WITNESS: Right. So we're working on helping
21 them --

22 THE COURT: -- sewerage stuff in.

23 THE WITNESS: -- get there.

24 THE COURT: All right. So the agreement we have

1 right now is that she can meet with the tenants over at
2 Russell Road. Can also have -- they'll do an email, give an
3 authorization to Mr. Alanis to speak to you that resolve --
4 that the -- the input on two major issues that we've been
5 going back and forth.

6 And then the parties will meet Monday -- Friday
7 about 8:30 or so to discuss further settlement.

8 BY MR. DICKERSON:

9 Q Great. And in your email to Mr. Alanis if you would
10 just authorize him to talk to Lynita personally, myself or
11 Melissa Antanasio.

12 A Sure.

13 Q Thank you, sir.

14 MR. JIMMERSON: Bob, I cannot do it 9:00 o'clock. I
15 have a mediation in front of Judge Mirran.

16 THE WITNESS: Can we at least start with Dave there
17 and then have Jim join us?

18 MR. JIMMERSON: That's what I like to see.

19 MR. DICKERSON: when are you available, Jim?

20 MR. JIMMERSON: Friday I just don't have any time
21 until the afternoon.

22 MS. NELSON: I think --

23 MR. JIMMERSON: I'm not attending that mediation in
24 the afternoon that he referenced because of a letter I

1 received.

2 THE WITNESS: I don't see why Dave can't assist us
3 in these areas until Jim gets there. We're not going to
4 finalize anything there. We're probably just talking about
5 Mississippi, what we're going to do. Everything else if we're
6 agreeable is kind of done.

7 THE COURT: Will you be able to contact Mr. Alanis
8 before then, Mr. Dickerson? Answer some of your questions?

9 MR. DICKERSON: Yes, and I --

10 THE COURT: Okay. Good.

11 MR. DICKERSON: -- if I can't Lynita will do it
12 directly. She -- in fact, she attempted to and Mr. Alanis
13 just didn't feel comfortable.

14 THE COURT: His problem. And then as far as Russell
15 Road, will you be able to meet with the tenants, Ms. Lynita,
16 prior to their meeting?

17 I'm trying to get this -- also two of the major
18 issues that's probably that you need to get --

19 MS. NELSON: If we're not meeting on Friday, then
20 yes, the schedule is open for us to do that on Friday morning.

21 THE WITNESS: Well, wait a second.

22 MS. NELSON: Eric said -- when is -- when is your
23 meeting with them? You said you were meeting --

24 THE WITNESS: We can arrange it at anytime you would

1 like.

2 MS. NELSON: -- on Friday.

3 THE WITNESS: Friday afternoon I was going to.

4 MS. NELSON: That won't work with Melissa's
5 schedule. She just has Friday morning available.

6 THE WITNESS: Well, you can do it tomorrow. We can
7 do it Thursday. I'm sure the pastor would make exceptions.

8 MS. NELSON: I'll see what her schedule is. I have
9 to check with her if that's fine.

10 MR. DICKERSON: I am of --

11 THE COURT: Yeah, we're just trying to get those,
12 because otherwise if you meet and you haven't had that
13 information, then you guys will be back in this stalemate as
14 to --

15 MS. NELSON: Exactly.

16 MR. DICKERSON: I have --

17 THE COURT: -- getting the -- those are the key
18 informational points that the parties -- people need to get
19 comfortable with it. They've --

20 MS. NELSON: I agree.

21 THE COURT: -- got all the information.

22 MR. DICKERSON: I am available all day on Monday. I
23 had a supreme court settlement conference that's been
24 cancelled. So --

1 MS. NELSON: That'll work.
2 MR. DICKERSON: Will that work for you?
3 MS. NELSON: I'll make it work.
4 MR. DICKERSON: Not -- were you going out of town?
5 MS. NELSON: I was going to -- no, I was going to
6 get --
7 MR. STEPHENS: I got a 9:00 o'clock motion summary
8 judgment, but after that I'm clear on Monday.
9 MS. POLSELLI: We got a motion at 10:00
10 (indiscernible).
11 MR. DICKERSON: At 10:00?
12 MR. JIMMERSON: 11:00 to 4:00 would be fine.
13 MS. POLSELLI: Yeah.
14 MR. JIMMERSON: 11:00 to 3:30.
15 MS. POLSELLI: We got a settlement con --
16 MR. JIMMERSON: I think on my calendar --
17 MS. POLSELLI: Settlement conference at 1:30.
18 MR. DICKERSON: Meet at your office at 11:00
19 o'clock?
20 MR. JIMMERSON: That would be great.
21 THE WITNESS: Could we at least, Bob, meet with Dave
22 for three hours on Friday --
23 MR. DICKERSON: Actually --
24 THE WITNESS: -- and then roll into Monday?

1 MR. DICKERSON: -- I -- I just think -- let's --
2 what we want -- I want to make sure Melissa can be there. So
3 let's coordinate it. Right now let's -- let's plan Monday at
4 11:00.

5 THE COURT: Right now we're looking at Monday at
6 about 11: 00 o'clock to --

7 MR. DICKERSON: 11:00 o'clock. All right.

8 THE WITNESS: Yeah, the offer with -- on the
9 Mississippi too is -- is time is of the essence. As you'll
10 find out with -- with Paul.

11 And so with that, there -- there's going to be some
12 swift moving areas and we just need to make a decision. If
13 not, it's got to go 50/50.

14 MR. DICKERSON: Would you be able to make contact
15 with Paul Alanis right now so that Lynita and I can call him
16 during the lunch hour?

17 THE WITNESS: Oh, yeah. If you -- yeah. And we'll
18 go out there. I'll leave it on the voicemail and text it to
19 him at the same time to get confirmation of it. Plus I'll
20 give you his number.

21 THE COURT: All righty.

22 THE COURT: I think it's -- probably now it's
23 probably a good time to take a lunch break. It's about a
24 quarter to 12:00 and we've kind of got through his proposals.

1 Some proposal gives you -- you know, a chance to
2 call Mr. Alanis, leave him a message. Gives you a chance to
3 talk to Mr. Alanis during the lunch hour if you can and then
4 gives you a chance to meet with the tenants before your Monday
5 meeting so you can answer those questions on that. Because
6 those are the keys that people need to get comfortable.

7 And until you're comfortable with Russell Road and
8 the Mississippi property we're not going to go anywhere. And
9 so we need to make it comfortable -- those are the two major
10 issues.

11 Other issues we can probably work through, but those
12 seems to be the two major impediments right now and make sure
13 everybody is comfortable.

14 You won't get settlement until both sides are
15 comfortable. And you know -- you know that from business
16 negotiation if one side takes the other side, isn't being
17 straightforward or not sure what's going then you never get
18 settlement until either side kind of gets the information
19 where they know what they bottom line is and what they would
20 like and what's their bottom line is. And they would never
21 reach that if they think there's information that they don't
22 have.

23 And that's just part of the negotiation. The
24 parties need to be comfortable. They got the information that

1 they can make an informal decision. Otherwise, we'll be just
2 going through bringing everybody here. I'd rather have you
3 guys talk to him and see if you can resolve it than bringing
4 all these witnesses in and put them on the stand and going
5 through it, because it's the same thing.

6 We're trying to get that information formed so we
7 can make an informed decision whether the Court makes the
8 decision or you guys make the decision. We need that
9 information.

10 So why don't we take a lunch recess. And what time
11 do you want to come back? Do you want to do a --

12 THE CLERK: Can I have a 1:30?

13 THE COURT: What do we have at 1:30?

14 THE CLERK: (Indiscernible).

15 THE COURT: All right. Why don't you -- I got a
16 review at 1:30, but it should only take 10 or 15 minutes. The
17 thing is I got to quit about 4:00 o'clock. So I hate to do
18 from 2:00 to 4:00.

19 Is that -- that's only a couple of hours. I hate to
20 -- but --

21 THE WITNESS: That sounds good.

22 MR. DICKERSON: Does that work for you or --

23 THE COURT: Yeah, and we can make it work on that.

24 MR. DICKERSON: Do you have a witness to call or --

1 oh, you're going to --

2 MR. JIMMERSON: I got to redirect. Yes, I do.

3 MR. DICKERSON: Make sure there's room for -- I want
4 Geraty.

5 THE COURT: All right. We'll be in recess and --
6 and we'll be back at 2:00 o'clock and we'll go to about 4:00
7 then, okay?

8 MR. DICKERSON: Thank you.

9 THE COURT: Thanks, everybody.

10 (WHEREUPON, COURT RECESSED AT 11:34:46 AND RECONVENED AT
11 14:22:30.)

12 THE COURT: In the matter of Eric Nelson and Lynita
13 Nelson. Case Number D-411537.

14 We'll get everybody's appearances for the record.
15 Mr. Jimmerson.

16 MR. JIMMERSON: Thank you, Judge. Good afternoon.
17 Jim Jimmerson on behalf of Eric Nelson. Eric Nelson is
18 present. David Stephens.

19 MR. STEPHENS: Good afternoon, Your Honor.

20 MR. JIMMERSON: And present and Shahana Polselli our
21 paralegal and Mr. Nelson is on the witness stand, Your Honor.

22 THE COURT: Thank you. Mr. Dickerson.

23 MR. DICKERSON: And just me alone, Bob Dickerson on
24 behalf of Lynita Nelson. My please.

1 THE COURT: As far as -- we can give you a couple of
2 hours today to -- I told you to 4:00 o'clock if we need to
3 push it a little bit since -- since we started late. Did you
4 -- I see they said Mr. Geraty, did you want him to testify
5 today or finish with Mr. Nelson?

6 MR. DICKERSON: Actually, I have -- just I have --

7 THE COURT: Because we only got about two hours. I
8 don't know what --

9 MR. DICKERSON: I just have a few more questions of
10 Mr. Nelson and if they wanted to reserve the redirect, we can
11 do that.

12 MR. JIMMERSON: Yeah, we agree to take him out of
13 order, Your Honor.

14 THE COURT: But the -- okay. I just want to --

15 MR. JIMMERSON: But ahead --

16 MR. DICKERSON: But just some very few questions.

17 THE COURT: Remember, you're under oath Mr. Nelson
18 from this morning.

19 THE WITNESS: Yes, sir.

20 THE COURT: Okay. Thank you. You can continue, Mr.

21 --

22 CROSS EXAMINATION CONTINUED

23 BY MR. DICKERSON:

24 Q Mr. Nelson, going through your scenario that you had

1 --

2 MR. DICKERSON: Was this marked as an exhibit, Jim?

3 MR. JIMMERSON: It was. It's option C.

4 MR. DICKERSON: Option C. Okay.

5 BY MR. DICKERSON:

6 Q Your -- your option C that you discussed in your
7 testimony here earlier today.

8 THE COURT: Do you need a copy of that, sir? We
9 have it up here.

10 THE WITNESS: I have it. Thank you.

11 THE COURT: You -- I -- I don't think you --

12 MR. DICKERSON: All right.

13 THE COURT: I don't think you'll have it. Did you
14 -- you got the one that you did? Because we got the official
15 one. Do you got that one?

16 MR. JIMMERSON: Yeah, he did.

17 THE WITNESS: Yeah, I have that one.

18 MS. POLSELLI: He did.

19 THE COURT: Okay. Yeah. Okay. He's got a copy.

20 BY MR. DICKERSON:

21 Q Just a few questions. With respect to the Lindale
22 property.

23 A Yes, sir.

24 Q If Lynita agreed to handle it the way you suggested,

1 would you have any objection to Lynita managing the property?
2 A No, sir.
3 Q And would you have any objection to Lynita receiving
4 the first \$5,000 of rental income, you receiving the second
5 5,000 up to the second 5,000 and anything above that be split
6 equally between you?
7 A I would definitely strongly consider that if --
8 Q Okay.
9 A -- yeah.
10 Q All right. With respect to Russell Road --
11 A Aft -- that would have to be after -- after
12 operating expenses we're --
13 Q Right.
14 A -- talking about.
15 Q Understand.
16 A Taxes, insurance.
17 Q Right.
18 A Okay.
19 Q And as I understand it right now it's producing
20 approximately \$10,000 a month in --
21 A I believe so
22 Q -- net -- net rental income?
23 A I believe so.
24 Q With respect to the Russell Road property, again,

1 would you have any problem with Lynita managing that property?

2 A I'm not necessarily managing it. Nancy (ph) is
3 doing it for Cal, because it was originally his building. And
4 right now it's a triple net scenario.

5 So I don't know why we just couldn't have the checks
6 sent three different ways. I don't know if a management team
7 needs to be hired for the expense of that. She can have her
8 direct one-third check directly to her.

9 Q What -- with respect to both those properties
10 Lindale and Russell Road, would you be in agreement that
11 Lynita would have the option at such time that she wanted to
12 sell the property that it will be sold?

13 A No, I don't have a problem with the exercising that
14 scenario if -- if it comes to that.

15 Q Okay. How about with respect to Russell Road and
16 your brother's interest. How would you be able to control
17 that?

18 A I know my brother said he wouldn't want to settle
19 for a loss below the -- the 6.4, but we could -- you know, I
20 -- I don't know we could force my brother into legally doing.
21 I would be open to be considering selling the Russell Road,
22 our portion of it.

23 Q Well, the -- the problem that you have with it is
24 the way you set this up. Lynita will obviously be a minority

1 share -- a minority owner of that property. And --

2 A So will I.

3 Q -- your brother and you certainly can team up on
4 her, couldn't you?

5 A Well, I don't believe so. We would --

6 Q Why?

7 A -- give her -- I guess we could say it's 50/50
8 percent rights in the buy/sell scenario. She could -- so she
9 -- so she can't be trumped and we can't be trumped in the
10 scenario.

11 Q So you would be willing to give her 50 percent
12 rights with respect to issues dealing with the sale and the
13 lease of the property?

14 A I would -- well, I guess you got to be careful in
15 that consideration. I don't know what -- to what extent.

16 I want to protect Lynita, but I don't want her to be
17 overbearing to be able to swamp a transaction too. I would --
18 I could stipulate that we could sell it mandatory over the
19 \$6,000,000.

20 And I think my brother Cal would have no problem
21 with that netting 6,000,000 minimum. We -- he wouldn't want
22 to be so thrown under the bus.

23 Q Okay. Now Lynita just whispered to me it's already
24 under contract, but it's not under contract right now, is it?

1 A It's in -- we're negotiating the new contract right
2 now.

3 Q Okay. And I have not seen that contract.

4 Can I get a copy of the contract you're negotiating?

5 A Yeah, well, we get -- yeah, we're -- we're just --
6 okay. So the original contract it was amended to just extend
7 everything basically another year.

8 Q But whatever it is, is there any chance I can see
9 that when we meet on Wed -- on Monday?

10 A Oh, yeah. Definitely. I'm meeting with the pastor
11 on Friday at 2:30, Lynita. And you're invited and he's
12 looking forward to your -- or yours and Melissa's call.

13 Q Okay. With respect to the Brian Head property,
14 would -- if Lynita agreed to continue to own that one-half
15 with you, would you have an objection to immediately putting
16 it up for sale?

17 A If we could agree that we're not forced to sell it
18 for less than 3,000,000 for a period of time if I maintain the
19 expenses and if that's where if she sells out on Mississippi
20 that I could pledge my interest to the equity on the
21 Mississippi side of it like I suggested.

22 Q Well, with -- with respect to that issue, I mean, do
23 you -- do you have any objection to the Court retaining
24 jurisdiction over all of these issues so that if ever is a

1 dispute in the future between you and Lynita over the sale of
2 the property the Court would assist us in resolving that
3 issue?

4 A I love that idea. Yes, I agree with that a hundred
5 percent.

6 Q Now Brian Head I don't quite understand. You're --
7 you're saying that you would not accept a sale of the Brian
8 Head property for less than \$3,000,000?

9 A I'd like to -- that we be considered everything on
10 any offer so we could list it. I would -- see, that's a
11 luxury item.

12 If you sell it in today's market it's going to get
13 crushed in my opinion. So if we're forced to sell everything
14 and being forced to put things forward in a very fast manner I
15 think it's reckless unless there is some great need of cash or
16 capital. And so I'm trying to preserve as much equity for me
17 and for Lynita.

18 Q But would you have any objection to putting it up
19 for sale for \$3,000,000 with the Court retaining jurisdiction
20 over that -- that issue to determine whether it will be sold?

21 A I think that's fair.

22 Q Should -- should an offer come in.

23 A I think that's fair.

24 Q Now also with respect to Brian Head property, would

1 you have any objection to with respect to the use of the cabin
2 would you have any objection to Lynita being entitled to all
3 even months and you being entitled to all odd months?

4 A That would be fine. Well, let me think here. The
5 Fourth of July.

6 Do I get the odd months?

7 Q Odd months.

8 A Okay.

9 Q So you got July.

10 A So the Fourth of July would be me. Okay. That
11 would be great.

12 MR. JIMMERSON: You don't -- you don't have
13 Christmas. I mean, quickly thinking through it you don't have
14 Presidents Day. You do have Martin Luther King Day.

15 MR. STEPHENS: What about your birthday?

16 MR. JIMMERSON: You don't have --

17 THE WITNESS: No. No. I'm fine.

18 MR. JIMMERSON: You do have -- you do have
19 (indiscernible) and you do have Labor Day.

20 I mean --

21 MS. NELSON: Could --

22 MR. DICKERSON: But you -- but you don't have Jim
23 Jimmerson's birthday.

24 THE WITNESS: Okay.

1 MR. JIMMERSON: No, you don't. And nor Mr.
2 Dickerson's.

3 MR. DICKERSON: Okay.

4 MR. JIMMERSON: It's always been my labor Your Honor
5 to be four days younger than Mr. Dickerson -- or older, some
6 four days older.

7 THE COURT: And maybe I can have it on my birthday
8 while we're negotiating? Maybe can I have it for my birthday
9 if they --

10 MR. JIMMERSON: We need an address, Judge, to send a
11 care package.

12 MS. NELSON: You can have any month that I have. I
13 won't be spending time there anywhere.

14 THE COURT: Okay.

15 BY MR. DICKERSON:

16 Q So all right. So moving over to --

17 A Now I would like to say in the event that she's not
18 going to be there I'd like to check on it periodically if
19 she's not going to be there to maintain the facility.

20 Q She'll be there to maintain it.

21 A Okay.

22 Q She's just -- well, there would only be one month
23 between times that you would --

24 A Right. Well, that's --

1 Q -- be there, right?

2 A -- what I mean. But --

3 Q So it's not a problem.

4 A -- I mean -- okay.

5 Q All right. Now with respect to the Gateway

6 properties. There -- there are water rights that are tied to

7 those properties; is that right?

8 A Well, I'm not quite sure the water right the

9 revisions in those lots.

10 Q Okay. But there are water rights that are tied to

11 those properties, correct?

12 A I don't know. It -- whatever there is, there is.

13 Q Okay. And those water rights are held in your name.

14 A But whatever is held in I -- my name would be 50/50,

15 Lynita. There is a corporation set up to gain to do the

16 public report to show pub -- that we would have to actually

17 pump water in with trucks. And so it's designed that way.

18 There wasn't the water rights as you think of normal

19 Colorado water rights.

20 Q But whatever the water rights are --

21 A She gets half.

22 Q -- you agree that you and Lynita would share those

23 equally.

24 A Oh, yeah. Definitely.

1 Q Now with respect to the Gateway properties, the
2 properties that are held in the name of Lynita's Nevada trust,
3 it's my understand that you did -- explain to the court what
4 you did with respect to a report that had to be filed for the
5 purpose of being able to sell those properties.

6 A Well, it's a public report. And it -- it basically
7 tells you everything about the gravel situation, the street
8 situation, water situation and other things that the public
9 should be made aware of.

10 Was there more that I'm missing?

11 Q Well, no. That's fine. And -- and that's required
12 to be done before the -- the properties can be sold; is that
13 correct?

14 A Yeah.

15 Q And now my understanding is when you've already
16 submitted that report for the properties that are held in the
17 name of your trust; is that correct?

18 A For the process of that. It's not -- it's not
19 completed. We're --

20 Q All right.

21 A -- hoping to catch up and bring Lynita's involvement
22 at the same time.

23 Q And -- and will you do that?

24 A Oh, yeah.

1 Q All right. So you would include Lynita's properties
2 in there.

3 A Yes. Uh-huh. To the degree that we can. And we're
4 going to catch -- a little catch up time and stuff. And so
5 yeah.

6 Q Okay. Explain that to me so we -- we understand --

7 A There's just -- you know, you've got a -- we've got
8 a -- the answer is -- is yes we've got to do some reports and
9 catch up to our report as moving forward which I don't think
10 is a big deal.

11 Q Okay. And can you start that process immediately?

12 A Immediately. Uh-huh.

13 Q All right. Now there is a parcel. There are 10
14 lots in which Lynita's trust owns a 25 percent interest with
15 four other individuals.

16 You're aware of that?

17 A Not completely, but yes.

18 Q Okay. Well, actually it's my understanding that the
19 total of those are approximately 26.25 acres, but one of those
20 individuals that she owns that -- those 10 lots with is a
21 gentleman by the name of Gary Zalan (ph).

22 A Zalan.

23 Q Zalan. Now do you know Mr. Zalan?

24 A Yes.

1 Q Now it's Lynita's understanding that Mr. Zalan has
2 filed for some type of bankruptcy protection.

3 Are you aware of that?

4 A No.

5 Q Does Mr. Zalan still own an interest in the lots?

6 A Well, from my understanding whatever -- you know, we
7 own our own needed lots. There might be some joint lots and
8 those were the benefit of Lynita and that -- that group there.

9 Q Well, you are aware that there are lots, joint lots
10 in which -- I -- I take that as she owns 25 percent so it's
11 only three other individuals.

12 A Yeah.

13 Q She owns those 10 lots with Harbor Investments.
14 That's a relative of yours, correct?

15 A That's Paul Harbor and Nola.

16 Q And Luis Walters (ph). Who is Luis Walters?

17 A He's just a third-party gentleman.

18 Q And Gary Zalan you mentioned. Now does Gary Zalan
19 still have an interest in those lots?

20 A I believe so. There are some lots there, Mr.
21 Dickerson, that aren't really developable. So they were kind
22 of stuck together.

23 And so -- so I don't know between what degree and
24 what value those lots were or they needed to be separated at

1 some other time.

2 Q Now if I understood you with respect to the Wyoming
3 property, you're willing to have you and Lynita each own a 50
4 percent interest in the Wyoming property, correct?

5 A Of the 40 percent we own, yes.

6 Q Of the 40 percent that you own. So you each own 20
7 percent. It's my understanding also if -- if I understand and
8 again, I can't remember whether the conversation is here or
9 elsewhere, but you are willing to develop that property,
10 correct?

11 A And use my ability to get it to -- I would have to
12 re -- what we did before is we did the plat map, got
13 everything all done and then we went to the counsel to get all
14 the water rights, because it does have water rights, get
15 everything approved. And that's when the property was
16 purchased out right. And they took an auction on that 200
17 acres.

18 But that -- I (indiscernible) to Wyoming downs. So
19 I have to go up, refresh it, work all the zoning verifications
20 and do whatever is necessary. It -- so I -- yes, I would do
21 that.

22 Q Okay. So again, my understanding is that in this
23 development process you would confer with Lynita with respect
24 to the development costs that need to be done; is that --

1 A Yes.

2 Q -- correct?

3 A Uh-huh (affirmative).

4 Q And your brother and sister, they each own a to --
5 the -- their total interest of 60 percent where yours and
6 Lynita's is 40, correct?

7 A Uh-huh. Yes.

8 Q And -- and it's Lynita's understanding that you are
9 willing to put her share, her 20 percent share of -- of any of
10 the development cost and that you would be reimbursed upon the
11 sale of the property.

12 A That's correct.

13 Q Would you have similar with the other properties
14 that we've talked about of Lynita having the option to be able
15 to decide when the property is going to be sold, would you
16 have a problem with the Wyoming property if her also having
17 that option?

18 A To -- no, no problem.

19 MR. JIMMERSON: Can we just indicate that that
20 option, I don't know if that means -- because you're going to
21 have a partition action. You're going to have some problem,
22 20 percent each.

23 MR. DICKERSON: And I know that. That's -- but --

24 THE WITNESS: Well, you can always

1 MS. NELSON: Well, they're --

2 MR. DICKERSON: According to Eric, he's in control

3 --

4 MS. NELSON: -- (indiscernible).

5 -- of his family members; is that right, Eric? I mean --

6 THE WITNESS: Oh, well I don't mean I control my
7 brother and sister. I can control that I would put mine up
8 and offer them -- I'm sure they would oblige. Lynita is their
9 friend. They would do whatever necessary to satisfy.

10 Now I -- I don't think it's wise to sell it for five
11 years in the midst of us trying to work on it, but, you know,
12 things can happen.

13 Q All right. Now with respect to the Mississippi
14 properties -- with respect to the Mississippi properties, do
15 you have -- if those are divided equally between you and
16 Lynita, do you have a problem with all of those property being
17 immediately put up for sale?

18 A Well, yes, because all of them have huge title
19 issues, have environment issues that we have to carry through
20 on with the properties. All of them are in litigation with
21 the -- or some of them are going to be in litigation with the
22 Silver Slipper. To sell with such title defects would be
23 ridiculous.

24 Q Okay. As soon as those title defects were cured

1 college and allowing them to be debt free when they got out of
2 college if we could afford it. And that's all I got to say
3 about it.

4 Q Now this \$22,145 though, these are monies that you
5 gave to Chris?

6 A Are you calling my son-in-law waste, Mr. Dickerson?

7 Q Do you recall -- let me ask the questions, sir. You
8 gave him these monies during the pendency of this divorce
9 action, didn't you?

10 A No, this is -- I believe it was -- I don't know when
11 it was. It was his first year of college, second year. I
12 don't know when it was.

13 Q And what year is he in year?

14 A He's got three years to go.

15 Q Okay. So he's in his second year, isn't he?

16 A I believe in two years ago, two years ago.

17 Q Okay. So he's in his second course --

18 A But he's got a three year course. Is that right? I
19 don't -- I don't want to comment.

20 Q So he's in his second year?

21 A In graduate school at Penn State.

22 Q So you gave him these monies during the pendency of
23 this divorce action, isn't that true?

24 A I believe so. Yes, sir. I believe I had Lynita's

1 permission to do so.

2 Q Well, and again, the point being, sir, during the
3 pendency of this divorce action you've given no money to
4 Lynita, isn't that true?

5 A You have \$2.6-million that she was living on and --

6 Q So I --

7 A -- I was living on my savings too.

8 Q So I take it the answer to that is yes.

9 A Yes, I've given her 2.6 million. I had 2.4 million.
10 Is that what we're talking about?

11 Q No, I take it that you --

12 A I gave multiple --

13 Q -- you agree that you --

14 A I paid multiple things for the children, their
15 health insurance, all their school, all their individual ins
16 -- car insurance, their cars, their gas. If this is an
17 ordinary course of a father doing these things, then I don't
18 know what it is.

19 Q Okay. And but --

20 A Has she ever wrote a check for the kids? The answer
21 is no. I write all the checks to the children. I write the
22 -- my little daughter in -- in Aubrey, her rent check every --
23 in New York every month. So I do all these things here. It's
24 ordinary course of business I believe, Mr. Dickerson, but I

1 appreciate the question.

2 And yes, we did discuss this thing here. If Lynita
3 doesn't understand it, that's fine. But my understanding is I
4 have a right and she has a right to be a parent. If she had
5 wrote me anything it's a do not give any money to anybody that
6 might be of different consideration.

7 But from what I know is her word was -- was good
8 before and -- and it was still good and told her what we were
9 doing. If her daughter finds out that you called her son
10 waste, she will never talk to this lady again.

11 Q Well, I'm sure she will, won't you, sir.

12 A She will not from this.

13 THE COURT: No -- nobody's calling anybody waste.
14 It's just a thing that it's a legal term for money and that
15 that anything is community property and if people spend money
16 without the other party's consent, then they can argue that
17 that was their half that they spent without their permission.
18 But no one's saying that the money you gave to --

19 THE WITNESS: It seemed like it was a --

20 MR. DICKERSON: Now --

21 THE WITNESS: -- big amount it would be something --

22 MR. DICKERSON: -- back to my --

23 THE WITNESS: -- different, I guess.

24 BY MR. DICKERSON:

1 Q Back to my question that you have yet to answer.
2 A Okay.
3 Q It's true that during the pendency of this divorce
4 action you have given no monies to Lynita, isn't that true?
5 A I have given money in several sources by taking care
6 of the children --
7 Q Okay. Thank you, sir.
8 A -- by those other areas. I would give her money at
9 college -- I mean, at Christmas --
10 Q Thank you, sir.
11 A -- in '08 \$15,000, giving her those areas there.
12 Yes, so I was out of the house still for just -- still
13 supporting her in those areas.
14 Q Now Ryan Nelson is your nephew?
15 A Yes, sir.
16 Q Do you agree that you have either loaned or just
17 given money to Ryan in the amount of \$10,000?
18 A I have not.
19 Q You have not?
20 A He worked for me full-time employment of Eric Nelson
21 Auctioneering. The issue -- the check was issued in 2008
22 prior to the JPI.
23 Q Okay. And what was it for?
24 A Eric Nelson Auctioneering. He -- we owed him money.

1 They're mission checks.

2 Q And Cliff McCarly, who is he?

3 A Yeah, Cliff's the -- the -- is a friend, mutual
4 friend, but our friend and he worked for me in Mississippi.

5 Q And you gave him \$8,000 during the pendency of this
6 divorce action, did you not?

7 A I did not.

8 Q Okay. Actually, you -- you gave him -- you -- you
9 gave him \$8,000 to purchase a home, didn't you?

10 A \$8,000 --

11 MS. NELSON: A mobile home.

12 A -- to that -- we had a trailer and he wanted to
13 purchase it. So I sold it to him for \$8,000.

14 Q Why did you give him \$8,000?

15 A I didn't give him 8,000. That was a booking for --
16 that's not a -- that's not a transaction. That was a booking
17 I believe -- if I understand it correctly and he owed us
18 \$8,000 for the trailer. We wrote the -- we wrote that 8,000
19 off. It was well --

20 Q Well, take a --

21 A It was in April 2007 --

22 Q Yeah, it was.

23 A -- well before the JPI.

24 Q Well, take a look at Exhibit triple Q.

1 A I'm sorry?

2 Q Triple Q.

3 A Q?

4 Q Yes.

5 MR. JIMMERSON: I think you said three Qs, Mr.

6 Dickerson.

7 Q Three Qs.

8 MR. JIMMERSON: QQQ.

9 A Okay. Yes.

10 MR. JIMMERSON: There's not a (indiscernible).

11 MR. DICKERSON: All right. Well, you can strike
12 that one in.

13 MR. JIMMERSON: Are we conceding that issue, Mr.
14 Dickerson?

15 MR. DICKERSON: Yeah, we're conceding it.

16 BY MR. DICKERSON:

17 Q So you're telling us that actually that was a -- a
18 purchase?

19 A I think we bought -- yeah, we bought the trailer and
20 then we booked it. They -- Cliff owed us the \$8,000, because
21 the trailer was in Mississippi and we weren't going to utilize
22 it as a construction trailer. So he took it.

23 Q Oh, so then you ended up giving him the trailer.

24 A Well --

1 Q Is that right?

2 A -- we wrote it off. You know --

3 Q Okay.

4 A -- we're in -- the trailer was worthless anyway at
5 that way after we didn't use it.

6 Q And --

7 A It was 2/07. It was prior to the JPI.

8 Q And Chad Nelson is your nephew?

9 A Chad Ramos. There's no Chad Nelson.

10 Q Was it Chad Ramos?

11 A And yes, then that was counted before. That was --

12 Q Oh, you are absolutely right.

13 A Okay.

14 Q That was back on --

15 A I want to apologize to Mr. Dickerson --

16 Q Yeah, let -- let's back on --

17 A -- and maybe I don't understand the line of
18 questioning. I think the judge is right. You're just asking
19 questions to be clarified.

20 Q Well, you know something, Mr. Nelson, we've been
21 here the fifth day and every time there's an apology.

22 A Well, you're lucky I'm apologizing.

23 Q All right. So --

24 A See, now you take my apology and you shove it down

1 my throat, don't you?

2 Q Well, every --

3 THE COURT: That's not it. Just --

4 Q -- every time --

5 A So un -- undo those apologies. This is what I get.

6 THE COURT: Let's -- let's -- we remember to be
7 professional.

8 A Just a common course of action --

9 Q I just would like it to be sincere --

10 THE COURT: Yeah.

11 Q -- once.

12 A -- from the man.

13 THE COURT: We're moving forward. We're making
14 progress. Get everybody civil and we'll get through this.

15 BY MR. DICKERSON:

16 Q Okay. All right. Sir, if you take a look at the
17 last page. Actually, the -- yeah, the last page of Exhibit
18 A-1.

19 A What?

20 Q Of A-1, the last page.

21 A Oh, I need it. I don't have it. I need it.

22 Q A-1? Do you --

23 A I don't have 20. I felt -- well, I mean, I don't
24 have the exhibit. I have my stuff.

1 Q Oh, okay. I'm showing you what's been admitted as
2 Exhibit A-1. The last page lists debts.

3 A Yes, sir.

4 Q All right. Fortunately, the debts are -- consists
5 of one page. So we -- we don't have a great deal of debts, do
6 you agree?

7 A I agree.

8 Q Do you have any credit cards outstanding?

9 A No.

10 Q Okay. The Mellon line of credit at least as of July
11 30, 2010 was \$1,557,368; is that correct?

12 A At 7/30 it was 1.5. I believe it is. I checked
13 that. I think it's 177 -- 177 now --

14 Q Okay. And --

15 A -- 1,775,000.

16 Q And do you -- and do you have the documentation for
17 that?

18 A No, I don't.

19 Q Okay.

20 A I'm just saying you asked me to check and it is a
21 couple hundred.

22 Q But you do agree that the numbers that is listed
23 there, \$1,557,368 was the balance as of September 30, 2010?

24 A Yes, sir.

1 MR. JIMMERSON: Guys. Guys, it's July 30th, 2010.
2 MR. DICKERSON: July?
3 THE WITNESS: July, I'm sorry.
4 MR. DICKERSON: Thank you. July.
5 THE WITNESS: Yeah.
6 MR. JIMMERSON: My (indiscernible) -- listen to the
7 question, please.
8 THE WITNESS: Okay.
9 MR. DICKERSON: No, actually, it's my dyslexia,
10 okay?
11 MR. JIMMERSON: Not a problem. I just --
12 MR. DICKERSON: I -- you know, the nines and sevens.
13 BY MR. DICKERSON:
14 Q And if you take a look at Exhibit triple S.
15 A Triple X?
16 Q S, as in Sam.
17 A Okay.
18 Q Does this exhibit show that as of December 31st,
19 2010 that the -- of -- as of July 31st, 2010 the outstanding
20 balance on the line of credit was \$1,557,368.17?
21 A Yes, sir.
22 MR. DICKERSON: Your Honor, move for the admission
23 of Exhibit triple S.
24 MR. JIMMERSON: No objection, Judge.

1 THE COURT: Hereby it's so admitted.

2 (Defendant's Exhibit SSS admitted)

3 BY MR. DICKERSON:

4 Q Now with respect to the McManis (ph) lawsuit that is
5 occurring in Mississippi --

6 A Yes, sir.

7 Q -- Mr. Nelson, both you and Lynita have been sued
8 individually; is that correct?

9 A I believe so.

10 Q And you have hired an attorney by the name of -- is
11 it David Dukes?

12 A Harold Dukes (ph).

13 Q I'm sorry, Harold Dukes?

14 A Yes, sir.

15 Q To represent you in that action; is that right?

16 A No, all of us. I believe I wanted him to represent
17 and defend off all actions against the property.

18 Q Okay. And you understand that Lynita has retained
19 her own legal counsel to represent her in that action.

20 A Not completely. No one has ever called Mr. Duke.
21 So if she has, it's a secret to me.

22 Q Well, Lynita has told you several times.

23 A Well, she's told me, but she is a secret to Mr. Duke
24 I should say.

1 Q And I've told you, have I not?
2 A Yes.
3 MR. JIMMERSON: Mr. Dickerson, I don't think she --
4 your counsel ever filed anything in that -- in the
5 Mississippi.
6 MR. DICKERSON: You're right.
7 MR. JIMMERSON: So I'm just saying he hasn't had an
8 appearance in the case. So --
9 THE WITNESS: Okay.
10 MR. DICKERSON: Well, there are reasons for that.
11 THE WITNESS: Oh, very trickery. Okay. Good.
12 MR. DICKERSON: That's why she has a legal counsel.
13 THE WITNESS: That's good. That's good.
14 MR. JIMMERSON: Who does nothing and talk nobody.
15 MR. DICKERSON: Pardon me?
16 MR. JIMMERSON: And I understand.
17 MR. DICKERSON: Well, one --
18 MR. JIMMERSON: Well, the counsel has done nothing.
19 THE WITNESS: Very good.
20 MR. JIMMERSON: He hasn't announced his presence and
21 hasn't communicated --
22 THE WITNESS: Yeah.
23 MR. JIMMERSON: -- with the party's lawyer.
24 MR. DICKERSON: Well --

1 MR. JIMMERSON: Mr. Duke I believe filed an answer
2 on behalf of all the parties.

3 MR. DICKERSON: I would think if --

4 THE WITNESS: It just shows --

5 MR. DICKERSON: -- Mr. Jimmerson were representing
6 her in Mississippi, Mr. Jimmerson would be --

7 THE WITNESS: That shows our working relationship,
8 Your Honor.

9 MR. DICKERSON: -- following the same exact
10 strategy, because he has a great legal mind and so does her
11 lawyer have a great legal mind.

12 MR. JIMMERSON: Well, I can't --

13 THE WITNESS: That shows that working --

14 MR. JIMMERSON: I -- I --

15 THE WITNESS: -- relationship again.

16 MR. JIMMERSON: -- can -- can't vouch about his
17 legal mind and I'm certain about mine either, Your Honor.

18 BY MR. DICKERSON:

19 Q All right. Moving on, sir. If you take a look at
20 Exhibit triple T.

21 A Yes, sir.

22 Q You have provided us with this document; is that
23 correct?

24 MR. JIMMERSON: Can I know the lawyer's name in --

1 A Yes.

2 MR. JIMMERSON: -- Mississippi so we can have a
3 record?

4 MR. DICKERSON: I think we've given it to you
5 before. I can't remember his name.

6 MS. NELSON: But the deposition.

7 MR. DICKERSON: And we've given it to you. What's
8 his name?

9 MS. NELSON: But the deposition, Janele Bloom (ph).

10 THE WITNESS: It's correct.

11 MR. DICKERSON: Janele Bloom. Well, you've provided
12 that before. It's come --

13 THE WITNESS: That's correct.

14 BY MR. DICKERSON:

15 Q Okay. Exhibit triple T.

16 A Yes, sir.

17 Q This is a notice or a letter that you have received
18 from the Internal Revenue Service --

19 A Yes, sir.

20 Q -- is that correct? And it pertains to the joint
21 federal income tax return that you and Lynita filed in 2005,
22 was that true?

23 A Yes, sir.

24 Q And according to the IRS you owe -- you and Lynita

1 owe them \$154,512 for additional taxes for 2005; is that
2 right?

3 A Yes, sir.

4 Q How are you handling this right now, sir? What's
5 the status?

6 A As you can tell, it was initiated -- they examined
7 the Silver Slipper Casino Venture LLC which are a very unusual
8 scenario for the LL -- for the IRS to do our individual
9 return.

10 So we can show you some animosity that had been
11 built up with I believe the Silver Slipper individuals. In
12 doing so, we have hired and retained Dan Geraty to represent
13 us. And he has working to making its way toward tax court.
14 And he is handling all of the conditions of this case at this
15 time.

16 We've spent tremendous amount of time and energy and
17 money in defending this action. Lynita has not joined in in
18 any of that, but I'm -- I'm preparing it to defend her and me
19 as we move forward to whatever the degree I can.

20 Q Okay. So you're challenging this. You're -- you're
21 taking the position that you do not owe this amount to the
22 IRS; is that correct?

23 A Well, it's not only that, in the event that they're
24 successful, my belief is that it would roll over into my tax

1 return into seven, eight and nine. My personal returns that
2 could be -- that could -- could cause tremendous amount of
3 damage if things aren't corrected from the beginning or at
4 least argue.

5 If we lose, we lose. But with no argument, no
6 representation whatsoever, I think it would be ill advised and
7 bad workmanship.

8 Q Okay. So this was the last year that you and Lynita
9 filed a joint tax return; is that right?

10 A Yes, sir.

11 Q So you filed your sep -- a separate return as a
12 married individual for 2006, 2007, 2008 and 2009, true?

13 A I believe so.

14 Q Okay. All right. There is -- you referenced in
15 your earlier testimony on -- on direct a contingent liability.
16 You call it the Grizzly investment liabilities.

17 A Yes.

18 Q Can you explain that?

19 A I had sold property to Grizzly Casino that Lynita
20 had requested it be sold as part of counseling and we -- we
21 got through that. We carried back a paper. We did give a
22 guaranteed involved in the sale of the new tenant coming into
23 the landlord of the Grizzly facility. They defunct.

24 We lost our carryback position on their UCC. The

1 landlord filed a breach of contract on our guarantee and the
2 judgment is now in place.

3 Q Now a judgment is not for the entire 65,000. It's
4 for about.

5 A I believe so. Now it is, yes.

6 Q Okay. So you believe that there's a judgment
7 entered --

8 A The full amount. Yeah, it is in --

9 Q And --

10 A -- place.

11 Q And the judgment is entered against who?

12 A Eric Nelson.

13 Q You individually?

14 A Uh-huh (affirmative).

15 Q All right. And have you paid that?

16 A No.

17 Q Okay. Do you intend to pay it?

18 A I'm not quite sure. It's against me. I guess I'm
19 liable for it and so at some point I'll probably have to pay
20 that.

21 Q Okay. The -- the judgment is out of what state?

22 A Washington state.

23 Q Do you own any assets in the state of Washington?

24 A I do not.

1 Q Have -- have the plaintiffs -- is there more than
2 one plaintiff in the case?

3 A I believe there is two different plaintiffs, I'm not
4 sure.

5 Q Is it two different lawsuits?

6 A Two different lawsuits. Two different judgments.

7 Q Okay. Now I've seen -- I've seen the judgment on
8 one.

9 A The equipment from the Grizzly.

10 Q Okay. Have you -- have -- has there been a recent
11 judgment that I'm unaware of?

12 A Yeah, that's the -- that's from the landlord.

13 Q Okay. And so do you have that actual judgment? Do
14 you have the document?

15 A I believe we do if you have it.

16 Q Is that one of your exhibits?

17 A We do have it, but if you're not, it's been
18 provided.

19 MR. JIMMERSON: No, that answer is no.

20 MR. DICKERSON: So --

21 MR. JIMMERSON: I only know of one -- I know two,
22 but I have documentation of only one.

23 MR. DICKERSON: Can you con -- can you confirm that
24 it's actually been reduced to a judgment, a judgment entered?

1 Do you know that for a fact or not?

2 Judge, the -- the -- it doesn't really matter. We
3 -- we recognize there's a potential liability here and -- and
4 to the extent there is a liability and to the extent that it
5 has to be paid, we're prepared to share equally in that.

6 Same thing with the -- the IRS liability for 2005.

7 THE WITNESS: The problem I have with that, Your
8 Honor, is they never show up anywhere. They never make a
9 phone call. They have a -- an attorney sneak around my back
10 in Mississippi. Never called my attorney or the other
11 attorney.

12 I would like to take full responsibility of those
13 areas. I don't think it's fair at all that she keeps mingling
14 in my business and submarines me continuously.

15 MR. DICKERSON: And that's the point. He wants full
16 dollar for dollar on this --

17 THE WITNESS: Well --

18 MR. DICKERSON: -- and something that probably isn't
19 going to be paid.

20 THE WITNESS: Well, because I've got to fight it and
21 she's not going to put up any money for Dan Geraty, is she?

22 BY MR. DICKERSON:

23 Q Well, you've made it clear the reason you're doing
24 that sir is it's going to effect you for the years that you

1 filed your separate returns. So moving on.

2 A Which would be jointly shared.

3 Q With respect to the Hideaway Casino.

4 A Yes, sir.

5 Q I think we established this in your direct testimony
6 that you did not personally guarantee.

7 A I did not personally guarantee it, no.

8 MR. DICKERSON: Your Honor, then for -- this is a
9 mistake on the exhibit where it says including the alleged
10 \$3,000,000 liability personally guaranteed by Eric and owed to
11 Steve Berry.

12 BY MR. DICKERSON:

13 Q There is no personal guarantee, do you agree, sir?

14 A He's -- he has made reference that he's going to
15 personally sue me. He's waiting to see if Lynita comes on as
16 liability and would sue her too.

17 Q But you agree sir that there is no --

18 A At this is point there is no personal --

19 Q -- there --

20 A -- guarantee that I'm aware of.

21 Q Well, at any point you have not signed a personal
22 guarantee, true?

23 A Not that I'm aware of. There may be. I'm not
24 aware.

1 Q So this --

2 A So we -- there's a lot of documents in that
3 transaction.

4 Q So this is a -- a liability that is a Hideaway
5 Casino which is a limited liability company in which you
6 (indiscernible).

7 A Yeah, but they were documents that I -- a lot of
8 documents that I signed. I cannot -- I've given these
9 documents to you. I've given you open access to those
10 documents.

11 The liabilities we haven't completely analyzed the
12 personal guarantee side of it.

13 Q Okay. Well, let's take a look at Exhibit triple V.

14 A Okay.

15 MR. DICKERSON: Well, Your Honor, move for the
16 admission of Exhibit triple T.

17 THE COURT: Any objection, counsel? That's the
18 2005.

19 MR. JIMMERSON: And that's the tax (indiscernible) I
20 believe, right, Mr. Dickerson?

21 MR. DICKERSON: Yes.

22 MR. JIMMERSON: Yeah, we have no objection or
23 anything.

24 (Defendant's Exhibit TTT admitted)

1 MR. DICKERSON: And move for the exhibit of triple U
2 which is the only lawsuit -- only judgment that I'm aware of
3 with respect to the --

4 THE COURT: Is there --

5 THE WITNESS: Well, there it is. Yeah, this is the
6 one -- you should have the other one that GE provided that to
7 at some time.

8 MR. JIMMERSON: Yeah, we have that too.

9 THE WITNESS: Okay. That should be (indiscernible)
10 to the 65.

11 MR. JIMMERSON: We've already marked it -- what is
12 it?

13 MS. POLSELLI: Exhibit 30.

14 MR. JIMMERSON: Okay. Our Exhibit Number 30 is
15 which one, David?

16 MR. STEPHENS: I think it's that one.

17 MS. POLSELLI: That. It's the incomplete version of
18 that one.

19 MR. DICKERSON: Actually, this one doesn't include
20 the judgment. This only includes the summons.

21 MR. JIMMERSON: Here is -- which one are you looking
22 at? This is the judgment. If you remember in the first or
23 second day of trial you objected to this document, because
24 we've had a -- a notice --

1 MR. DICKERSON: Right.

2 MR. JIMMERSON: -- but we didn't have the judgment.
3 I now have the judgment --

4 MR. DICKERSON: Great.

5 MR. JIMMERSON: -- obtained. Okay. So there --
6 that -- that's that one. And are you talking about TTT being
7 this one?

8 MR. DICKERSON: Yeah. So that's this one. So this
9 was the one -- Judge, Exhibit triple U which is your Exhibit
10 what?

11 MR. JIMMERSON: 30.

12 THE COURT: 30.

13 MR. DICKERSON: Your Exhibit 30 is what I understood
14 is being the pending lawsuit. If I understand Mr. Nelson's
15 testimony somehow a judgment now has been entered; is that
16 correct?

17 THE WITNESS: Yes, sir.

18 BY MR. DICKERSON:

19 Q Okay. Was that a default judgment against you?

20 A Yes, sir.

21 Q Okay. And the plaintiff in -- in eith -- in each of
22 these cases, have any of them -- have you received notice that
23 any of them have attempted to domesticate their default
24 judgments against you in the state of Nevada?

1 MR. JIMMERSON: Yes.

2 A Yes.

3 MR. JIMMERSON: The second judgment is in -- in
4 Nevada --

5 MR. DICKERSON: Okay.

6 MR. JIMMERSON: -- issued by our senior judge, J.
7 Charles Thompson.

8 MR. DICKERSON: Okay.

9 MR. JIMMERSON: And is in the amount of just -- just
10 pennies under the \$20,000.

11 MR. DICKERSON: All right.

12 MR. JIMMERSON: \$19,926.94.

13 MR. DICKERSON: Okay.

14 BY MR. DICKERSON:

15 Q Why did you not defend those lawsuits?

16 A Because of the divorce. This last one here was
17 impossible. I would never even knew the first one was coming
18 because of the mail situation there. I had understood it to
19 be cleared up because it was a GE note that I understood that
20 trade in didn't have responsibility for. And they just put it
21 down on me. It wasn't -- I wasn't responsible for it.

22 I didn't sign the paperwork. It was a fraudulent
23 transaction. I thought we had cleared it up. And then all of
24 a sudden I know we have a judgment against us. The other one

1 is many times I try to go up to Washington state, but we were
2 in the midst of negotiating things.

3 And I had said this that I can't make -- I can't get
4 up there and do everything. And they entered a judgment
5 against me, because we had a hearing with I think Gaston at
6 the time and/or before that.

7 So it wasn't --

8 Q Didn't you hire a lawyer?

9 A It was more important to me to try to settle a year
10 ago when this stuff was going on than to worry about something
11 that I thought we had worked out with the attorney. We had
12 made proper action to sell off all the assets in there and
13 reduce the claim and I thought by selling all the assets the
14 UCC would cover it.

15 It did not cover it, Mr. Dickerson. And so then we
16 came short of what the auctioneer paid us. And because we
17 came short, they wouldn't settle it and they gave us a
18 judgment.

19 So yes, I did try to defend it by using action of
20 selling all the assets that we had in the casino to pay off
21 the judgment. The assets were sold for much less than
22 anticipated.

23 Q Did you hire an attorney in either case?

24 A In -- I'm not sure in the first case, because that

1 was a fraudulent claim and I thought we had it worked out.
2 No, in the second one. No, I did it myself -- oh, yes, I did.
3 I had Karen Ross. She was -- she came up and was working some
4 of the transaction stuff.

5 Q And Karen Ross is an attorney here in Las Vegas?

6 A Yes. She went up there.

7 Q But she's not licensed in -- in Washington.

8 A No, but she was reviewing documents, negotiating
9 things out.

10 Q In the state of Washington?

11 A She came up to review the documents and stuff like
12 that in the state of Washington.

13 Q Okay.

14 A Smartass.

15 THE COURT: Keep the comments. We don't need them.

16 You -- you lose your professionalism when you do
17 that and you're a highly professional person.

18 So --

19 THE WITNESS: Sorry.

20 THE COURT: -- just maintain your composure.

21 MR. DICKERSON: All right. Your Honor, move for the
22 admission of -- of Exhibit triple U.

23 THE COURT: Do you want to do that in conjunction
24 with Exhibit 30? Because you said --

1 MR. DICKERSON: Yes.

2 THE COURT: -- 30's --

3 MR. DICKERSON: That's fine.

4 THE COURT: -- got the judgments and that way --

5 MR. DICKERSON: I think we're all in agreement on
6 the amounts and --

7 THE COURT: Okay. I'll hereby admit triple U along
8 with also Exhibit Number 30 which actually has the judgments.

9 (Defendant's Exhibit UUU admitted)

10 (Plaintiff's Exhibit 30 admitted)

11 MR. JIMMERSON: And I don't know the Court's
12 reference, but I also agree to triple T as well, Your Honor.

13 THE COURT: Okay.

14 MS. POLSELLI: Here's -- here's a new copy.

15 MR. DICKERSON: All right. And then we'll --

16 THE COURT: You got copies of 30?

17 MR. DICKERSON: We'll move to Exhibit triple V as in
18 Victor. Did -- is that the one you agreed to?

19 MR. JIMMERSON: I'm sorry?

20 MR. DICKERSON: Triple V or T? T, okay.

21 MR. JIMMERSON: You have made an admission on --

22 THE COURT: T. T, which was the tax liability.

23 MR. JIMMERSON: TTT.

24 THE COURT: Okay. You got T, you got U and you got

1 30. Okay.

2 BY MR. DICKERSON:

3 Q All right. So take a look sir at Exhibit triple V
4 as in Victor.

5 A Triple D?

6 Q V.

7 MR. JIMMERSON: V, Victor.

8 Q As in Victor.

9 MR. JIMMERSON: VVV, quickly.

10 A Okay.

11 Q All right. Take -- looking at Exhibit V -- triple
12 V-1.

13 A Yes, sir.

14 Q That is a summary sheet that you have prepared; is
15 that right?

16 A Yes, sir.

17 Q And as indicated on here that this is -- that Steve
18 Berry loaned approximately 4,000,000, has a fir -- he has a
19 first lien on the river boat plus other assets; is that
20 correct?

21 A Yes, sir.

22 Q And he wanted to be paid off approximately 1,000,000
23 in interest?

24 A Yes, sir.

1 Q And you -- you have signed no personal guarantees,
2 correct?

3 A Not that I'm aware of. I'm not --

4 Q Okay.

5 A -- I -- I have or have not. I'm not completely
6 aware.

7 Q But you wrote this, did you not, sir?

8 A I wrote this to my best of my ability.

9 Q Okay. And Mr. Berry has not sued you, isn't that
10 true?

11 A Not at this time. He's waiting --

12 Q All right.

13 A -- is my understanding. I'm just trying to be
14 honest --

15 Q All right, sir.

16 A -- for the record.

17 Q Thank you. Take a look at Exhibit triple V-2.

18 A Yes, sir.

19 Q This is a letter that you received from Mr. Berry;
20 is that correct?

21 A Yes, sir.

22 Q Okay. And that's referencing the monies that he
23 claims is owed to him?

24 A Yes, sir.

1 MR. JIMMERSON: This is August 27, 2009, counsel?

2 MR. DICKERSON: Yes.

3 Q And if you'll take a look at the second page of
4 Exhibit triple V-2. That's also from Mr. Berry with the same
5 date; is that correct?

6 A Yes, sir.

7 Q And that's essentially his notice to pay. He's
8 sending the notice to pay to Hideaway Casino LLC; is that
9 right?

10 A Yes, sir.

11 Q And -- and which you are the manager.

12 A Yes, sir.

13 MR. DICKERSON: Your Honor, move for the admission
14 of Exhibit triple V both one and two.

15 MR. JIMMERSON: No objection, Judge.

16 THE COURT: Hereby so admitted.

17 (Defendant's Exhibits VVV-1 and VVV-2 admitted)

18 MS. POLSELLI: I think we already admitted it
19 (indiscernible).

20 MR. JIMMERSON: I think those are cross admissions,
21 but it's fine.

22 MR. DICKERSON: I think they may be.

23 BY MR. DICKERSON:

24 Q All right. Mr. Nelson, taking a look at the entire

1 exhibit A-1.

2 MS. POLSELLI: It's our 33.

3 A I'm sorry, what are we looking at?

4 Q Exhibit A-1.

5 A Okay.

6 Q Would you be so kind of take the time and tell us
7 what you believe would be a fair and equitable distribution of
8 your community estate?

9 A Yes, sir. If I could, I had -- I took the liberty
10 to -- for counsel and everybody's request to some degree is
11 what we discussed last night. If I could give those exhibits
12 out, okay, went into the night and spent some time with my
13 staff.

14 MR. JIMMERSON: Do you have the (indiscernible)?

15 MS. POLSELLI: (Indiscernible).

16 MR. JIMMERSON: This is what I'm trying to do.

17 THE WITNESS: Okay.

18 MR. JIMMERSON: I told you that --

19 MR. DICKERSON: Is this a new exhibit we're going to
20 have?

21 MR. JIMMERSON: Yeah.

22 MS. POLSELLI: Yes.

23 MR. DICKERSON: Okay.

24 MR. JIMMERSON: Do you have a couple copies with --

1 MR. DICKERSON: You do that, don't you?

2 MR. JIMMERSON: I need another one, please.

3 MS. POLSELLI: I'm looking. I didn't put it
4 together. So --

5 THE WITNESS: Dave, good morning.

6 MR. STEPHENS: Good morning. And I apologize for
7 being late, Judge. Messed up the calendar in my office.

8 MS. POLSELLI: 28.

9 MR. JIMMERSON: No problem.

10 THE WITNESS: That's why we got two of you. Bob,
11 did Catherine (ph) have the baby?

12 MR. DICKERSON: I don't know yet. I think she must
13 have. I -- I think they were going to induce yesterday or
14 today. So --

15 THE WITNESS: They're not going to call it little
16 Bob, are they?

17 MR. DICKERSON: I hope not.

18 MS. NELSON: It's a girl.

19 MR. DICKERSON: Oh, that's right. Bobbie.

20 THE COURT: On that -- well, that bad or something
21 --

22 MS. NELSON: Well, that -- that bad.

23 THE COURT: That's not bad, but bad -- bad in Vegas
24 is probably not good.

1 MS. NELSON: Good.

2 THE COURT: Probably not a good idea.

3 MR. JIMMERSON: Okay. One more for this final

4 (indiscernible).

5 MS. POLSELLI: Yes.

6 MR. STEPHENS: Yeah, right here.

7 MR. JIMMERSON: Do you have it, Eric?

8 THE WITNESS: Yes.

9 MR. JIMMERSON: Here you go, Judge. We're going to

10 call this option C.

11 THE WITNESS: I worked off the same worksheets that

12 we've got, Bob, or the same thing we've been -- we kind of

13 duplicated it. But I couldn't pull your stuff up to do it and

14 mine was on my computer.

15 So I went this direction. It was okay. And so we

16 had court option A revised is what I'm looking at.

17 Does Lynita have a copy of this?

18 MR. JIMMERSON: Yes.

19 MR. DICKERSON: She does not, but let me go over it

20 with her.

21 MS. NELSON: We'll sit together.

22 MR. DICKERSON: All right.

23 THE WITNESS: It would as our discussion and nothing

24 was in concrete for several different --

1 BY MR. DICKERSON:

2 Q Sir, I'm -- I'm interested in what your suggestion
3 is, okay? So do me a favor. Because the -- we run into
4 issues if we talk about settlement discussions.

5 A Okay.

6 Q I'd like to know --

7 A Well, I preface it --

8 Q Right now what is your proposal?

9 A -- as -- I want to make sure I preface it, because
10 I've given up everything I can give up I believe in areas.
11 And to renegotiate from -- every time I renegotiate I get torn
12 down farther.

13 And when things have changed --

14 Q Well, let's --

15 A -- hold on. When things are changed, then I got to
16 reevaluate other areas. So if I make a pledge here that I
17 would do this, I subject to all of us being concentrated in.
18 For instance, if it goes into another month, I can't keep up
19 with Mississippi for the next 30, 60 days.

20 I don't know. We might be forced to sell. And so
21 anyway, let me go through this. I think everybody understands
22 what I was getting at.

23 One and two would go to Lynita and three and four
24 would go to me for those values there. And so we would have

1 to erase the -- so Lynita would get Palmyra and Harbor Hills
2 for 1.2 million as we talked about last night. And I would
3 get Bella Kathryn and the lot for 1,475,000.

4 MR. JIMMERSON: I just want to stop here. Mr.
5 Dickerson's point to you which I appreciate you answering, but
6 you -- you have make substantial concessions financially here
7 in going with these numbers.

8 MR. DICKERSON: Well --

9 THE WITNESS: Yes, sir.

10 MR. JIMMERSON: And hang on. And that's because
11 maybe Lynita was going to concede in another area. Do you see
12 what I'm saying?

13 THE WITNESS: Yes.

14 MR. JIMMERSON: So when Mr. Dickerson says to you I
15 don't want you to refer to last night's communications or
16 settlement conversations.

17 The bottom line is that you could be cutting your
18 throat off here if you're going with these numbers. So that's
19 -- and he's asking, because he's -- in a non-settlement
20 context, if you were Merlin and you could order as you would
21 want to order and you were Judge Sullivan, what was it that
22 you would want to see that you think it would be fair to both
23 Lynita and to yourself?

24 THE WITNESS: For Judge Sullivan to give me

1 everything and --

2 MR. DICKERSON: That's why we're here.

3 THE WITNESS: Well, but it's honest. But it's
4 honest.

5 MR. DICKERSON: I mean, it hasn't changed.

6 THE WITNESS: Well, I -- I understand the judge's
7 position. Even though we had irrevocable trusts we wanted to
8 put everything out there on top of everything. It was
9 outweighed in my favor. And --

10 MR. JIMMERSON: All right. So then --

11 THE WITNESS: -- one thing we do is split
12 everything. However, this would be a fair scenario where we
13 both conceding some areas in all litigation, use my expertise
14 to fight off claims that I think I need to fight off on behalf
15 of her and me.

16 And so this is what I came up with. I think under
17 -- this is subject to conditions that everybody was agreeing.
18 It was additional conditions and things change.

19 MR. JIMMERSON: Okay. So take it slowly then,
20 please.

21 THE WITNESS: Okay. So we get into -- it's
22 difficult for me. Get into three and four. I take that for
23 1,000,475.

24 Arizona, the --

1 MR. JIMMERSON: Okay.

2 THE WITNESS: -- lots number five and --

3 MR. JIMMERSON: Eric, please, break it down, okay?

4 The 1475 includes two parcels. It includes the residence and

5 the next door lot or the lot that's --

6 MR. DICKERSON: That's how we understand it.

7 MR. JIMMERSON: -- next to -- next to it.

8 THE WITNESS: Yes.

9 MR. JIMMERSON: Okay. So just wanted the Judge to

10 know it was two parts.

11 MR. DICKERSON: Yeah, and --

12 MR. JIMMERSON: And we are --

13 MR. DICKERSON: -- and the 1.

14 THE WITNESS: Does he have --

15 MR. JIMMERSON: We are --

16 THE WITNESS: -- you have this?

17 MR. JIMMERSON: We --

18 MR. DICKERSON: And --

19 THE WITNESS: Your Honor, do you have this?

20 THE COURT: Yeah, I have that one.

21 MR. JIMMERSON: And we're taking somewhat of an

22 arbitrary and capricious values --

23 MR. DICKERSON: You have --

24 MR. JIMMERSON: -- to put the two homes together at

1 1.2 million, right?

2 THE WITNESS: Yes, sir.

3 MR. JIMMERSON: Oh, I'm just --

4 THE WITNESS: Okay.

5 MR. JIMMERSON: This is the first time the Judge has
6 seen these numbers. So just taking an extra second and --

7 THE WITNESS: Okay.

8 MR. JIMMERSON: -- help the Judge understand what
9 we're doing, because these aren't being divided in half.
10 These are being divided upon what you're suggesting to are
11 agreed to values --

12 THE WITNESS: Right.

13 MR. JIMMERSON: -- at least for purposes of trying
14 to --

15 THE WITNESS: Right.

16 MR. JIMMERSON: -- settle this case.

17 THE WITNESS: Right.

18 MR. JIMMERSON: Right? Okay. Go ahead.

19 MR. DICKERSON: Do you want to testify?

20 MR. JIMMERSON: No. No, but I mean, he's skipping
21 over like it was no big deal. I mean, if I'm the judge, I
22 want to know how we get here.

23 THE WITNESS: Okay. Well, Lynita's got her house
24 and I've got mine. So anyway, five and six, the 31 lots are

1 deeded to LSN Nevada Trust and the numbers -- and number 6,
2 the EN, the 29er are already deeded to my trust. So I had two
3 solutions we just splited evenly. She has a little advantage
4 there.

5 However, I did say because due to the recession that
6 I believe if we can park some assets for a period of time.
7 Five years is the golden time I believe on vacant land that in
8 this case here if she wanted she can keep the lots or 139.5
9 plus six percent due in five years on those lots -- on her
10 lots.

11 And so I could work all of the -- what do you call
12 it, the public report issues so we can even sell the lots.
13 That would be clearly her option what she would like to do on
14 that. And that would give her a little goose nest in five
15 years.

16 BY MR. DICKERSON:

17 Q Okay. So if I understand you correctly when we're
18 talking about the Gateway lots, are you telling us that every
19 lot in which Lynita S. -- her -- her Nevada trust owns an
20 interest, she would receive in every lot in which you own an
21 interest you would receive?

22 A Yes, sir.

23 Q Under your trust?

24 A Yes, sir.

1 Q Okay.

2 A So there would be no paperwork. Actually, if we go
3 back to -- well, you can see off to the side on the address it
4 tells you the trust.

5 Like Palmyra's already in her trust. Harbor Hills
6 would have to be transferred to her. Number three is in my --
7 is in Benone. Number four is in Benone. So these Benone
8 being me would have to be transferred.

9 I would have transferred that one, number two.

10 MR. JIMMERSON: Now (indiscernible) Eric, you're
11 saying that if by stipulation -- this is assuming the whole
12 deal goes down, not just pieces of it. You would also
13 consider paying her six percent on 139,000 --

14 THE WITNESS: Yeah, all due and payable.

15 MR. JIMMERSON: -- all due and payable in five
16 years.

17 THE WITNESS: -- a monthly payment based on this,
18 because she's going to receive \$35,000 in monthly income in
19 all three clear assets and no liabilities whatsoever.

20 MR. JIMMERSON: But that would not -- that would be
21 great at the end, but that wouldn't provide her for this asset
22 and monthly income.

23 THE WITNESS: No, it would not. It gives her the
24 goose -- it -- it allows her to take advantage of the future

1 or she doesn't -- she has either or. She gets six percent or
2 she work on the lots.

3 Number seven, I take that to be responsible for
4 Thelma's (ph) house. Mississippi, there's two options here.
5 We figure a value, but we split everything in Mississippi
6 50/50. So I left that off.

7 I scratched off the 500,000, because that's the one
8 nobody can decide on. That's the only one, I think.

9 Russell Road, we split it 2,000,000 a piece. I
10 guarantee her one-third title, Your Honor. There's been some
11 title issues there. I do not guarantee the money, but the
12 title of her one-third interest I guarantee.

13 If we did this prior to going back to court, I would
14 guarantee 10,000 a month, her portion of the 2,000,000 for 18
15 months. That ways starting in January she's assured that
16 she's going to be getting 10,000 a month.

17 I can't see the future and I can't see what
18 everything is going to go on, but here I'm tied with her on
19 that and I put myself in second position as far as making sure
20 she's guaranteed.

21 BY MR. DICKERSON:

22 Q Okay. So looking at this you have at the title to
23 50 percent of the property is held in the name of Eric Nelson
24 Auctioneering, correct?

1 A Yes, sir.

2 Q So you would then be able to convey to her -- you
3 actually would -- actually would be able to do quick claim or
4 even -- or even a grand bargain sale deed conveying to her a
5 third of the property.

6 A Yes, sir.

7 Q So we know that she's protected.

8 A Yes, sir.

9 Q Then you would assume all the other issues with your
10 brother with respect to how you would get paid?

11 A Yes, sir.

12 Q Would you be willing to guarantee that she would
13 receive at least \$2,000,000 from the sale of the property?

14 A I cannot, because the recession is so deep and so
15 difficult in all the areas and I'm trying to protect myself
16 and my children too.

17 Q But Mr. Nelson, do you understand that the problem
18 with that and -- and granted, I --

19 A Okay.

20 Q -- I agree with you, but the problem we have with
21 that is this year alone you invested in excess of \$2,000,000
22 into that property of cash.

23 A Yes, I think it was a very -- in February. It was a
24 very good transaction. In today's standing I still believe it

1 to be a very good transaction. It is a asset that should go
2 up to nine, \$10,000,000 in replacement cost.

3 And so we're at a base rate we -- we have a -- a
4 pretty good tenant in there that -- that can get a loan. I
5 personally interviewed them. They had a church prior to it in
6 a multimillion dollar loan. They had the opportunity to get a
7 new financing for a church which is much easier to get then.

8 Commercial one was right now, because they're a
9 church and they have preference -- if they have interest that
10 gives them privilege. And at the time in February is a great
11 transaction. I still think it's a very good transaction. I
12 just don't believe it's fair for me to guarantee things I
13 can't.

14 I said I guarantee the payments for 18 months. I
15 think we'll be paid off with -- within that 18 months. And I
16 work diligently to do that. And I guarantee her that \$180,000
17 in doing so.

18 Q But the lease option agreement that you have with
19 the church doesn't call for them to pay off the entire amount
20 in 18 months, does it?

21 A The new one will have a payoff amount, the full
22 payoff, yes, sir.

23 Q Will the new one -- okay. The one you have right
24 now, you're --

1 A Is expired.

2 Q -- you're doing the financing, aren't you? You have
3 agreed --

4 A No, it's expired.

5 Q Okay. But Under the one that was in existence you
6 were agreeing to finance the -- purchase the property, were
7 you not?

8 A We were going to do that, Mr. Dickerson, because
9 they were not --

10 Q Let's start with a yes and then you can tell us why.

11 A Well, yes, but let me get -- if I can explain it
12 why, because they had got -- received the money from the sale
13 of their church, but they elected to put it into the facility
14 thinking they could complete it and just refinance the whole
15 thing or their other option was to give me all of the money of
16 the down payment and not have any money to fix it up.

17 They said we better make sure we have the fix up
18 money to utilize the church and go forward. So that's what
19 they did.

20 MR. JIMMERSON: And Eric, you got to make that she
21 -- she -- Lynita is with you when you negotiate this new deal.
22 You just can't do it, you know, on your own. You got to make
23 sure that she has --

24 THE WITNESS: I'll do the best of my ability. I'll

1 invite them down on it and they can approve it or disapprove
2 it. Either which way, it's 50/50.

3 Your Honor, I -- I believe to be an expert in the
4 field. I've -- I've used my best effort, all these energy
5 here.

6 I've never tried to hide any money from Lynita,
7 never tried to steal any money from her. With all these
8 assets here, I think that somebody would have found something.

9 So I don't believe -- you know, I appreciate it, Jim
10 --

11 MR. JIMMERSON: Yeah, but I'm just saying that --

12 THE WITNESS: Yeah, but I appreciate it, but I don't
13 think Lynita assist, but she's welcome to be there.

14 MR. JIMMERSON: Well, here's the point. You at
15 least have to make that opportunity to her.

16 THE WITNESS: Well, it's -- it's welcomed to do it.
17 If they're -- you know, but I'm saying --

18 MR. JIMMERSON: That's all I'm saying.

19 THE WITNESS: -- I -- at points people say why
20 didn't you --

21 MR. JIMMERSON: It should become to (indiscernible)
22 you have remedied, but you should at least -- because this is
23 a big deal.

24 THE WITNESS: But --

1 MR. JIMMERSON: If you're going to put off the rent
2 until January 1, we thought it was going to be October 1, and
3 you've going to give the right to -- to buy -- she at least
4 has to have --

5 THE WITNESS: I agree.

6 MR. JIMMERSON: -- some involvement.

7 THE WITNESS: But time is of the essence --

8 MR. JIMMERSON: That's all.

9 THE WITNESS: -- of these transactions. This is --
10 this is -- time is of the essence.

11 MR. JIMMERSON: But she -- she's not working which
12 we have --

13 THE WITNESS: If I not --

14 MR. JIMMERSON: -- no complaint about --

15 THE WITNESS: I will notify her in the future.

16 MR. JIMMERSON: -- so has -- she has a time, okay?

17 She --

18 THE WITNESS: Well, that --

19 MR. JIMMERSON: -- has a time.

20 THE WITNESS: -- doesn't mean time is of the essence
21 when someone's not working. If time is of the essence if you
22 can make the appointment and we'll have an appointment this
23 Friday, Lynita, you and your professional can be there.

24 I don't know time we're going to have it Friday. So

1 it's in the court record. I'm trying to finalize the
2 negotiation this Friday with the church.

3 BY MR. DICKERSON:

4 Q Well, let her and Melissa know the time, please.

5 A Yeah, I will. Okay. That's -- that's fair. That's
6 fair.

7 Q Now --

8 MS. NELSON: They're changing it.

9 Q So far --

10 A Yes, sir. I'm sorry.

11 Q -- if it doesn't work, can it be changed?

12 A I'm sorry?

13 Q So you're talking about tomorrow -- excuse me.

14 MR. JIMMERSON: Today's Wednesday.

15 A Friday.

16 MR. JIMMERSON: Two more days.

17 Q In two days, Friday.

18 A Friday. Yeah, we -- we don't have to do overnight.

19 I mean, we can take a look at their proposal. We're
20 back and forth (indiscernible) thing.

21 Your tenants in today's market are your partners and
22 I'm trying to treat this church as a partner. They've done
23 everything in good faith, they're good people, they're working
24 hard to establish it. They've got caught between a rock and a

1 hard spot. The county's held them up on some of their things.

2 So they've had to split their school and have it in
3 another location while they're finishing this place off. It's
4 been a burden on them.

5 Q Okay. Let me just -- looking at that a second.

6 Everything sounds --

7 A Okay.

8 Q That sounds find, but again, I want to point out to
9 you. You invested in I believe it was February of this year
10 cash totaling \$2,777,861 into that property.

11 A Yes, sir.

12 Q Okay. And that's why I'm saying why would you not
13 be willing to guarantee that Lynita would at least receive
14 \$2,000,000 from the sale of that property?

15 A Well, I -- I understand your theory, but the numbers
16 are a commodity actually when you're trading them back and
17 forth. In February, now would we say that she's only to get
18 2,000,000, she doesn't have any of the upside, do you know
19 what I'm saying? Should she do any of the risks? There's so
20 many variables there.

21 I can't -- we could have the greatest crash of the
22 market. Always prepare for the worst and hope for the best.
23 That's why in February hey, you saw the payment schedule, you
24 saw the lease, you saw the option, you saw the tax savings,

1 you saw the money that we're able to recapture from my
2 brother. It was a fantastic transaction. So --

3 Q That's what you said --

4 A -- with that I don't believe it's fair. I did it on
5 the best for my community which is Lynita and my children and
6 me. And so I don't think it's fair to say you have to,
7 because that means I'm in debt to her for \$2,000,000.

8 Q But you did that, sir --

9 A I don't do any guarantees, Bob, in life.

10 Q You did that sir without asking the permission of
11 this court and you did that without asking Lynita about it,
12 didn't you?

13 A 100 percent under the JPI.

14 Q Okay. And -- and sir, you agreed that you paid off
15 your brother's loan to the bank. And what you really did you
16 saved your brother from going into foreclosure, isn't that
17 true?

18 A Totally ridiculous.

19 Q Okay. All right.

20 A Totally ridiculous. If you take a look at that
21 transaction, it's a 500,000 -- now little do they real --
22 little do you say anything about the transaction where I just
23 made \$1,000,000. Was that a good deal?

24 Did Lynita need a share in that? Was that part of

1 the JPI? No, only this deal. How about the other transaction
2 that I need a million dollars on?

3 Q What million dollars, sir?

4 A But you don't mention those two transactions.

5 Q Tell us which one you're telling us about.

6 A Okay. You got Sugar Daddy's (ph), Dr. Matuska's
7 (ph). Those two notes alone were \$2,000,000.

8 Unfortunately, they went into operating income to
9 offset all the taxes of losses that you saw on the books.

10 Q So would --

11 A So --

12 Q How did Lynita benefit from it?

13 A What I'm just saying is where is Sugar Daddy's in
14 this transaction here? I -- do you want me to tell you what
15 the best offer is --

16 Q Yes.

17 A -- or -- okay. Let's quit arguing. There we go.
18 Okay. So I don't believe I should give you a guarantee. So
19 we split it two -- two, but I do give you the 10,000 guarantee
20 for 18 months.

21 Sorry. Number 10, she gets all the properties in
22 Nevada. They're great properties, they rent well. They're --
23 and so -- so we're going along, Your Honor. It's about 14,000
24 I figure in income from those rentals. Russell Road would be

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

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Supreme Court Case 66772 Consolidated with 68292 In the Matter of: Klabacka v. Nelson et al.

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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
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30	01/28/2005	Promissory Note in favor of Lana Martin	7488
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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
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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
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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 MR. DICKERSON: Yeah, the values that are there,
2 Jim, the 13,365 for the Volkswagen, the 40 -- 475 for the
3 Escalade and a 50,115 for the Mercedes.

4 And those were Er -- those were Eric's numbers.

5 MR. JIMMERSON: No problem then. I do -- I do agree
6 with that. I thought you were suggesting that it's just going
7 to be even traced.

8 MR. DICKERSON: No. No. No. No.

9 MR. JIMMERSON: All right.

10 MR. DICKERSON: My mom raised an ugly kid, not a
11 stupid one.

12 THE COURT: Well, because he asked me -- no.

13 MR. DICKERSON: Okay. All right.

14 MR. JIMMERSON: I think you ask your mom you're all
15 right.

16 BY MR. DICKERSON:

17 Q All right. Mr. Nelson, you at one point in time
18 owed -- owned a 2000 Mercedes CLK350; is that correct?

19 A Yes, sir.

20 Q And you gave that -- you gave that automobile to
21 your nephew, Brock Nelson (ph).

22 A No, it was Ryan Nelson (ph). I did give it to him
23 as part of his pay compensation for in September of '08 for
24 Eric Nelson Auctioneering. He worked as a agent for over two

1 years developing that. We did multimillion dollar auctions in
2 the state of Utah.

3 Q And so you gave him the car as compensation?

4 A Part of compensation, yes, sir.

5 Q Didn't he receive commissions?

6 A Excuse me?

7 Q Did he receive commissions on the sales?

8 A Did I receive permission?

9 Q Did he receive commissions? Did --

10 A He has commissions too.

11 Q So he received commissions and so you just decided
12 to give him this car as additional compensation?

13 A He was -- yes, he was a salesman and I had worked
14 the same scenario with my nephew, Eric Nelson, to provide him
15 a vehicle while he was down in Phoenix, Arizona.

16 And Ryan was in need of a vehicle. I said I'd like
17 to sell this vehicle, convert it into a pickup truck to assist
18 us in delivering signs to the auctions.

19 Q Well, with respect to the 2000 Mercedes 350, the --

20 A Yes, sir.

21 Q -- steel K 350, you gave that to Ryan Nelson without
22 Lynita's consent, isn't that true?

23 A That's correct. It was in my name prior to the JPI.

24 Q Okay. And if you take a look at Exhibit Z, sir.

1 A I'm sorry?

2 Q Exhibit ZZ, double Z.

3 A Yes, sir.

4 Q What is -- is there -- is double Z two pages?

5 A Double Z?

6 Q Yes.

7 A I got -- no, I got the Schwab account, Lynita's.

8 Q Double Z?

9 A Double Z? Oh, Z. I'm sorry. I thought you said B.

10 Okay. Got it.

11 Q Okay. Is double Z -- let me see what it looks like

12 on yours, because I think --

13 MR. DICKERSON: The -- Your Honor, the -- the first

14 page of double Z does not belong there. That actually is

15 referencing another Mercedes.

16 So I don't care if we -- you want to remove that or

17 we just --

18 MR. JIMMERSON: Let -- let's do that. Let's remove

19 it.

20 MR. DICKERSON: Let's remove the first page.

21 THE COURT: Let's remove the first page --

22 MR. DICKERSON: Okay.

23 THE COURT: -- from that. So yeah, we'll just throw

24 it out then.

1 BY MR. DICKERSON:

2 Q The second page of Exhibit ZZ is a Kelley Blue Book
3 value for the 2000 Mercedes CLK350.

4 A Yes, sir.

5 Q And you're familiar with this?

6 A No.

7 Q You're not?

8 A Well, the Kelley Blue Book or the -- or the --

9 Q The Kelley Blue Book.

10 A Yes, sir.

11 Q And you agree that that car was in good condition?

12 A Yes.

13 Q Okay.

14 MR. DICKERSON: Your Honor, I move for the admission
15 of Exhibit double Z.

16 MR. JIMMERSON: No objection, Your Honor.

17 THE COURT: Hereby admitted as double Z.

18 (Defendant's Exhibit ZZ admitted)

19 BY MR. DICKERSON:

20 Q All right. Now Mr. Nelson, I'm not -- don't want to
21 have settlement discussions, but do we have an agreement with
22 respect to the seven ATVs and the four snowmobiles?

23 Do we have --

24 A I'm sure we do.

1 Q We do? What is the -- what do you understand the
2 agreement to be?

3 A We'll split them if necessary.

4 Q Do you have any objection then with respect to let's
5 start with the -- with the ATVs.

6 A Yes, sir.

7 Q Do you have any objection to Lynita receiving the
8 green Polaris Prowler?

9 A No, sir.

10 Q And do you have any objection to you receiving the
11 Razor?

12 A No, sir.

13 Q Am I pronouncing that correctly?

14 A Yes, sir.

15 Q Now that leaves -- that leaves five more ATVs; is
16 that correct?

17 A Yes, sir.

18 Q Do you have any objection to Lynita selecting the
19 first two and you taking the last three?

20 A That's fine.

21 Q Okay. Wow, we've settled an issue. Okay. So we
22 then move to the snowmobiles. Do you have any objection to
23 Lynita receiving the two newest snowbi -- snowmobiles and you
24 receiving the two others?

1 A No problem.

2 Q Now what's not listed on --

3 MR. JIMMERSON: How come she gets the cream of
4 everything, she needs the newest of everything here? Go
5 ahead.

6 Q We --

7 MR. JIMMERSON: Can I -- can I just -- what -- what
8 other balance is there if she -- if she gets the two newest
9 are there two more left to --

10 MR. DICKERSON: Yes, there's two.

11 MS. NELSON: Yes, there are. Here's the pictures of
12 them.

13 MR. JIMMERSON: She gets --

14 BY MR. DICKERSON:

15 Q Now --

16 MR. JIMMERSON: -- the two newest and he gets the
17 two oldest.

18 Q Although they're not listed here we can include them
19 in with the -- the ATVs. You -- there are -- you own two
20 trailers.

21 A Yes, sir.

22 Q To carry for the ATVs; is that right?

23 A Well, really one, but she can have it. If she wants
24 the covered one, that's fine -- or no, I take that back.

1 There is two.

2 Q Okay. So she -- do you have any objection to Lynita
3 receiving the enclosed trailer and you receiving the other
4 trailer -- trailer that is not enclosed?

5 A That's fine. That's correct.

6 Q All right. Sir, moving down that list on Exhibit
7 A-1. We get into the category of Eric's family loans and
8 loans receivables.

9 Sir, do you agree that over the -- over the past
10 several years you have made loans to Chad Ramos (ph) totaling
11 \$261,675?

12 A That is correct.

13 Q Do you also agree, sir, that you have made loans to
14 Jessie Harbor (ph), your nephew totaling \$47,000?

15 A I believe that to be true.

16 Q And you have made loans to Brock Nelson (ph) --

17 A Yes, sir.

18 Q -- in the amount of \$10,000?

19 A I believe that to be true.

20 Q Now Mr. Nelson, with respect to the -- I'm now on

21 Page 16 --

22 A Yes, sir.

23 Q -- of Exhibit 1 -- 1-A. As part of your ownership
24 interest in the Silver Slipper, you are receiving a management

1 fee; is that correct?

2 A I was. I haven't received it I believe in six or
3 seven months. And --

4 Q So --

5 A -- periodic from '90 and last in 2/09.

6 Q So there are accrued management fees owing to you;
7 is that right?

8 A Right.

9 Q If you take a look at Exhibit triple D.

10 A Triple what?

11 Q Triple D.

12 A Yes, sir.

13 Q DDD. Sir, do you agree that this exhibit, this two
14 pages exhibit sets out --

15 A Triple B or D?

16 Q D as in dog.

17 A Okay.

18 Q Do you agree, sir, that this exhibit sets out the
19 management fees that you have received since November of 2006
20 through June of 2010?

21 A I believe it to be accurate.

22 Q Okay. And looking at this at least in through June
23 of 2010, do you agree that your accrued management fees
24 totaled \$132,269.19?

1 A Yes, sir.

2 Q Now have you received any management fee for July?

3 A I believe no.

4 Q Do you know how much you're owed for July?

5 A Let's see here. Yeah, I have not received no

6 payments in June, July or August or September, approximately

7 10,000 every month.

8 Q Okay. So then to this amount we should add an

9 additional \$30,000 for the months of July, August and

10 September. That's a total of 30, just 10 for each of --

11 A Yes.

12 Q -- those months. So then the total of your accrued

13 management fees as of this date is approximately \$162,269?

14 A That's true. Because we're in bankruptcy. We're

15 headed towards bankruptcy. So it's meaningless, but that's

16 fine.

17 Q Now in the future you are receiving management fees

18 that total approximately \$10,000 a month; is that correct?

19 A For the future?

20 Q Yes.

21 A We have received them. We've -- if you can see this

22 pay schedule --

23 Q Right.

24 A -- in 2009 it appears that I received four payments.

1 Oh, wait a second. I take that back. In 2010 I received
2 three payments according to your records. My records would
3 show probably four, but in 2009 I received one, two, three,
4 four, five and we were consistently have not received any
5 payments.

6 My records show from -- from June. After the
7 deposition they -- they stopped making payments and that's
8 when things -- not -- not your fault. Just some of the things
9 blew up and --

10 Q Okay.

11 A -- the call dates are coming.

12 Q All right. But -- but under your agreement you are
13 entitled to approximately \$10,000 a month --

14 A Yes, sir.

15 Q -- for each month in the future; is that correct?

16 A Yes.

17 Q All right. I'm not saying you necessarily --

18 A Don't worry. I understand.

19 Q -- collected, but you're entitled to it --

20 A Okay. Right.

21 Q -- right? And sir, do you agree that at the time
22 that you and Lynita separated that you took approximately
23 \$48,000 in cash from your safe and your home?

24 A No, I did not.

1 Q Okay.

2 A Well, portions -- I got to take that back. I'm not
3 quite sure the amount that it was. I spent the money on -- on
4 our trips and I know I had as of 7/30 I had somewhere in the
5 area of about 6,000 in cash.

6 Q Well, but how much could you take out of the --
7 wasn't -- didn't you take -- wasn't there \$48,000 in cash in
8 the safe that you took when the two of you separated?

9 A No, sir.

10 Q Do you remember, sir, that there was a total of
11 \$60,000 in the safe and you gave \$15,000 of that to Lynita for
12 Christmas to buy gifts for the children?

13 A No, sir. There was -- there was less cash than
14 Lynita had felt. And I did give Lynita 15,000 and I had kept
15 I think approximately some of the -- I can't remember the --
16 the actual number now. So I got to apologize. I'm not going
17 to speculate or guess.

18 I had it written down here before, but I made
19 representation beforehand.

20 Q All right. But you -- you do admit that you did
21 take cash from your -- your safe in your home when the two of
22 you separated, correct?

23 A And yes, sir.

24 Q All right.

1 A They left cash there for her too.

2 Q That's fine. All right. So then sir, we -- we next
3 move to the category of children's property. And you've set
4 up various trusts for each of your children; is that correct?

5 A Yes, sir.

6 Q And are you in agreement that those -- the monies
7 are for the kids, that it's not your money or Lynita's money,
8 that's the children's money?

9 A Yes, sir.

10 Q Okay. Let's start with if you take a look at
11 Exhibit -- Exhibits EE, triple -- three E, EEE. All right.
12 This is an account -- I'm looking for the name.

13 This account was in your name, was it not?

14 A Yes, sir.

15 Q And it was for Garrett. It was monies for Garrett to
16 -- your son, Garrett, to -- for investment purposes?

17 A I was for Garrett's car. We set aside money for his
18 car, a little bit for college and hopefully a mission.

19 Q Okay. And if you take a look at the last page, we
20 see that you withdrew that money. Actually, taking a look at
21 the first page. You withdrew that \$30,123.47.

22 A Yes, sir.

23 Q Let's see. I -- you see the date on here, all these
24 scribbles -- now these are from you. These are your documents

1 that you provided to us; is that right?

2 A Yes, sir.

3 Q The -- what is it? Okay. On March 19th of this
4 year --

5 A Yes, sir.

6 Q -- you withdrew the entire amount; is that correct?

7 A I closed the account. Yes, sir.

8 Q All right.

9 A I became frustrated because Joe kept coming in and
10 hound dogging the girls on it I felt.

11 Q All right. So you did that just out of frustration.

12 A Well, no. As I was -- what we were trying to do was
13 eliminate as many issues and make the accounting system simple
14 and it's --

15 Q And nobody --

16 A -- possible --

17 Q Nobody --

18 A -- so we were combining and modifying all the
19 accounts and we were also had laid off the majority of the
20 workforce that we're aren't going to be able to review many of
21 these documents. So it was easy to close the account and
22 restart at some appropriate time.

23 Q Okay. Now nobody told you to close that account; is
24 that correct?

1 A No, sir. I did it. That was my -- I believe that
2 was my duty to do.

3 Q All right. If you take a look at the third page --

4 A Yes, sir.

5 Q -- of Exhibit triple E.

6 A Yes, sir.

7 Q That's a copy of the check that you received when
8 you closed Garrett's account; is that correct?

9 A Yes, sir.

10 Q And you gave that check to Lynita --

11 A Yes, sir.

12 Q -- true? And do you have any objection to those
13 monies being used for purposes of -- of Garrett?

14 A Yes, sir. What I already did is me and Lynita had
15 agreed to buy Garrett a car. He came 16 years old. I paid
16 \$25,000 approximately for a car. The balance of it should go
17 toward Garrett's mission fund, I think. This funds here, they
18 called me and said the -- the funds had not been cashed, the
19 check was going to expire.

20 So they sent me another one and so I cashed it and
21 bought Garrett a car. And so I gave -- told Garrett that Lynita
22 and myself gave him this car. We gave him a birthday party
23 and the balance of the funds would go in his account.

24 Q Okay. So now let me -- this is new to me. I'm just

1 learning this for the first time. So you --

2 A I've -- I've shown all the records though.

3 Q What's that?

4 A I show here all the records of \$30,000.

5 Q All right. But the -- this \$30,123.47, you're
6 telling me that this check was voided. }

7 A Was replaced that became void for Ameristar or
8 whatever. They sent me a new one. So I cashed the check,
9 because Lynita hadn't cashed the check apparently, wasn't
10 taking responsibility of the money. And I put it in there.

11 We had agreed to buy him a car. As his father and
12 his mother, we purchased a car. I told her what we were
13 doing. Told my son that this comes from your father and your
14 mother, invited her over.

15 And we had a party for Garrett. He got a car and
16 he's happy and she still has -- she'll have X amount of
17 dollars to put back hopefully in his missionary fund.

18 Q So understanding this, you told Lynita you were
19 buying him a car; is that right?

20 A What?

21 Q You told Lynita that you were buying --

22 A No, I asked her if this is what we're going to do
23 and she felt it was appropriate to buy him a car, go out and
24 find him one.

1 Q Okay. Well, tell me, sir. Did Lynita go out and
2 look for a car with you for your son?
3 A She went with Garrett.
4 Q Actually, you went out and bought the car yourself,
5 didn't you?
6 A She went with Garrett. They looked at cars to buy.
7 He told me what they looked at. I went out there and looked
8 at the choices and -- and chose one.
9 Q Okay. You didn't even take your son Garrett out to
10 select the car when you purchased it, did you?
11 A No, sir.
12 Q Okay. I mean, that's a true statement, isn't it?
13 A Well, because --
14 Q It's a true statement. You didn't --
15 A -- it's supposed to be a surprise, Bob. I'm a
16 father first. I'm a father.
17 THE COURT: Don't --
18 MR. JIMMERSON: Relax. Don't --
19 THE COURT: Don't raise your voice. Don't change
20 your voice. He's --
21 THE WITNESS: I'm his dad.
22 THE COURT: He's just --
23 THE WITNESS: And so she went out and she found the
24 car. I went out and purchased it.

1 MS. NELSON: No, I did not.
2 THE WITNESS: If you're going to make this sinister
3 --
4 MS. NELSON: I did not find that car.
5 THE WITNESS: -- this little boy, 16 --
6 MS. NELSON: I did not find that car.
7 THE WITNESS: -- he was --
8 MR. DICKERSON: Quiet, please.
9 THE WITNESS: -- 13 --
10 MR. DICKERSON: Quiet.
11 THE WITNESS: -- 13 years of age when we started
12 this divorce, Mr. Dickerson. He's over 16 years of age. And
13 you throw him in the mud here like I am in mud with him. I'm
14 embarrassed. But go on with your questions.
15 THE COURT: The issues is on -- what you're saying
16 is out of that 30,123.43 you spent 25,000 at -- for the car
17 and that the balance would be --
18 THE WITNESS: And --
19 THE COURT: -- used for Garrett's --
20 THE WITNESS: -- maybe I'm reading more into it.
21 I'm sorry.
22 THE COURT: Is that what --
23 THE WITNESS: Yes, that's what happened.
24 BY MR. DICKERSON:

1 Q Okay. Now we -- you have established trust that
2 there's a Calico Springs trust that is for Amanda (ph), an
3 adult daughter of yours; is that correct?

4 A Yes, sir.

5 Q And if you'll take a look at the next page of --

6 MR. JIMMERSON: Can I just before we change
7 subjects, if there is five or \$6,000 or \$4,000 left, Judge,
8 and we agree to put it into a Lynita and Eric account for
9 Garrett.

10 THE WITNESS: Well -- well, that would be fine. And
11 all these five trusts Lynita can have them all. I'll sign all
12 the interest over to them --

13 MR. JIMMERSON: Fine. I just --

14 THE WITNESS: -- so we don't even have to talk about
15 --

16 MR. DICKERSON: And why don't we just -- I mean --

17 -- THE WITNESS: -- and bring the children's name up.

18 MR. JIMMERSON: Close it up, that's all. Just so
19 the Judge can --

20 THE WITNESS: Quite embarrassing.

21 MR. DICKERSON: I think the Judge needs to --

22 MR. JIMMERSON: -- (indiscernible) an order.

23 MR. DICKERSON: I think the Judge needs to listen to
24 more of the testimony on that to determine --

1 MR. JIMMERSON: Fine. All right. That's fine.

2 THE WITNESS: Embarrassment of this for the
3 children.

4 MR. DICKERSON: But whatever the Court determines is
5 -- is Garrett's money should probably go in the -- in Garrett's
6 trust which is what, is it Styray (ph)? Am I pronouncing that
7 right, the Styray trust?

8 THE WITNESS: I'm not sure how to pronounce that.

9 BY MR. DICKERSON:

10 Q Okay. Well, we'll get to that. All right. If you
11 take a look at the next several pages of Exhibit triple E.
12 These are all copies of checks in the amount of 200 -- or
13 excuse me, \$2,529.53; is that correct?

14 A Yes, sir.

15 Q And each of them are made out to a separate trust
16 that you and Lynita had established for your children; is that
17 right?

18 A Yes, sir.

19 Q Now once again as you did with Garrett's investment
20 monies, you decided out of frustration that you were going to
21 close these accounts; is that right?

22 A Right.

23 Q Why did you close them?

24 A Union National Bank failed. So they gave us a

1 notice to come in and take all the money and they asked us to.
2 So I went over and converted the bank -- the checks into
3 cashiers checks and gave them to Lynita and said she could
4 manage all the trusts if she would like.

5 Q Well, it was -- the bank was merged with another
6 company, didn't it?

7 A It was under receivership. It was going to be --

8 Q Okay.

9 A -- taken over and they asked us to -- that they're
10 closing out their accounts for whatever reason.

11 Q And they told you to come and close out the
12 accounts?

13 A yeah, they're -- they're shutting down. So, you
14 know, that's what happens.

15 Q Well, who's First Financial Bank?

16 A That's who took them over and they said you want to
17 do business with them. If not, come taken over. We're
18 consolidating accounts, because Joe was in there reviewing all
19 the accounts every month.

20 The dollars had never changed. He was taking a lot
21 of time and effort from the office and from Joe costing more
22 money than the actual money in the accounts for him to review.
23 I made a business decision and with the bank's prompting it
24 was easy to convert them checks, give them to Lynita so we

1 didn't have to argue about it, shorten the arguments in court,
2 make it simpler on the attorneys on felt and save some legal
3 fees.

4 Of course, all that have failed.

5 Q Okay. And so you cashed out all those checks and
6 you gave them to Lynita; is that correct?

7 A Yes, sir.

8 Q And do you have any objection to those checks
9 continuing to be held for the children?

10 A No.

11 MR. DICKERSON: Your Honor, I'll move for the
12 admission of Exhibit triple E.

13 MR. JIMMERSON: No objection, Judge.

14 THE COURT: Hereby admitted as triple E.

15 (Defendant's Exhibit EEE admitted)

16 BY MR. DICKERSON:

17 Q If you'd take a look at Exhibit triple F.

18 A Yes, sir.

19 Q Triple F-1, if you'll look at that served as -- it
20 lists properties there at the top. It looks like the first
21 one, two, three, four, five, six, seven, eight, nine
22 properties. That's your -- is that your handwriting?

23 A I don't know, but it appears to be my office.

24 Q Okay. So it indicates that these lots are owned by

1 the children?

2 A I believe so, yes.

3 Q And they're in some fashion held in one or more of
4 these children's trusts?

5 A Yes.

6 Q Do you know which ones -- do you know which trusts
7 -- I mean, you know what I'm talking about, which parcel is
8 Garrett's which parcel is --

9 A No, but there -- there's two. It should be two in
10 each one of the kids's trusts.

11 Q Okay. And you have no objection to those properties
12 being continued to held -- be held in trusts for the benefit
13 of the children; is that right?

14 A I would think that if Lynita's going to have a lot
15 of counsel on these trusts is for the Court to consider to
16 eliminate all the trusts and liquidate them. It will cost her
17 more money to run them than the mere little money they have in
18 them. But it's fine to put them in the trust.

19 Q Well, what would you say the value of the two lots
20 that are in each of the children's names?

21 A 4500 a piece.

22 Q Okay. So about 9,000.

23 A Yeah, so there's about 10,000 in each trust. It
24 wouldn't take long to eat that up.

1 Q Okay. All right. And then you have -- moving down
2 to the next category we have household furnish and
3 furnishings.

4 You have your household furnish and furnishings in
5 your home at 2911 Bella Kathryn Circle; is that correct?

6 A Yes, sir.

7 Q Okay. And do you have any objection to just you
8 keeping all of the furniture in your home and Lynita keeping
9 all the furniture in the Palmyra home?

10 A I would like her to give copies of all the family
11 pictures to me. I would also like some things that are my
12 grandfather's that she had made disposed of my father's in the
13 back garage.

14 Q Okay. Other than that, is everything in the home?

15 A Everything else is fine.

16 Q And how about with respect to Harbor Hills? Is
17 there furniture in Harbor Hills?

18 A There is no furniture there.

19 Q And there's -- there's not at all the places empty?

20 A Well, a washer and dryer.

21 Q You agree that if whatever happens with Harbor Hills
22 and the Court decides to do with Harbor Hills anything --

23 A Yes, sir.

24 Q -- that's in there just goes with the property?

1 A Yes.

2 Q And Brian Head, do you have any objection of equally
3 dividing any of the furnish and furnishings in the Brian Head
4 property?

5 A That's fine.

6 Q All right. Mr. Nelson, I think we've gone over this
7 somewhat before, but with respect to the Russell Road
8 property.

9 A Yes, sir.

10 Q You acquired your interest in that property I
11 believe in January or February of this year; is that correct?

12 A Yes, sir.

13 Q And you signed the lease with the -- signed the
14 lease with the -- the church that went into effect in
15 February; is that correct?

16 A I believe so.

17 Q And over that period of time you were entitled to
18 receive \$20,000 in rental income from the church; is that
19 right?

20 A From the church, I'm not quite sure. I don't have
21 the lease in front of me. We deferred the majority of an
22 offer for a period of time. But -- but they -- but whatever
23 it was, whatever the amount was we were entitled to, but I
24 don't have it in front of me, I'm sorry.

1 Q Okay. Take a look at Exhibit -- Exhibit GGG.
2 A I'm sorry?
3 Q Three G, triple G.
4 A Okay.
5 Q Do you know what this document is and what it's --
6 A That would appear to be the rents that had been
7 received from Cal.
8 Q And this is a document that you provided to me; is
9 that correct?
10 A Yes, sir.
11 Q All right. And so going through this, all of these
12 monies the total \$250,263.84 has all gone to Cal?
13 A Yes.
14 Q Okay. So it starts with the -- the earnest money
15 deposits in -- I think if we take -- we start with the rent in
16 February of -- February 2010 rent.
17 A Right.
18 Q We see that we have 30,000 versus --
19 A Right.
20 Q And then we have another 30,000 --
21 A Right.
22 Q And another 30,000. So all of these monies down the
23 line went directly to your brother; is that correct?
24 A And I'm not quite sure when me and Lynita purchased

1 the property, our 50 percent interest. It was --

2 Q I believe your --

3 A -- involved in --

4 Q I believe your interest was purchased in
5 January/February time frame.

6 A Okay. Great. And so the money part of that of
7 course would have been Cal's. The lease was in place and it
8 was as you can see driven by rent income. And the lease was
9 moving forward well. Most of -- some of these monies were
10 recaptured when we did the purchase. We were a -- we
11 recaptured some of it in the offset the \$4,000,000.

12 The balance of it was under the agreement that Cal
13 would get for maintaining and cleaning and splitting our
14 partnership up, but he got these funds.

15 Q And -- and you took none of these monies; is that
16 right?

17 A I didn't take any of these funds though.

18 Q All right. Sir, if you move --

19 MR. DICKERSON: Your Honor, I'll move for the
20 admission of Exhibit triple G.

21 MR. JIMMERSON: No objection, Your Honor.

22 THE COURT: Hereby admitted as triple G.

23 (Defendant's Exhibit GGG admitted)

24 BY MR. DICKERSON:

1 Q All right. Mr. Nelson, is it true that within the
2 past -- oh, was it the past two years approximately or three
3 years that you took your family on a -- a trip to China?

4 A Well, I didn't take them. I joined in on a trip to
5 China.

6 Q Okay. And who went on that trip?

7 A All of my family, Lynita, my -- my brothers and
8 sisters and their wives, most of their children and all of my
9 family and my son-in-law.

10 Q And you advanced the money on behalf of everyone; is
11 that right?

12 A No, what I did was the majority of them since we're
13 dealing with a travel agency it was easier for one check to be
14 sent. Nola (ph) and some of them gave me the money and we
15 forwarded the money to a travel agency.

16 Q Well, the money -- oh, the money --

17 A The bottom line is the only one that hadn't paid me
18 back in full is Carleen (ph) and I've agreed that if Carleen
19 ever pays me back, Lynita could have it or we should split it.

20 Q I'm sorry, the only one that hasn't paid you back?

21 A Has not paid me back is Carleen.

22 Q Okay. So you disagree that you have yet to be paid
23 back approximately \$34,667?

24 A Yeah, but I don't testify. I'll show you records

1 that everybody paid us back.

2 Q Okay.

3 MR. JIMMERSON: What's the figure of that,
4 (indiscernible)?

5 THE WITNESS: I don't know. Whatever a trip to
6 China costs, about 7,000.

7 MR. JIMMERSON: It was at 34,000 right now. So --
8 BY MR. DICKERSON:

9 Q My understanding is -- and actually, I see on -- I
10 don't know why I -- there's two numbers here. So somehow I
11 must have made a last minute adjustment, but I see -- if you
12 take a look at Exhibit HHH which I will have Joe Lee Alanie
13 testify to if this actually is an issue.

14 The number there is 37,654 which appears to be the
15 amount that has yet to be reimbursed. And you disagree with
16 that?

17 A Yeah, I disagree with it.

18 Q Okay. So the -- do you know how much it was per
19 person? Was it about just short of \$5,000, right in that
20 5,000 range?

21 A I'm not sure how much it was.

22 Q Okay. All right.

23 A That was far before the JPI.

24 Q All right. If you take a look at Exhibit triple I.

1 A Triple --
2 Q Triple I.
3 A Triple I.
4 Q Yes.
5 A Okay.
6 Q Now this exhibit pertains to monies that you have
7 given to Valerie Dennick (ph).
8 A Yes.
9 Q Who is Valerie Dennick?
10 A Valerie Dennick is a psychologist or a family
11 counselor that -- that works with families and abused
12 children.
13 Q And you gave her these monies for what purpose?
14 A July 2008 she came to me prior to the JPI and said
15 she was putting together some books for abused children and if
16 I contribute some money. And I did. I contributed I believe
17 several times. I'm not quite sure of the total amount.
18 Q Okay. So you gave her a total --
19 A \$10,000.
20 Q You actually gave her a total of \$10,000 and what --
21 A Yes, sir.
22 Q -- for the purpose of that was for what?
23 A Just to assist her.
24 Q For what purpose?

1 A A donation to help some kids.
2 Q I'm sorry?
3 A Nothing.
4 Q All right. Now you take a look at Exhibit triple J.
5 You also made -- gave \$8,000 to -- who is Linda Leach? Let's
6 start with --
7 A A family counselor.
8 Q Okay. And you gave her son \$8,000; is that correct?
9 A I gave a volleyball team \$8,000 to sponsor them.
10 Q For what purpose?
11 THE COURT: Do you want to -- do you want to take a
12 break Mr. Nelson for a few minutes?
13 A No, to sponsor a volleyball team of young children.
14 MR. JIMMERSON: Are you making this an allegation?
15 Is this an issue in this case, Mr. Dickerson? Do you want
16 half of the \$8,000 from the volleyball team?
17 THE WITNESS: You can have it all. I'll -- I'll --
18 THE COURT: No, I don't see it as --
19 MR. JIMMERSON: Don't say it's ridiculous.
20 MR. DICKERSON: Well, no it's not. Actually --
21 THE COURT: I don't see it as any allegation. The
22 issues I guess will go into --
23 MR. DICKERSON: Actually -- well, actually, Judge,
24 so that the Court is aware, these are issues that have been

1 discussed in the past, have been discussed in mediation that
2 he actually conceded to.

3 So that's -- I'm a little bit surprised in his
4 testimony that he has conceded to these issues as being
5 community waste, but --

6 MR. JIMMERSON: That's not true.

7 MR. DICKERSON: Well, unfortunately, Jim, you
8 weren't at the mediation. That's the problem.

9 MR. JIMMERSON: I -- I know that --

10 MR. DICKERSON: And I'm not meaning to bring up
11 mediation. I'm expecting him to -- to agree to this, okay?

12 MR. JIMMERSON: This is pre-divorce, pre JPIs and
13 pre everything.

14 THE WITNESS: Yeah, we -- yeah, we've got blown out
15 of mediation so far. It was incredible.

16 MR. JIMMERSON: It's not part of any brief, any
17 motion, anything. I've never seen any of these issues, Judge.

18 THE COURT: Right now just as the amount of the
19 money that was money, not that it's marital waste. You're not
20 -- that's their position as --

21 THE WITNESS: And it was before the --

22 THE COURT: Yeah.

23 THE WITNESS: -- JPI date, but go ahead. I'm sorry.
24 I lost it there for a minute.

1 THE COURT: But you're okay with these numbers as
2 being accurate.

3 THE WITNESS: Yes, sir.

4 THE COURT: Okay.

5 THE WITNESS: Yes, sir.

6 BY MR. DICKERSON:

7 Q Okay. Exhibit KK.

8 A Okay.

9 Q You gave \$20,000 to Linda Leach for her to write a
10 book; is that correct?

11 A No.

12 Q What did you give her \$20,000 for?

13 A We had purchased a home together jointly. Her
14 husband is an attorney on 4412 Baxter. Her son and her worked
15 on it and I reimbursed her for all her expenses, part of the
16 profit. And I bought her out completely for \$20,000; 10,000
17 in repairs, 10,000 in profit. It didn't work out. Told her
18 there was no partnership. She could buy me out or I'll buy
19 her out.

20 Q And so what -- what -- you -- you gave her 20 --
21 what did you get in return for the \$20,000?

22 MR. JIMMERSON: 4412 Baxter.

23 A Her 50 percent interest in Baxter. It was part of
24 the JPI. I normally do work with people if it involves

1 wanting to get involved in real estate, fixing homes up as a
2 -- more of a charity event than for profit.

3 Q Okay. So then with respect to -- if I understand
4 you correctly, at least with respect to the China trip,
5 Valerie Dennick, the -- the volleyball, the -- the Vegas
6 Valley volleyball and the 20,000 you gave to Linda Leach, you
7 were -- you were disagreeing at this time that -- that this is
8 community waste on your part.

9 A I'm sorry?

10 Q You're disagreeing that this is community waste.

11 A This is 100 percent no waste. This is all part of
12 JPI areas.

13 Q Right now on any of these did you get the consent of
14 Lynita to give the \$10,000 to Valerie Dennick?

15 A No.

16 Q How about the \$8,000 to the Vegas Valley volleyball?

17 A No.

18 Q Pardon me?

19 A No. Sorry.

20 Q And -- and how about the \$20,000 to Linda Leach?

21 A That was the sale of a property so it was under my
22 trust and I was doing ordinary course of business as the
23 donations would be under (indiscernible) -- normal course of
24 business.

1 Q All right.

2 A Instead of doing politicians, I do charities.

3 Q All right. Did you give \$22,000 to -- to David Meer

4 (ph)?

5 A Yes.

6 Q And what was the purpose of that?

7 A David Meer was an old friend of Lynita of mine. He

8 was in need. He was a chiropractor. It was prior to the JPI.

9 If this is to be collected, I believe it should be split.

10 Q Okay. So it was a loan; is that correct?

11 A It was a loan to a friend.

12 Q All right. And did you get Lynita's consent for

13 that loan?

14 A I did not.

15 Q Okay. So you did this unilaterally on your -- on

16 your own; is that right?

17 A I felt it was a thing to do.

18 Q Okay. Is that a yes you did this unilaterally?

19 A What was that? I'm sorry.

20 Q You did this unilaterally on your own. You made

21 this alone.

22 A Yeah, I believe there was three installments to Dave

23 to help him out.

24 Q Has he paid any of the monies back?

1 A He has not.

2 Q Okay. You also --

3 A October of '08, January '09.

4 Q Okay. You also made a loan to Joan Rom -- Ramos

5 (ph) in the amount of \$18,000.

6 A No, I did not.

7 Q Okay. So did you give Joan Ramos \$18,000?

8 A I laid Joan Ramos off, an employee of 22 years of

9 Lynita and mine and was -- gave her a small bonus and other

10 areas there.

11 Q When did you do that?

12 A That was more of a severance package.

13 Q When did you do that?

14 A I'm not quite sure.

15 Q Was --

16 A It was prior to the JPI, I believe.

17 Q Actually, it was during the pendency of the divorce

18 action, isn't it?

19 A When I laid her off?

20 Q Yes.

21 A I believe so. You're right.

22 Q Okay. Okay.

23 A Yeah. So what do I do, supposed to hire -- keep her

24 hired? I had no work.

1 Q So it was after the JPI.

2 A I know I was insinuating. I'm embarrassed. You --
3 go on.

4 THE COURT: So your testimony is that 18,000 is part
5 of a severance package to a former employee Ms. Ramos.

6 THE WITNESS: Yes.

7 Q All right. And you -- you gave Richard Peterson
8 (ph) \$10,000?

9 A I did not give him 10,000. He is a consultant for
10 the hideaway. I -- it wasn't even my money. It was in the
11 general course of business. And he -- these funds were from
12 the loan of \$3,000,000. He came directly from the hideaway
13 account.

14 Q Okay. And so what was the purpose of giving -- who
15 is Richard Peterson by the way?

16 A He is a consultation that was trying to put together
17 some financing on -- on the hideaway.

18 Q And was the purpose of giving him the 10,000?

19 A As a retainer to work on that. And he -- he's --
20 he's worked. He worked on it. He hadn't provided -- he
21 hasn't -- you know, come from -- you know, didn't -- nothing
22 came of it as of yet.

23 Q All right.

24 A But those monies were very clear did not come from

1 Eric Nelson Auctioneering. They came from the hideaway which
2 is a loan from Steve Berry (ph). They are utilized for that
3 business.

4 Q All right. If you'll take a look at Exhibit triple
5 N.

6 A Triple what?

7 Q Triple N --

8 A Yes, sir.

9 Q -- as in Nancy. Now I believe we were on Page 19 of
10 -- let me see here. We're at the bottom of Page 18. Sir, we
11 can go through Exhibit N if you would like, but it -- it's
12 true, sir, that you have given your brother Cal, made loans to
13 him totally at least \$318,200.

14 Do you agree with that?

15 A The -- yeah, these were the funds that were captured
16 back in the repurchase of Russell Road.

17 Q All right. So if we understand it then, you -- you
18 do agree that you lent him at least this amount -- actually,
19 you agree that you lent him more than this amount; is that
20 correct?

21 A Well, it was between -- that's where that 5/18 came
22 on the ledger, the Russell Road. Do you want me to pull the
23 Russell Road out?

24 Q No, I -- I --

1 A Okay.

2 Q -- think we're all in --

3 A Okay.

4 Q -- agreement. So --

5 A Okay. Good.

6 Q -- what -- what you're telling us is the money that

7 you loaned him actually was in excess of \$500,000, correct?

8 A Between the rents and additional funds, yes, it was

9 right in there.

10 Q And so we could probably cross this off because

11 we've already accounted for it; is that true?

12 A Yes, sir.

13 Q All right. So we agree to do that. Now Chris

14 Stromboard (ph) is your son-in-law?

15 A Yes, sir.

16 Q And you are giving him money so that he can go to

17 school; is that right?

18 A Yes, sir.

19 Q Okay. Now is it true, sir, that you do -- you make

20 these contributions to your family members. You're not --

21 you're not asking Lynita if you can do so; is that right?

22 A No, sir. I asked her.

23 Q You -- you -- tell us about this for minute.

24 A I -- we had talked about sending our children to