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IN THE SUPREME COURT OF THE STATE OF NEVADA

MATT KLABACKA,
DISTRIBUTION TRUSTEE OF
THE ERIC L. NELSON NEVADA
TRUST DATED MAY 30, 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 ERIC L.
NELSON NEVADA TRUST
DATED MAY 30, 2001,
Respondents/Cross-Appellant.

} SUPREME COURT CASE NO.: 66772

} District Court Case No. D411537

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1 that number is exactly the number that we put on the -- the
2 other report. That's all I'm trying to prove Your Honor is
3 that you used the same number. That's it.

4 THE COURT: Is that --

5 THE WITNESS: Yes.

6 THE COURT: Is that true, Mr. Nelson? You used the
7 same numbers as provided by Dr. -- by Mr. Gerety as far as
8 liabilities?

9 THE WITNESS: Yes, sir.

10 BY MS. FORSBERG:

11 Q When you minused that -- that amount, Mr. Nelson,
12 what did it come out to the total value with the debts
13 included before you did anything with the cabin?

14 A 3,971,000 approximately.

15 Q Okay. And that is right there on that -- that Tab
16 241 exhibit, correct?

17 A That's correct.

18 Q Okay. Now on Mr. Bertsch's report under Tab 1 under
19 Exhibit GGGG, he listed three properties below that are owned
20 jointly by the two of you, is that correct?

21 A That's correct. And what was that, I'm sorry?

22 Q It's Tab 1 on Mr. Bertsch's report.

23 A Okay. I'm back on 1. Yes, I have it.

24 Q So he actually showed three properties that you guys

1 have entanglements where your 50-50 -- your trust and Lynita's
2 trust co-owned, is that correct?

3 A That's correct.

4 Q Okay. What are you proposing you guys do with those
5 properties?

6 A Well, the -- it's a little bit more involved on
7 Mississippi property. And he lists only Emerald Bay. The
8 entanglement's a little bit greater than that because of the
9 potential lawsuits that encompass and partnerships that
10 encompass all of the Mississippi properties on the coast.

11 In addition to that, the titles, the original title
12 on the Mississippi 80 acres RV park went from Dynasty, Inc.
13 from the Elliot Trust, the Dynasty, Inc. bought it. There is
14 no Dynasty, Inc. That was funded by the Eric L. Nelson Trust.
15 So those deeds are incorrect.

16 So what I had proposed to settle many issues and
17 make them moot is the consideration for the children and
18 myself to end up with the cabin and Mississippi property. And
19 Lynita would end up with the cash flow on Lindell that's free
20 and clear and approximately 10,000 a month cash flow and 1.5
21 million with special terms attached to that 1.5 million. So
22 in essence, I would take the cabin and the Mississippi
23 properties. She would end up with Lindell, the cash flow and
24 an additional 1.5 million cash which would be 300,000 and a

1 million two within five years.

2 Q So can you explain to the Court is that what you did
3 here when you did add the cabin? You put the cabin on your
4 side and then you put Lindell on her side, correct?

5 A That's correct.

6 Q So without mudding it up with Mississippi, let's --

7 A Exactly.

8 Q -- try to keep it simple here. Can you --

9 A Okay.

10 Q -- explain to the Court what you did here? I mean,
11 what are totals work and what you did?

12 A Just with these two I put the cabin on my side as an
13 example and Lindell on her side as an example.

14 Q And those numbers were right from Mr. Bertsch's
15 report?

16 A Right. Now they're trust assets, but they're the
17 only trust assets that are combined under Lynita's trust and
18 my trust 50-50.

19 Q So whenever you add, if you were to take the cabin
20 with your column and she were to take the Lindell with her
21 column, what -- what totals do we come up with with each
22 trust?

23 A Approximately 5,000,000 on each trusts.

24 Q Okay. And can we be more specific?

1 A \$4,956,000, 214,000 on the Eric L. Nelson Trust.
2 And \$5,750,974 on the Lynita Nelson Trust.

3 Q So with -- with those numbers, you're proposing that
4 she keep the Lindell and you keep the cabin. What's the other
5 reason for her to keep the Lindell?

6 A The cash flow. She's I believe is in need of cash
7 flow. The cabin is an expense that -- it's an expensive
8 recreation property that the children long desire to keep
9 involved in the family for 15 years. And they have shown
10 strong voices and have been promised that. So I figured
11 that's something I could do for them.

12 Q And how much cash flow would Lynita make off of
13 Lindell?

14 A Just off of Lindell approximately 10,000 a month.

15 Q Okay. So this is your proposal then as far as the
16 property. So the Court really doesn't even have to do
17 anything with the -- with the trust if it chooses not to, is
18 that right?

19 A That's correct. There -- there is no community
20 properties, per se. Everything is of trust. The only three
21 combined are Mississippi, Lindell and the cabin.

22 Q But even if the Court decides -- was to decide to do
23 community property would equal the same, is that what you're
24 giving me here?

1 A Either way they -- they would -- right, they would
2 basically be the same.

3 Q Well, actually, it looks like she comes out ahead by
4 about a hundred and twenty-five thousand if my math is
5 correct, is that right?

6 A That's correct.

7 Q Okay. But that's without you guys doing anything
8 with the Mississippi property, correct? That's just leaving
9 these numbers on this sheet only show without the Mississippi
10 property. So you would have one entanglement, is that right?

11 A That is correct.

12 MS. FORSBERG: Your Honor, I ask that Exhibit 241 is
13 admitted, please.

14 MR. DICKERSON: Your Honor, Exhibit 241 --

15 MS. FORSBERG: It's just demonstrative.

16 MR. DICKERSON: -- is nothing more than a summary of
17 what he's asking this Court to do. It really has no
18 evidentiary value. I don't have an objection to Your Honor
19 taking this as a summary of what he believes -- I mean, first
20 of all, he's dead wrong on some of these numbers, but putting
21 that aside, I -- I don't mind you accepting this as what he's
22 suggesting Your Honor to do, but this really has no
23 evidentiary value.

24 THE COURT: I intend to agree on what the probative

1 value is, but I -- I will admit it for what his value on
2 there, but it is basically what Mr. Nelson feels would be fair
3 and reasonable based on the numbers provided and his
4 adjustments, what he felt was appropriate adjustments and
5 recommendation as to the three properties that were owned 50
6 percent by each trust. So I will admit it as 241. Again, I'm
7 not sure the probative value, if any.

8 MS. FORSBERG: Thank you, Your Honor.

9 BY MS. FORSBERG:

10 Q One other thing, Mr. Nelson. We had a -- a similar
11 problem on Ms. Nel -- on the Palmyra residence, didn't we, on
12 a near appraisal?

13 A Yes.

14 Q Okay. Can we turn to -- in Mr. Bertsch's report,
15 please. Tab 18 I believe has that properties appraisal. Can
16 you turn to that page, please?

17 A Yes.

18 Q And I believe in Mr. Bertsch's report where he did
19 the corrected assets on December 23rd, 2011 he shows that
20 appraisal on Palmyra was 725, is that correct?

21 A I believe so.

22 Q Okay. So but the actual appraisal, he actually
23 included in his Tab 18. Do you see that?

24 A It was 750,000.

1 Q So we did correct that number on Lynita's to the
2 correct one per the appraisal, is that right?

3 A That's correct.

4 Q So Mr. Bertsch just made two kind of typographical
5 errors on those numbers, is that right?

6 A That's correct.

7 Q Other than that, those three items that we put on
8 there, was there any other changes that we've done to his
9 schedule, Mr. Bertsch's --

10 A I don't believe so.

11 Q So you're just taking Mr. Bertsch's numbers,
12 correct?

13 A That's correct.

14 Q What is the other option that you think for
15 Mississippi, thinking you leave them together and -- or -- or
16 what? What's your other option with Mississippi? So we
17 didn't with that in the -- in the --

18 A Well, the -- the combination on those three assets
19 -- or you have to add a factor in meaning bringing some
20 capital to offset the areas that I think I believe are
21 important to worst of these nonperforming assets. So I would
22 add a million five of which would be 300,000 cash, a million
23 two within five years to -- because this -- this will be a
24 nonperforming asset in Mississippi in essence and will give

1 her more flexibility, more cash flow and more -- and less
2 courtroom time.

3 Q And that would give -- that would also mean though
4 that she is -- would be giving back to you the Mississippi
5 property that's listed on there, is that correct?

6 A Yes, there's two Mississippi properties. I -- in
7 addition to the Emerald Bay, I believe.

8 Q Mr. Nelson, I'm going to switch gears a little bit
9 from this. We've gone through the property and some ideas
10 that you think the Court needs to hear about. Let's switch to
11 a couple other issues, if you could. Let's go to -- there's
12 some issues of alimony in this case, correct?

13 A Yes.

14 Q Okay. If the property is divided equally as you've
15 shown because that's how it already is with the debts factored
16 in, what do you think should happen about alimony?

17 A I wouldn't believe there would be alimony. She's
18 taking half the business.

19 Q Okay. Who in the last -- out of the two of you, who
20 in the last five years has actually earned -- earned income,
21 LSN or ELN, do you know?

22 A LSN Trust has earned money. The Eric L. Nelson has
23 lost money for the last four years, five years.

24 Q Why is that?

1 A I manage on my trusts performing, nonperforming and
2 subperforming assets. Lynita has basically performing assets
3 and so they're much more difficult, much more expense on the
4 bottom line figure when you're taking the subperforming and
5 nonperforming assets. Those are offset by cash flow from
6 rental property. However, the bottom line numbers were
7 running the whole office, legal liabilities and environment
8 concerns and things like that, where Lynita has pretty much
9 cash, her free and clear properties with no debt.

10 Q Can you turn to Mr. Bertsch -- in Mr. Bertsch's book
11 if you could, please, under Tab 11, please.

12 A All right.

13 Q Can you turn to Page DEF-006818, please? 6818.

14 A Yes, I have it.

15 Q So can you explain to the Court what the numbers are
16 here as far as your net on -- this is Eric L. Nelson Trust, is
17 that correct?

18 A That's correct.

19 Q Can you explain the -- the numbers here as far as
20 the income and the losses, please?

21 A Yeah, that's takes in consideration from January
22 1st, 2009 all the way through the first quarter and up to 315
23 of 2012. And so it takes into the income of the rental
24 properties, the expenses, direct expenses. And then it has

1 additional expenses to run those operations and then the
2 application of additional expenses and it gives you a bottom
3 line number. It'll show that in essence we lost a million,
4 four. Eric L. Nelson did in 2009, 2.5 million in 2010, 1.1
5 million in 2011. And 49,000 in income in the first three and
6 a half months. That -- but that did not incorporate
7 approximately a hundred and eighty thousand in -- in NH
8 payables at that time. So we would have lost money the first
9 quarter of 2012 too.

10 Q What did your net ended up being at the bottom for
11 all the 2009-2012?

12 A From 2009-2012 a loss of approximately 2.4 million.

13 Q In contrast, can you turn to Tab 17, please, in that
14 same book?

15 A Okay. I have it.

16 Q Okay. And I believe this is an amendment to the
17 Lynita Nelson Trust figures, is that correct?

18 A Right.

19 Q Can you turn to DEF-006747?

20 A I have it.

21 Q Or I guess it would be 46 and --

22 A 46?

23 Q Oh, no. I'm sorry. Go ahead. 4 -- actually, if
24 you to 49, it actually gives the bottom -- bottom of the line

1 numbers. Can you tell what -- from these numbers what Mr.
2 Bertsch says that the LSN Trust has earned, the net numbers?

3 A And if I'm -- let's see here.

4 Q I think it only gives a positive total income and
5 then a total expense, is that right?

6 A I'm sorry, I really can't read the report with any
7 accuracy exactly. It appears there's a profit, but I can't
8 make out exactly how I did it.

9 Q If you look under the -- under Page 47, do you see
10 that? It shows the total income amount for all of them, the
11 originals of 2 -- 2,020,000 roughly, is that correct

12 A Right.

13 MR. DICKERSON: Where are you right now, Rhonda?

14 MS. FORSBERG: On Page 747, total income on his
15 property part, do you see that, Bob?

16 MR. DICKERSON: Okay.

17 Q 2,020,000 roughly, is that correct?

18 A Right.

19 Q Okay. And if you turn to 749, it shows his -- her
20 expenses of 1,915,000, is that roughly correct?

21 A That's correct.

22 Q Okay. So roughly she made -- had a hundred thousand
23 profit after all her expenses, is that right?

24 A That's what it shows, yes.

1 Q Eric, can you explain to the Court how Lynita Nelson
2 has historically been paid and received payments?

3 A She's paid -- my understanding is -- is pretty much
4 I didn't manage all the assets, but best understanding on her
5 trust is she had annuity at Mellon that basically paid her
6 15,000 a month on -- over \$2,000,000 that was there plus cash
7 flow from sale of assets. And since all her assets were free
8 and clear, she generated positive cash flow on a monthly basis
9 pretty much.

10 Q Did you ever write -- did Eric Nelson or Eric Nelson
11 Trust usually write out her checks to her or did LSN?

12 A LSN did.

13 Q In fact, wasn't it the time we saw -- did we see
14 some exhibits previously about loans where ELN borrowed from
15 LSN?

16 A Yes.

17 Q But all those were paid back, correct?

18 A That is correct.

19 Q Or at least accounted for.

20 A That's correct.

21 MR. DICKERSON: If we can kind of refrain from the
22 leading questions, it might be helpful.

23 Q Mr. Nelson, in these reports that Mr. Bertsch did,
24 did he also do anything about children expenses or anything

1 like that?

2 A Yes.

3 Q Okay. Perhaps we can go over those next. Did you
4 pay any of the children expenses during the pendency of the
5 divorce?

6 A Yes. It's reflected in Larry Bertsch's report.

7 MS. FORSBERG: The Court's indulgence, Your Honor.
8 One second.

9 Q Can you turn to Tab 11 again on Mr. Bertsch's
10 report?

11 A Okay. I have it. Yes.

12 Q Can you tell the Court what you paid for on the
13 children's expenses?

14 A Gee, it's under Bates Stamp 6818.

15 Q And what amount did you paid during that time?

16 A Well, let's see. Let me take that back a second
17 here. Let me get the actual. There's an area in the report
18 that basically talks about the children expenses. And I'd
19 have to find that actual exhibit. Let's see here.

20 Q Would you look at Page 6818, please?

21 A 6818?

22 MR. DICKERSON: That's the summary. He's looking
23 for the one that --

24 THE WITNESS: That's the summary. I'm looking for

1 the -- the children expenses where it says children expenses.

2 Q Oh, I see what you're saying.

3 A You can -- well, you can --

4 Q I -- I just restate them --

5 A -- you can line item there. However, they have
6 adults and child expenses commingled together. But it shows
7 that I paid in '9, '10, '11 and the first quarter \$407,000 to
8 the children.

9 Q And what were those expenses include?

10 A The --

11 Q Things, what kind of things?

12 A The minor children would be school expenses, medical
13 expenses. In fact, I don't think it actually included the
14 medical expenses in that. And then college education
15 expenses, transportation. As the trust is designed, the
16 beneficiaries are the five children.

17 Q So during that period you paid 407,000 --

18 A Yes.

19 Q -- to the -- the children combined? I think Mr.
20 Dickerson was correct. You were looking for the individual
21 breakdown.

22 MR. DICKERSON: They're in the pages that follow.

23 MS. FORSBERG: Right.

24 Q Mr. Nelson, what -- when you say school expenses,

1 what school expenses are you talking about?

2 A Private school for the children. Carli's in private
3 school. And expenses for their travel on school adventures
4 and food and clothing and medical.

5 Q And you said you also paid for the adults, is that
6 what you said?

7 A That's correct. The -- my -- the philosophy with
8 the trusts were designed that -- tried to get the kids through
9 college and their spouse without any expenses if we could
10 afford it and then the children would at some point be on
11 their own hopefully. And that's coming -- that's coming true.
12 Amanda, our oldest one, her husband graduates in Penn State in
13 three more quarters. Hopefully they won't have any debt. And
14 they'll be pretty much on their own in his law degree and her
15 nursing degree.

16 MS. FORSBERG: No more questions, Your Honor.

17 **CROSS EXAMINATION**

18 BY MR. DICKERSON:

19 Q Nelson, if you'll please take a look at your Exhibit
20 241.

21 A Yes. I'll grab it here.

22 Q I have it. Let's start with your debt there.

23 A And again -- sir, will you ask the question again,
24 please?

1 Q Pardon me?

2 A I'm sorry, what was the question?

3 Q Your -- your Exhibit 241.

4 A Yes, I am there.

5 Q Starting at the very top, basically summarize this

6 is what you're telling the Court that you believe would be a

7 fair and equitable distribution of the property that you and

8 your wife own, is that correct?

9 A What I'm stating in -- is -- is how these --

10 Q Is that true or not, sir?

11 A I'm stating these are the assets as they lie today.

12 Q And this is --

13 A And with -- with the combination of the cabin.

14 Q And you're suggesting to the Court that this is how

15 the Court should divide up those assets, is that correct?

16 A It's a suggestion.

17 Q And did I hear you say that these are the assets as

18 they exist today?

19 A Somewhat, not completely. They're not completely

20 accurate a hundred percent. These were based on the --

21 Q Well, there are changes here. For example, what the

22 -- Russell Road property you've already sold, haven't you,

23 sir?

24 A Yes, that reflects --

1 Q In fact, you sold the Russell Road property for --
2 A Do you want me to ask the question --
3
4 MR. DICKERSON: No, sir.
5 A -- or are you going to cut me off?
6 MR. DICKERSON: I want you to answer my question.
7 THE COURT: Let him -- let him finish -- listen up.
8 MR. DICKERSON: In fact, you sold the Russell --
9 THE COURT: You'll get a chance on redirect.
10 Q You sold the Russell Road property for 6.5 million
11 dollars, did you not?
12 A That's our two-thirds interest, yes, sir.
13 4,000,000.
14 Q But you -- you sold the Russell Road property for
15 6.5 million dollars, isn't that correct, sir?
16 A Well, that's correct.
17 Q Now let's go -- let's take a look at this exhibit.
18 A I think I would have to clarify it.
19 Q Let's take a look at the exhibit, sir.
20 A I didn't sell it.
21 THE COURT: You'll get --
22 A The Eric Nelson Trust and the Cal -- the Cal and
23 Janette Nelson sold it for the 6.5 million.
24 Q Let's start with --

1 A You have 65 percent interest in the 6.5 million
2 sale.

3 Q Want to tell me when you're through?

4 A Well, the --

5 THE COURT: Let's be -- let's be --

6 A -- and that sale course would not reflect all the
7 closing costs of about \$400,000.

8 Q Are you through?

9 THE COURT: Let's be civil to each other on this.
10 Answer their question and you'll get a chance on redirect to
11 further explore that. Just answer Mr. Dickerson's questions
12 and you'll get a chance on redirect to further explain as you
13 need. Otherwise we'll never get done here.

14 THE WITNESS: Yes. Okay.

15 Q So on your approximate cash, what have you done
16 here? If we take a look at Mr. Bertsch's report, he had a
17 number of \$1,159,769 as of March 31st, 2011.

18 A That's correct.

19 Q Now where did you come up with this number that you
20 put Bertsch report? I don't find that number anywhere in any
21 of Larry Bertsch's reports. Is it in -- in any of his
22 reports?

23 A Yes, Mr. Bertsch did a report for the court to
24 analyze the accounts as of January 1st through a portion of

1 April. And he came up with this number, 471,000. But it did
2 not account for the H payables at that time.

3 Q And can you show me where in Larry Bertsch's report
4 he has that number of \$471,898.56?

5 A It would be his filing to the Court. Let's see
6 here. I'm not sure if I can find it or not. Let me see here.
7 Yeah, if you turn to Exhibit 11, Bates Stamp 6813.

8 MS. FORSBERG: Tab 11 for the Court.

9 A It shows balances as of April 20th, 2012
10 \$471,898.56. Again, that doesn't account for of course the --
11 the H payables that we did not supply to them at that time.

12 Q Now did you do the same thing then with respect to
13 Lynita as to what her cash -- approximate cash balance was as
14 of April 23rd of 2012?

15 A I did not.

16 Q Okay. Is that anywhere in Mr. Bertsch's report?

17 A I'm not sure if that is or not. I didn't do that
18 side.

19 Q So you just chose to do your side but not her side,
20 is that correct?

21 A That's correct.

22 Q Okay. Now isn't it true sir -- I mean, as you
23 testified in 2010 and you previous testified is that other
24 than a very few payments of a couple hundred dollars a month

1 that you gave to Lynita, you were not giving her money during
2 the course of these proceedings, isn't that true?

3 A I don't really recall that. I'm sorry.

4 Q Now if you take a look at -- well, we'll get to
5 that. Sir, it's been your position through the course of
6 these proceedings that Lynita is to live on the \$2,000,000
7 that she had deposited in her Mellon account, isn't that true?

8 A No.

9 Q Now let's move down to -- under your category AZ29.
10 That's the Gateway property that's held in the name of the
11 Eric Nelson Trust, is that correct?

12 A Yes.

13 Q And then you have Russell Road. You have used
14 \$4,000,000. And that's the number for Mr. Bertsch's report,
15 isn't that correct?

16 A I'm just trying to utilize -- yes.

17 Q That's the number for Mr. Bertsch's report, correct?
18 Now after Mr. Bertsch made his report you sold that property,
19 isn't that correct?

20 A Now I'm not quite sure if that was the case of -- I
21 know it would be involved in the -- the April, but yes, we did
22 sell it during the course of that period. Yes, sir.

23 Q And again, you sold that property without first
24 coming to this Court and asking permission to do so, did you

1 not?

2 A That's correct.

3 Q Now if we may turn to Mr. Bertsch's report, I --
4 give me to -- if you'll turn to Mr. Bertsch's report, Tab
5 Number 3. And if you'll go to -- starting with Page 6484.

6 A Yes, sir.

7 Q All right. Do you agree sir that starting on Page
8 6484 and moving through 6487 about halfway through, Mr.
9 Bertsch sets out a description and his understanding of the
10 Russell Road property.

11 A I believe that to be the case, yes.

12 Q And you agree that his recitation that he sets out
13 there is accurate.

14 A Fairly accurate, yes.

15 Q Now we take a look at 6485 and we see how Mr.
16 Bertsch came up with the \$4,000,000 value of your investment
17 in the Russell Road property, is that correct, those numbers
18 that are set out there that total \$4,000,000?

19 A Yes.

20 MS. FORSBERG: What page is that, counsels?

21 MR. DICKERSON: 6485.

22 A Yes. That's -- that's correct.

23 Q Now if we turn over sir to the next page, 6486.

24 A Yes.

1 Q Do you see halfway down he talks about subsequent
2 transactions?

3 A Yes.

4 Q And he indicates here that on May 27th of 2011 the
5 -- that the church purchases these -- this property for 6.5
6 million dollars, isn't that correct?

7 A They -- they held an auction to purchase it.

8 Q Well, they -- they purchased it for 6.5 million,
9 isn't that true?

10 A That's correct. They exercised their option.

11 Q And so the issue really becomes if we read Mr.
12 Bertsch's recitation that we have here that you've indicated
13 as reasonably accurate, this Court needs to make a
14 determination whether it's going to assess to you a hundred
15 percent of the value of that property based upon the
16 transactions that occurred and how your brother got a
17 one-third interest. Or the Court's going to determine that
18 agrees with you and you own a 66 percent interest, isn't that
19 correct?

20 A I believe the Court will do what they want to do.

21 Q So we're looking at a number of either a hundred
22 percent or 66 percent of that number, whatever the value of
23 that property is, correct?

24 A That's true.

1 Q Now looking at subsequent transactions, realizing
2 that you have now sold that property for 6.5 million, he makes
3 reference here to Julie Brown making a loan of \$300,000 to the
4 Baptist church on a first note deed of trust. Do you see at
5 the bottom of Page 6486?

6 A Yes, sir.

7 Q Now that didn't actually go through, did it?

8 A That did not go through.

9 Q In fact, Julie Brown decided to backout of making
10 that \$300,000 loan, isn't that true?

11 A We -- yes.

12 Q And in fact, you stepped in and you took \$300,000
13 from the ELN Trust and made that loan, did you not?

14 A Yes.

15 Q Okay. Now again, you did not come to this Court to
16 seek permission to make that \$300,000 loan, is that correct?

17 A That's correct.

18 Q So now we know that you -- the property that you
19 want valued at 4,000,000 sold for 6.5 million. On top of
20 that, you made a loan to the church of \$300,000, correct?

21 A That's correct.

22 Q And then in addition you gave money for tenant
23 improvements, did you not?

24 A That's correct.

1 Q And you gave roughly 380,000?

2 A I'm not quite sure, sir. Approximately the same.

3 Q Okay. If we take a look at Mr. Bertsch's report,

4 going to Tab 11.

5 A Yes.

6 Q Go to Bates 6818.

7 A I'm sorry, 6 --

8 Q 6818.

9 A Is this Tab 3?

10 Q It's Tab 11.

11 A Okay. Tab 11. Okay. And the number again was --

12 Q 6818.

13 A Okay. Yes, I have it.

14 Q In addition to the 6.5 million dollars that you

15 received from the sale of that property, the \$300,000 that you

16 loaned in place of the Julie Brown loan, if we take a look at

17 what Mr. Bertsch has come up, we see that under application

18 towards the bottom, it says -- see where it says Oasis Baptist

19 Church Russell Road asset \$380,813.99, is that correct?

20 A I see that, yes.

21 Q That's the amount that you gave to the church or

22 loaned to the church for tenant improvements, isn't that

23 correct?

24 A I'm not sure if that's completely accurate, but

1 that's what we have here.

2 Q So in order for us to really have a full
3 understanding of this Russell Road property, we need to
4 realize that a hundred percent of the value is 6.5 million.
5 Then on top of that, you have a promissory note from the --
6 from the Baptist church for 300,000. And then on top of that,
7 the Baptist church owes you another \$380,814 for the monies
8 that Mr. Bertsch has set out on this -- this exhibit which is
9 Bates Stamp 6818, isn't that correct?

10 A No, the actual number is the 300,000 was utilizing
11 for tenant improvements. The 295,000 that's in Section 3 of
12 the Bertsch report shows 295 of which 80,000 of that was to be
13 made up for back taxes and arrears. The balance of that as --
14 as his report shows was to do arrears in payments because they
15 hadn't made all their payments to us. And the sale of the 6.5
16 is only two-third the Eric L. Nelson Trust. It was not a
17 hundred percent. It was two-thirds the trust and -- and Cal
18 and Janette Nelson owned one-third.

19 Q Okay. You've -- you've gotten ahead of me. So let
20 -- let's take it one step at a time.

21 A Okay.

22 Q The value of a hundred percent of that property and
23 what you received for a hundred percent, selling a hundred
24 percent of land was 6.5 million, correct?

1 A The Nelson Trust and Cal Trust, yes.

2 Q Then on top of you that you made the loan that is
3 referenced in Mr. -- at -- on the Bates Stamp 6486, the -- the
4 \$300,000 loan that was referenced to come from Julie Brown.
5 You -- you actually made that loan yourself.

6 A I did that one, yes, sir.

7 Q So that's 300,000 that is owed to you and/or the
8 Eric L. Nelson Trust, correct?

9 A Nelson Trust, yes.

10 Q And then on top of that you gave -- was it another
11 \$300,000?

12 A 295,000 was a credited number, but that was payments
13 that we did not receive. In order to track them, we put it on
14 a second mortgage. Cal funded a portion of the taxes, the
15 property taxes, one-third of his portion. And I funded
16 two-thirds. And so -- of about that 80,000 number you speak
17 of, two-thirds was my trust, one-third was his. The balance
18 was money we never received, but we wanted to track it. That
19 was back payments that they owed.

20 Q But they still owed to you.

21 A Yes.

22 Q Okay. So your position is that of 295,000 you're
23 owed 66 percent of that.

24 A Yeah. I guess that would be correct, yes.

1 Q And again, if the Court comes to the conclusion that
2 when you had a third transfer to Cal for no consideration to
3 the LSN Trust that it might want to assist that against you,
4 then we we're looking at a hundred percent, do you agree?

5 MS. FORSBERG: Your Honor, objection. Misstates the
6 testimony.

7 MR. DICKERSON: Well, it's not his testimony.

8 THE WITNESS: Yeah, the Court can do what they would
9 they would -- would like. I'm just trying to present my
10 position, yes.

11 MR. DICKERSON: Okay. Thank you.

12 BY MR. DICKERSON:

13 Q Now then in addition to that we see from Mr.
14 Bertsch's report at the one we referenced, 6818, that in
15 addition to what you just told us about, you have given monies
16 to the Oasis Baptist church totally \$380,813.99, isn't that
17 correct?

18 A That's included in the -- the 300,000 and the 295.
19 That's the 380.

20 Q Well, how do you get 300,000 and 295 in that?
21 Because he doesn't even know that the Julie Brown loan didn't
22 go through, does he?

23 A No, it was pending, but we would -- we -- we didn't
24 want to do that because it was too involved.

1 Q When he did his report, he thought Julie Brown was
2 making the \$300,000 loan.

3 A I believe so.

4 Q Now -- now under Bella Kathryn you're asking this
5 Court to accept a value for that Bella Kathryn home, the
6 appraisal value of 875,000, isn't that correct?

7 A That's correct.

8 Q Now that -- that was an appraisal that you paid for
9 yourself, correct?

10 A That's correct.

11 Q And that's an appraisal that was not requested by
12 the Court, correct?

13 A That's correct.

14 Q Okay. You simply asked Mr. Bertsch if you would get
15 that appraisal, true?

16 A That's correct.

17 Q Now sir, you remember in 2010 when you testifying
18 what a great investment you were making in this property on
19 Bella Kathryn, do you recall that?

20 A I don't completely recall that, no.

21 Q Isn't it true sir that you have invested in excess
22 of \$1,839,494.79 in that property in building the home and
23 purchasing the lot next door to it on Bella Kathryn?

24 A I believe that to be correct.

1 Q So again so there's no confusion, you're talking
2 \$1,839,494.37 -- and 90 -- and 79 cents, correct?

3 A I believe that to be correct.

4 Q Now again, you never came to this court and
5 requested permission to invest \$1 of that amount in the
6 property at Bella Kathryn, isn't that true?

7 A That's true.

8 Q Now sir, if I -- moving down your Exhibit 241 again,
9 you're asking the Court to award you all the Banone properties
10 that are located in Nevada and all the Banone properties that
11 are located in Arizona, is that correct?

12 A That's correct.

13 Q Now those are income producing properties, are they
14 not?

15 A They are.

16 Q Okay. And that Nicky (ph) note up above, the
17 \$200,000 Nicky note, that's income producing, is it not?

18 A It is.

19 Q And I believe Mr. Bertsch has laid out in one of his
20 reports the income that is being produced from those Banone
21 properties that are located in Nevada and Arizona, do you
22 agree?

23 A He shows the income and partial expenses, yes.

24 Q Okay. In fact, if we take a look at -- if we take a

1 look at Mr. Bertsch's report I believe under Tab 11 again and
2 go to Bates stamp 6818 --

3 A What was the Bates stamp?

4 Q 6818.

5 A Okay. I have it. Yes.

6 Q Take a look at what he has there from the -- up at
7 the -- up at the top. It shows the source of your funds,
8 source of monies coming into your trust. And we see that just
9 over the period of May -- from May of 2009 through the first
10 three and a half months of 2012, your Banone properties both
11 in Nevada and in Arizona generated income of \$1,394,207.57, is
12 that correct?

13 A Well, I -- my record here shows from January 1, 2009
14 through 2012. And it only -- it only is recording the income
15 and not all the expenses.

16 Q Sir, that wasn't my question. Well, let's clarify
17 for -- your understanding, is this from January --

18 A I might be lost. I'm sorry. Page -- what -- 6818?

19 Q 6818, correct?

20 A Okay.

21 Q So your understanding is is this is from January 1
22 of '09 and not May 1 of '09.

23 A Yes.

24 Q Okay. And I could be mistaken. I was of the

1 impression that he was looking from the time that this divorce
2 action was initiated. But let's say that it is from January
3 1st of 2009 through the first three and a half months of 2012.
4 The income that was generated from the Banone properties was
5 just short of 1.4 million dollars, isn't that correct?

6 A The -- yes, that's correct.

7 MS. FORSBERG: Counsel, where are you getting
8 number? I'm sorry, now I'm lost.

9 MR. DICKERSON: The very top line if you take a
10 look.

11 MS. FORSBERG: Oh, you're talking about just Banone.
12 Okay. Sorry.

13 MR. DICKERSON: Do you see it?

14 MS. FORSBERG: I thought I was doing the net.

15 MR. DICKERSON: Okay.

16 MS. FORSBERG: Okay. On the -- well, without the
17 other expenses.

18 Q Now with respect to the expenses relating to that
19 property, we move down and we see that the rental expenses
20 were just short of 500,000.

21 A Under that line of items, yeah. That's not all the
22 expenses, but that's one of the line items.

23 Q Well, if we take all the total expenses that he has,
24 the application of the monies that you received, because we

1 see -- you agree sir according to Mr. Bertsch during this
2 period of time of 2009 to the first three and a half -- half
3 months of 2012, your trust generated income of -- monies
4 coming into you of a little over \$2,000,000, \$2,052,841,
5 correct?

6 A That is just on the income side, yes, without the
7 expenses.

8 Q The total expenses relating to those assets to
9 generating that income was \$1,028,018.47, correct?

10 A No.

11 Q That's how he -- do you agree that that's what he is
12 telling this Court it was?

13 A But he's breaking down application to the specific
14 property without the expenses that would relate to -- for
15 instance personnel to run that, accounting to run it, legal
16 expenses to run it. So these are top in numbers they call it.
17 You would have to go all the way down to the bottom line to
18 actually get a true feeling of income versus expenses.

19 Q And that's your interpretation, isn't that right?

20 A No, that's what the -- what this consolidated report
21 states. That's not my interpretation.

22 Q All right. So now we move down to the notes
23 receivables of -- do you want the Court to award you the notes
24 receivable of a little over 720,000 correct?

1 A I believe so, yes.

2 Q And those notes are income producing, are they not?

3 A Some are and some are separate for me, I believe.

4 Q Now you have Banone Arizona. Banone Arizona has

5 eight properties, correct?

6 A Yes.

7 Q And those are income producing also, correct?

8 A Yes.

9 Q And then you have Silver Slipper Casino. You've got

10 the 1.568 million. That is the money that is being held in

11 Dave Stevens (ph) trust account, is that correct?

12 A Yes.

13 Q Now you have filed a bankruptcy action here in Clark

14 County with respect to Dynasty which is the purported owner of

15 those funds, is that correct?

16 A Yes.

17 Q And that bankruptcy action has a motion pending

18 before it that will be decided by the bankruptcy court

19 tomorrow as to whether it's going to dismiss the bankruptcy,

20 is that correct?

21 A Possibly, yes.

22 Q And in fact, a motion has been filed on behalf of

23 Lynita by her attorney in that action seeking to dismiss the

24 bankruptcy action, true?

1 A Yes.

2 Q And isn't it true sir that you have not -- well,
3 that Dynasty has not opposed that motion?

4 A I know we're opposing it. I don't know if it's been
5 legally done through the attorney yet. So I couldn't tell
6 you.

7 Q Do you know that at least as of last Friday there
8 was no opposition filed to the motion to dismiss?

9 A I couldn't tell you that.

10 Q Now you have put Dynasty or you have attempted to
11 put Dynasty in bankruptcy, correct?

12 A It's in bankruptcy. Yes, sir.

13 Q Okay. And that -- you attempted put bankruptcy --
14 or Dynasty in bankruptcy in Mississippi also, did you not?

15 A Yes.

16 Q And that action was dismissed.

17 A Yes, it was.

18 Q In fact, the bankruptcy court there wrote a very
19 lengthy decision determining why he was dismissing that
20 bankruptcy action, isn't that true?

21 A No, I don't think it was all that lengthy.

22 Q Did you read it?

23 A Yes, sir.

24 Q And did you agree with my conclusion that he

1 determined that that bankruptcy action was being dismissed
2 because of your total lack of candor and fraud?

3 A No, definitely no fraud whatsoever.

4 Q Your total lack of candor?

5 A That it was a bad faith filing because we were too
6 premature in it.

7 Q And he found you not to be a credible witness, did
8 he not?

9 A I don't recall quite that being said.

10 Q You don't recall him saying that you are not a
11 credible witness?

12 A I don't.

13 Q Now I noticed that nowhere on your list here do you
14 list the property in Wyoming that you just reacquired, the
15 racetrack property, where is that on your list?

16 A That we were trying to use the numbers based on the
17 properties that related to these. And so there was no net
18 gain on that property. We bought it in January. We financed
19 a hundred percent of it. And we pulled out all the money back
20 to pay back the trust and so it had -- it has zero value as it
21 is today.

22 Q You didn't put it on here, did you?

23 A It's not on there. No, sir.

24 Q And that --

1 A Well, I --

2 Q -- that property -- that issue --

3 A I apologize. If I can answer that question. It is
4 on there as far as some source of funds, that the approximate
5 cash of the 471 does reflect some restricted funds in the
6 Wyoming accounts, but the property itself has 700,000 in debt
7 which is -- probably exceeds the value of the property.

8 Q Well, you purchased that -- you acquired that
9 property back from the original lender, is that correct? From
10 the original -- you had sold that property -- if I can find my
11 notes. You sold that property to Wyoming Racing in what year,
12 do you recall?

13 A 2007, I believe, '6, I'm not sure.

14 Q Actually, it was -- it was September of 2006 if I
15 recall, correct?

16 A I believe that's correct.

17 Q I believe it was if I'm recalling from -- trying to
18 picture that prom -- that note. It was roughly September 15th
19 of 2006.

20 A I believe that to be true.

21 Q And you sold that to Wyoming Racing, LLC.

22 A I believe that's true.

23 Q And then just earlier this year you reacquired that
24 property for I believe it was 435,000?

1 A Well, in essence, the total with the finance package
2 that went with it, there's 700,000 owed on it.

3 Q Well -- well, no. That's not what I asked you. You
4 acquired that property back from Wyoming Racing, LLC for
5 435,000, did you not?

6 A That's part of the transaction. Yes, sir.

7 Q And then after you acquired that property back --

8 A Excuse me. I believe it was 500. I don't know what
9 the price was. I apologize. 525,000 I think it was.

10 Q But you came to this Court seeking the Court to give
11 you -- allow you to withdraw 425,000, 400,000 so that you
12 could purchase that property, correct?

13 A Yes.

14 Q All right. When the Court refused to allow you to
15 do that, you still came up with the money and bought that prop
16 -- property for something in excess of 400,000, correct?

17 A Yes.

18 Q And then you immediately turned around and obtained
19 a loan on that property for what was it, 725,000?

20 A I think 700,000.

21 Q 700,000. So you gave roughly 425, then went to a
22 bank and got roughly 7 which gave you approximately \$275,000
23 to spend the way you want, correct?

24 A No. No.

1 Q You got \$275,000 after you obtained a loan from the
2 bank for roughly 5 -- for the roughly 700,000, correct?

3 A No.

4 Q Was there an investor? Where am I wrong on this?

5 A The sales price of the property included a \$75,000
6 deposit from the EL -- LN Trust. That was the deposit that we
7 put up. So what we did is we funded 700,000 because the sales
8 price was 525,000. And so what we did was we funded 700 which
9 would pay for one year's full part of interest a hundred
10 thousand. So that you would have to backup to 600,000. Then
11 you would backout the \$75,000 going back into the trust which
12 would be the sales price of \$525,000 when you incorporate all
13 the closing costs and things. So we really netted to the
14 trust zero. There's a personal liability of 700,000 that
15 comes due in January. Hopefully this divorce will be over
16 with.

17 So we did pullout the money even though the
18 appearance -- that 700 -- we only received 600 of the 600, 75
19 went back to the trust. So it was a negative zero on the
20 books.

21 Q So you used the trust money to get a personal
22 liability?

23 A No. The trust purchased it, but in addition to
24 purchasing it, the borrower wanted a personal guarantee which

1 on occasions I'll grant personal guarantees because I believe
2 in the projects.

3 Q So you gave a personal guarantee?

4 A Yes, sir.

5 Q I haven't seen that. Can you produce that?

6 A Yes, it's been produced in the note -- in the deed
7 of trust.

8 Q And did you come to this Court and request
9 permission to sign that personal guarantee?

10 A I asked the Court if I could borrow the money
11 against it, but I believe I did. I don't know, so --

12 Q Now in reacquiring that Wyoming racetrack property,
13 did you reacquire the 11 acres that was originally held in the
14 LSN Trust?

15 A I believe so, yes.

16 Q Now that just takes us back. I want to go back to
17 -- I think you last testified here July 25th if I recall. And
18 you provided this Court with an exhibit I believe was 186. It
19 might have been 187.

20 MS. FORSBERG: Is this Intervener's exhibit,
21 counsel?

22 MR. DICKERSON: Yes.

23 MS. FORSBERG: We have so many different --

24 MR. DICKERSON: Oh, they're right here. Oh, sorry.

1 It's 183. Do you have Exhibit 183, Intervener's 183?

2 THE WITNESS: Judge -- Judge, if you keep those
3 books up there so you don't have to keep an eye on me.

4 THE COURT: Partially, yeah.

5 Q I'm showing you what's been admitted as Intervener's
6 Exhibit 183.

7 A Yes.

8 MS. FORSBERG: What is it?

9 Q This is a --

10 THE COURT: That's the other one.

11 Q -- purchase option agreement that was provided to me
12 for the first time when it was offered in evidence on July
13 25th of this year. You testified to this exhibit, is that
14 correct?

15 A I'm sorry, the question again, please?

16 Q This is a -- a purchase option agreement, is that
17 correct?

18 A Yes.

19 Q And you provided this as an exhibit on July 25th of
20 this year, correct?

21 A I believe so. That's what it says, 7/25.

22 Q That was the last you testified.

23 A Yes, sir.

24 Q And that was the first occasion in which you have

1 provided this document to me. Do you agree to that?

2 A I believe we provided it to Melissa and Joe.

3 Q Well, you believe that.

4 A Yes, sir.

5 Q But you have no clue whether that's a true

6 statement, correct -- correct?

7 A I would have to check the notes.

8 Q You have no documentation in any of your attorney's

9 files that you ever provided this document to me, correct?

10 A I would have to check. We have documents -- I'm not

11 trying to argue with you, but I'm not sure.

12 Q Now as I read this document, this is a document that

13 was purportedly entered into on September 15th, 2006.

14 A Yes, sir.

15 Q Now that is either the same day -- I believe it's

16 the same day, but -- and we're going to find a -- it might be

17 the day before you sold the remaining 200 acres of the Wyoming

18 Racetrack property to Wyoming Racetrack, LLC, correct?

19 A Correct.

20 Q And you remember Lynita testifying that that is not

21 her signature on this document.

22 A I don't recall that.

23 Q You don't recall her testifying to that on -- on

24 July 25th? Do you recall me objecting me to this document

1 being admitted until it was authenticated through Lynita?

2 A I don't recall. I'm sorry, sir. I don't recall.

3 Q Okay. Now as I read this agreement, this provides
4 Wyoming Racing, LLC with an option purchase the 11 acres that
5 was held in the name of the LLC trust, correct?

6 A No.

7 Q Okay. So what does it do?

8 A This actually is an option on the 200 acres
9 approximately next to the racetrack. The 11 acres that you're
10 making reference through is they took that because they were
11 giving up a right-of-way right through the racetrack and
12 wanted to square up the property. And so they got that in
13 addition to that, they gave -- they took an option to purchase
14 the 200 acres that's reflected on the Bertsch report for
15 \$2,000,000.

16 Q What 200 acres?

17 A That -- that -- I apologize. There is two 200
18 acres, approximately. One, a racetrack 200 acres. The other
19 one is the 200 acres that we refer to as the LSN Trust, Paul
20 Nelson, Alita Nelson parcel.

21 Q Okay. The one that you had that unsigned agreement
22 with your brother and sister saying they own roughly 60
23 percent of that property.

24 A I'm not here to dispute that. I'm not here to --

1 Q In fact, what you're talking about is the 200 acres
2 that currently is held in the LSN Trust.

3 A That's what this option is for. Yes, sir.

4 Q Okay. I apologize, because I misunderstood you.
5 And I -- and here's how I misunderstood you.

6 A Confusing.

7 Q You testified on July 25th that this \$2,000,000 was
8 the money that was used to open the Mellon account in the name
9 of the LSN account, the LSN Trust Mellon account. That was
10 your testimony on the 25th.

11 A It would have been error if it was.

12 Q Well, that is not true, is ti?

13 A No, it was the Tierra Del Sol.

14 Q Right.

15 A This 2,000,000 never materialized. This is only a
16 purchase offer.

17 Q Why would you testify on July 25th that the money
18 that you represent here, \$2,000,000, was used to open the LSN
19 account at Mellon Bank?

20 A I did not do that.

21 Q Okay. Now the issue we were dealing with at the
22 time is the fact that Lynita actually has -- or the LSN Trust
23 has actually conveyed that 11 acres to Wyoming Racing, LLC,
24 true?

1 A That is correct.

2 Q Okay. And that transfer actually occurred on August
3 30th of 2006.

4 A That's correct.

5 Q Some 15 days, two weeks prior to you transferring
6 the remaining 200 acres, correct?

7 A That's correct. Yes, sir.

8 Q Now Lynita did not receive a dime of compensation
9 for the sale of that 11 acres to Wyoming Racehorsing, LLC,
10 isn't that true?

11 A No, that's not true.

12 Q What did she receive, sir?

13 A The 200 acres is virtually landlocked. And you
14 can't get to that parcel. So in order to get that property
15 valuable to access the 80 lots there, you had to go through
16 the racetrack approximately I don't know how far, a thousand
17 feet into that 200 acres. No other way to gain access unless
18 you had to go over a river and a bunch of other things.

19 So she didn't maybe -- she did not receive a dollar,
20 but she received an access that was very valuable because this
21 property would have been very invaluable and useless if you
22 didn't have that.

23 Q What property would have been invaluable?

24 A I'm sorry, the 200 acres that she owns.

1 Q The 200 acres she owns is clear on the other side,
2 correct? And you show that on your graph.

3 A And only -- I can pull it up and show you --

4 Q All right.

5 A -- if you like.

6 Q So we know that the 11 acres was transferred to
7 Wyoming Racetracking -- Racetrack, LLC on August 30th of 2006.

8 A I believe that to be correct.

9 Q Two weeks before you then sold the 200 acres that
10 was held in the Eric L. Nelson Trust for an excess of
11 \$11,000,000, I believe.

12 A Yes.

13 Q And when Lynita transferred -- when the LSN Trust,
14 when you had the LSN Trust transfer that 11 acres to Wyoming
15 Horseracing, LLC on August 30th of 2006, not one dime was paid
16 to the LSN Trust for that transaction, true?

17 MS. FORSBERG: Your Honor, asked and answered. He's
18 already explained how it went in there and what its value.

19 THE WITNESS: The value came in the easement.

20 BY MR. DICKERSON:

21 Q So not one dime was paid to the LSN Trust.

22 A I don't want to argue with you. It -- there
23 definitely is a value, a monetary value to the land. So yes,
24 you received an easement to the 200 acres. So she did receive

1 compensation.

2 Q Moving back to your Exhibit 241.

3 A I have it.

4 Q And referencing again the -- these properties that
5 are held in Banone. You have used the value that Mr. Bertsch
6 has used, is that correct?

7 A Yes.

8 Q But in truth and fact, you have sold some of those
9 properties during the course of these proceedings, have you
10 not? I believe the answer to that is yes.

11 A I think some of the parcels under the notes paid off
12 --

13 Q Let's talk about -- let's talk about a property that
14 is at 2209 Farmout Circle (ph).

15 A Okay.

16 Q You're familiar with that, aren't you?

17 A Yes.

18 Q Now that property, you transferred title to that
19 property on January 23rd, 2002 -- I'm sorry.

20 MS. PROVOST: '12.

21 Q Yeah, January 23rd, 2012.

22 A I believe so.

23 Q And that property was held in the name of Banone,
24 correct?

1 A I believe so. I couldn't tell you the exact date.,
2 Q You transferred title of that property to Rochelle
3 McGowan's mother and father, didn't you?
4 A I believe so, yes.
5 Q Now Rochelle McGowan is the young lady that you had
6 -- or the trust had come in and testify in July, correct?
7 A Yes.
8 Q Keith Little is an employee of yours?
9 A Yes.
10 Q That same day January 23rd you conveyed title to
11 another Banone property at 5704 Rose Ridge Avenue to Mr.
12 Little, did you not?
13 A Yes.
14 Q What form of compensation did you receive from
15 Rochelle McGowan's parents?
16 A A first deed of trust written at eight percent
17 interest.
18 Q Did they put any money down?
19 A They did put equity on that one. They improved the
20 property, but --
21 Q Do you understand my question, sir?
22 A I'm sorry?
23 Q Did they put any money down?
24 A I was trying to explain it.

1 Q Did they put any money down?
2 A As far as money, no, but they -- let's just say no.
3 Q So you took a promissory note secured by that
4 property, is that correct?
5 A Yes, sir.
6 Q Do you know what the promissory note was for and how
7 much?
8 A I don't know of the amount, but I believe it was
9 eight percent interest.
10 Q Now the McGowans -- Rochelle McGowan's parents were
11 renting that home prior to you transferring title to them,
12 isn't that correct?
13 A That's correct.
14 Q And her parents were not paying the lease payment,
15 were they?
16 A We had agreed to the --
17 Q Do you understand my question? Her parents were
18 not.
19 A A portion of it they did. The other was doing
20 repairs to the property.
21 Q You had a lease agreement with them, correct?
22 A Yes.
23 Q And that lease agreement called for them to pay a
24 monthly rental payment, true?

1 A Correct.

2 Q Yet, they did not every pay you the monthly rental
3 payment, did they?

4 A Portions of it I believe they did.

5 Q How many months and arrears were they in the payment
6 of their monthly rental payment before you transferred title
7 to them?

8 A They weren't in arrears because they were doing
9 repairs -- extensive repairs to the rental property.

10 Q How many months had they not paid the rent that they
11 were required to pay under the rental agreement prior to you
12 transferring title to them?

13 A I couldn't tell you that.

14 Q Now since conveying title of that property to them
15 in January --

16 A Yes.

17 Q -- they have not made any payments on that
18 promissory note, have they?

19 A I believe they made all their monthly payments.

20 Q How many other properties of Banone have you
21 transferred since the inception of this case or since Mr.
22 Bertsch did his report?

23 A Not very many if I can recall.

24 Q On the Wyoming property under Lynita's -- I'm again

1 back on your Exhibit 241.

2 A Yes, sir.

3 Q You indicate Wyoming 200 acres, \$405,000.

4 A Yes, sir.

5 Q That is the property that you've referenced earlier

6 that's next to the racetrack, correct?

7 A Yes.

8 Q Now that is the value that Larry Bertsch determined

9 to be a hundred percent value of that property, correct?

10 A Yes.

11 Q Okay. So you were conceding then that the LSN Trust

12 owns a hundred percent of that 200 acres, is that true?

13 A That's not -- not for me to say.

14 Q Now that 200 acres, I'm -- I'm looking at all the

15 properties here that you have listed should go to Lynita.

16 A Yes, sir.

17 Q Okay. So we will update her cash number because

18 that's obviously gone down. But from there, Palmyra is not

19 income producing, is it?

20 A It's her home.

21 Q And the Gateway properties that you list there,

22 those are all vacant lots, correct?

23 A I believe so, yes.

24 Q And none of them are -- it's not -- no income

1 producing asset there, correct?

2 A Actually, you could sell them.

3 Q But they're not income producing. They're not

4 producing any type of monthly income. They would have to be

5 sold, correct?

6 A That's correct.

7 Q The Pebble Beach property is a home that her

8 sister's living in, is that correct?

9 A That's correct.

10 Q And her sister is not paying any rent, is that true?

11 A That's correct.

12 Q The Wyoming property that you referenced here, the

13 200 acres, that's just raw land. That's not income producing

14 either.

15 A That's correct.

16 Q The Arnold home, that is a home in Mississippi I

17 believe is producing about -- is it \$400 a month?

18 A Gross.

19 Q 400 gross? And so what's the net amount?

20 A Only about a hundred dollars.

21 Q So you agree right now so far we've gone through the

22 assets. We've got a hundred -- a hundred dollars in monthly

23 income coming in so far, correct?

24 A That's correct.

1 Q Okay. And then we --
2 A Well, we do cash. You can choose -- manages her
3 cash. That's -- you know, she had 2.6 million there.
4 Q Sir, you can make any, but I'm -- I'm looking at the
5 income producing properties you want to give her.
6 A Okay.
7 Q You've given her a hundred dollars so far. Now the
8 Mississippi property, the RV park. That's income producing,
9 is it?
10 A It offsets expenses, its gross. It has a gross
11 income, yes.
12 Q And the gross income of how much?
13 A I couldn't tell you exactly.
14 Q Not very much though, is it?
15 A Yes, sir. Not the net.
16 Q You agree that the -- the net amount -- is it in the
17 negative or is it positive?
18 A It -- the minimal. So I -- I couldn't -- without
19 looking at the records I couldn't see.
20 Q Your next item there that you want to give her
21 Mississippi property, that's all vacant land, true?
22 A I believe so, yes.
23 Q So no income producing asset there other than having
24 to sell it off, correct?

1 A These are what's reflected --
2 Q Is that a correct --
3 A -- in her trust.
4 Q Is that a correct --
5 A I'm sorry.
6 Q Is that correct? That's not income producing,
7 correct?
8 A That's not income producing.
9 Q And then you have Grada (ph), the 16.67 percent in
10 Grada. That owns another 25.37 acres in Mississippi.
11 A Yes, sir.
12 Q And that's raw land also.
13 A Yes, sir.
14 Q And that -- Grada is an LLC that you have created in
15 which Lynita is one of -- is it six or seven members?
16 A One of six. I did not create it.
17 Q You did not create it. Okay. It's a one -- it's an
18 LLC that you had created by Jeff Burr, isn't that correct?
19 A The Grada Financial is my brother's and sister's and
20 Lynita. They created it.
21 Q You went to Jeff Burr and had it created, isn't that
22 correct?
23 A I don't believe I did. No, sir. I mean, I believe
24 they did.

1 Q And Lynita then is a member with five of your
2 brothers and sisters.
3 A Yes.
4 Q Now we get down to Lindell and you indicate that
5 that is income producing, right?
6 A Potentially, yes.
7 Q Potentially. But it's not right now, is it?
8 A Yes, it's cash flows right now.
9 Q Well, you have the entire upstairs of that building,
10 correct?
11 A Yes, sir.
12 Q 2300 square feet.
13 A I believe it --
14 Q I'll go to the appraisal and we'll take a look at
15 what the appraisal says it is.
16 A I'll say --
17 Q 2300 square feet. You're not paying a dime of rent,
18 are you?
19 A In exchange for rent, we're managing the assets.
20 Q You're not paying a dime of rent, are you, sir?
21 A In exchange for management -- you can have --
22 Q Sir.
23 A I don't want to argue with you. You get paid
24 dollars or we exchange our work and our energy and things like

1 that. It is an exchange for energy and efforts in those
2 areas. But I'm happy to pay rent if she takes it.

3 Q The appraisal report that was prepared that has been
4 part of Mr. Bertsch's report used for the purpose of
5 determining the value used a rental of your space of \$2300 per
6 month.

7 A Okay. Yes, sir.

8 Q Are you prepared to pay \$2300 per month for the
9 rental of that space?

10 A Sure.

11 Q That's a dollar a square foot, correct?

12 A That would be if your -- if your square footage is
13 correct.

14 Q And how long of a lease are you willing to enter
15 into?

16 A Ballpark in the negotiations, three, five years.

17 Q We're not in the negotiation stage, sir. I'm asking
18 you what term of lease would you entered -- willing to enter
19 into for the lease of the space that you're currently not
20 paying any rent on?

21 A I would say three years --

22 Q You're willing to pay \$2300?

23 A -- would be your general case, three years,
24 something like that?

1 Q How much, sir? How many?
2 A Three years.
3 Q Now not all the space is currently leased, is that
4 true?
5 A I believe we have 800 square foot that's available.
6 Q And you have some relative member, this young
7 attorney that's handling your bankruptcy action. What's his
8 name?
9 A But he's not related to me.
10 Q There's no relation at all? Not -- not --
11 A Not to me. He's related to my brother.
12 Q Okay. Sorry. What is he -- what's the relation to
13 your brother.
14 A Let's see here. He is Susan's -- my -- my brother's
15 wife's sister's son.
16 Q Okay. So he is your brother's son-in-law?
17 A Wife's sister's son.
18 Q Nephew -- or I don't know whether that -- okay. And
19 what is his name?
20 A Taylor Ovlad (ph).
21 Q And he's renting space there?
22 A Yes.
23 Q Is he paying any rent?
24 A No, he's just work -- we're doing work for us right

1 now.

2 Q What other related parties -- what other related
3 parties are leasing space there? When I say related, I'm
4 going to call him a related party because he's somehow tied to
5 your family. So if you want to go back to the other Kevin
6 Bacon approach.

7 MS. PROVOST: Six threes --

8 MS. FORSBERG: Even I are better than --

9 A Okay. None -- none that I'm aware of.

10 Q Is everybody -- are all the tenants there paying
11 their rent -- not -- is anybody in -- in arrears?

12 A Yeah, it's important to note that Taylor is in my
13 office space, that 2300 square feet you're talking about, he's
14 in that part there.

15 Q Then I did not understand. I'm glad you cleared
16 that up. I was under the impression he had his own space.

17 A No, we had a prior nephew that was there. He moved
18 out and we have an unrelated party that moved in there.

19 Q So are all the tenants current in their rent?

20 A I think they're all current on their payments, yes.

21 Q What is the monthly net that is currently being made
22 on the Lindell office complex?

23 A It -- I -- I don't have the numbers and I apologize.
24 It's approximately \$10,000, 11,000 gross, 12 -- I'm not quite

1 sure depending on where you're at. If we rented the last
2 space, you know, I think you would be net and somewhere around
3 between nine and \$10,000 a month me -- with me paying rent, of
4 course.

5 Q How many those are month-to-month lease and how many
6 -- well, how many are month-to-month leases?

7 A We generally try to do the majority of our tenants
8 month-to-month, but there may be a couple in there with year
9 leases.

10 MR. DICKERSON: Do you recall what -- in the Bertsch
11 report what -- what would have that as under?

12 MS. FORSBERG: The appraisal is under -- I don't
13 know if that's relevant.

14 MR. DICKERSON: Number 20, please.

15 Q Took -- take a look at Mr. Bertsch's report, the
16 appraisal.

17 A Okay.

18 MR. DICKERSON: The Court's indulgence, please.

19 (Pause)

20 THE WITNESS: Most of them are seasoned tenants
21 though if they exceed a year. Because I don't see anything in
22 here that states tenant breakdown.

23 Q Well, there is on -- there -- there is if you take a
24 look -- go to Tab --

1 MS. PROVOST: Tab 20.

2 Q -- Tab 20. Go to -- go to Exhibit A six pages back

3 and it has a two at the top. Do you see that?

4 A At the very back?

5 MS. PROVOST: Exhibit A.

6 THE WITNESS: I don't have where Exhibit A is.

7 MS. PROVOST: Tab 20.

8 THE WITNESS: Tab 20. Yeah, I don't have an Exhibit

9 A.

10 MS. PROVOST: There's a -- it's got Larry's report

11 as the first three or four pages and then it starts with an

12 exhibit, Exhibit A.

13 THE WITNESS: No, I don't have anything with the

14 tenant breakdown.

15 MR. DICKERSON: Let me find it for you. Oh, here we

16 go. Okay. That's 21.

17 Q All right. If you take a look at this page where --

18 Page 2 at the top and there's a graph then it shows the square

19 footage, I know there's one in here that actually shows the

20 rent and I can't find that one. I saw it yesterday as I was

21 going through this. Let's take a look at these -- let's take

22 a look at these, please. Dr. Stock (ph), is he still in Suite

23 101?

24 A Yeah, he's been there over 10 years.

1 Q And do you know what type of lease he has?
2 A A counseling.
3 Q No, I mean, what -- is it a -- a long term lease or
4 --
5 A Oh.
6 Q -- is he month-to-month?
7 A I don't recall. I'm sorry.
8 Q Do you know what his rental payment is?
9 A I think approximately 2,000 a month.
10 MR. DICKERSON: Judge, the appraisal that was filed
11 with the Court by Larry Bertsch, what we have included in this
12 exhibit does not include the full report. And it was huge.
13 But Mr. Bertsch filed that and there is a page in there that
14 lists the rental payments and shows whether they're long term
15 leases or when -- when the lease ends or whether they're
16 month-to-month. I'll tell you what. I'll -- I'll get that
17 during the lunch hour and see if we can get that, okay?
18 Q But just right now, is Dr. Stock still in Suite 101?
19 A Yes.
20 Q How about JMS Business Consultants? Are they in
21 102?
22 A Yes.
23 Q Smart Investments is no longer there, is that
24 correct?

1 A No, that's been replaced with a new tenant.
2 Q Now with smart investments, was that some relative
3 of yours?
4 A That was Ben Harbor. He was a nephew of mine.
5 Q And what's the replacement tenant?
6 A Some investment company. I don't know what they
7 name is.
8 Q Do you have any idea of what the -- their monthly
9 rental is?
10 A Yeah, I know it ends at 800. I think there's a
11 startup of some free rent and graduates up to 300. That's
12 what Ben's rent was, 800.
13 Q How long do they have free rent?
14 A I don't recall.
15 Q Okay. Is Freshwater Holdings still in Suits 104 and
16 105?
17 A No, they've been replaced with a new tenant about
18 three months ago. I think their rent is about 1440, somewhere
19 in that area.
20 Q And who's the new tenant?
21 A Some real estate office unrelated.
22 Q And how about -- does -- I didn't skip J&S., did I?
23 J&S is still there, correct?
24 A Excuse me?

1 Q J&S Business Consultants, they're still there,
2 right?
3 A Yes. Uh-huh. (Affirmative).
4 Q How about Odor Masters, still a tenant?
5 A Well, that space is vacant there. We have several
6 tenants looking at it though.
7 Q How about the two suites that are being leased by
8 New Life Lease? Are those still --
9 A Yes, they're -- they're a season tenant.
10 Q When you say season tenant, what does that mean?
11 A They exceed a year. They've probably been there for
12 three years.
13 Q Oh, okay. They -- they've been there for some time.
14 A Uh-huh. (Affirmative).
15 Q Is that a yes?
16 A Yes. Sorry.
17 Q And then Suite 201, that is your suite that you're
18 --
19 A That's my suite, yes.
20 Q -- occupying, correct?
21 A Yes.
22 Q All right. So then going back to your Exhibit 241,
23 we see that the only income producing properties that you
24 believe Lynita should receive is the -- the Arnold property

1 which is about a hundred a month you believe and the Lindell
2 property which you believe will produce somewhere between nine
3 and 10,000 a month, correct?

4 A Well, you -- I mean, you would invest your cash.
5 You would -- she could collect rent on Pebble Beach. She can
6 sell the lots. And there's a lot of assets there. I don't
7 know what you mean as far as --

8 Q So she could sell her property.

9 A -- direct cash today.

10 Q She could sell off her property and live on it.

11 A Well, you take it and convert it to income producing
12 property.

13 Q Okay. And so based upon that, you believe that
14 Lynita -- you've been married how many years?

15 A Almost 30 at this rate.

16 Q So after your 30 year marriage you believe that
17 giving these properties to Lynita she's not entitled to an
18 award of alimony, is that correct?

19 A She's taking half the business.

20 Q Sir, is that your position is that she's not
21 entitled --

22 A That's my position, yes.

23 Q All right. Now let's take a look then at Larry
24 Bertsch's report, Exhibit -- where is this tab? I believe

1 this is -- go to 11.

2 A Okay.

3 Q And let's look at Tab -- or Bates Stamp 6818.

4 A Okay.

5 Q Are you there?

6 A Yes.

7 Q All right. I -- I just want to go through some of

8 these numbers. If you take a look down on -- about

9 three-quarters of the way down you'll see where it says Lynita

10 Nelson?

11 A Yes.

12 Q And it shows what you have given her over the period

13 of time from 2009 whether it's January or May of 2009 up to

14 the first three and a half months.

15 A Yes.

16 Q Indicates 89,517.12.

17 A Yes.

18 Q Now -- and of that, 65,000 was during the 2009 time

19 frame, correct?

20 A Yes.

21 Q Now since 2009, these monies, you gave her 13,000 a

22 little over 13 -- well, \$13,003.58 in 2010?

23 A Yes.

24 Q And you gave her \$10,763.60 in 2011?

1 A Yes.

2 Q And the first three and a half months of 2012 you
3 gave her \$244, correct?

4 A It appears, yes.

5 Q Now those numbers -- and we can go back if we want
6 to go to the backup materials, but particularly for those
7 years, 2010, 2011 -- forget 2012 right now. Those monies that
8 are reflected there roughly 23, \$24,000, that was for life
9 insurance -- or not life -- that was for medical insurance
10 that you were paying for Lynita, correct?

11 A I don't believe so.

12 Q Okay. Well, let's take a look at the backup
13 material. Let's go to 2009. I mean, excuse me. Let's go to
14 2010.

15 A And where is that at?

16 Q I'm going to find it for you here. Let's turn to --
17 to Page 6. Let's --

18 MR. DICKERSON: The Court's indulgence, please.

19 Q Let's go back -- let's go back to 2009. Let's go
20 back to 2009, okay?

21 A Okay.

22 Q I'm going to direct you to Bates Stamp Number 6828.
23 This -- this is for the period -- this is for 2009.

24 A Yes.

1 Q So you see the -- the line item there for Lynita
2 Nelson?
3 A 65,000?
4 Q Right.
5 A Yes, sir.
6 Q So it shows that -- it shows direct payments you
7 made to her and it shows expenses that you paid on her behalf,
8 correct?
9 A I'm not quite sure where that -- where that is.
10 Q Do you see it, sir? Are you on -- on 6828?
11 A 6828?
12 Q Yes, 6828.
13 A Okay.
14 Q Are you there?
15 A Yes, sir.
16 Q All right. It shows for example January of 2009 you
17 gave her \$6,000.
18 A It appears so.
19 Q That was from the rent monies, the net proceeds from
20 Lindell property, correct?
21 A I couldn't tell you.
22 Q Well, aren't all of these numbers across here, the
23 6400, the 6,000, the 5,000, the 10,000, the 8,000, all -- all
24 of those are listed, isn't that the monies that she was paid

1 each month as a result of -- basically as a result of LSN's
2 ownership interest in the Lindell plaza?

3 A I couldn't tell you that.

4 Q Now you see these expenses you paid -- at -- at this
5 point you don't have any idea of what those expenses are, do
6 you?

7 A No.

8 Q Can you tell the Court what -- how much it was
9 costing for Lynita's medical insurance each month?

10 A I have no idea.

11 Q Now you filed for divorce in June of 2009, is that
12 correct?

13 A I believe so.

14 Q So you see then the very next month July you gave
15 Lynita \$5,742 and you paid \$269.82 of expenses relating to
16 her, correct?

17 A That's what that report shows, yes.

18 Q Okay. Then the next month you decided to give her a
19 grand total of \$780 and pay \$1,440.14 on her behalf, is that
20 correct?

21 A That's what the report says, yes.

22 Q And then for the remainder of that year, you did not
23 -- chose not to give her any additional monies but you did
24 decide that you were going to pay roughly \$893.94 for two of

1 those months, correct?

2 A Yes, so that -- that shows you that this is not her
3 insurance because we continue to pay her insurance even up to
4 today.

5 Q Well, you're not paying her insurance today, are
6 you, sir?

7 A Health insurance, yes, sir.

8 Q All right. Now if we'll turn to Bates Stamp 6832.

9 A 6832?

10 Q Yes.

11 A I've got it.

12 Q Okay. So what Mr. Bertsch's report shows us is that
13 during the year 2010 you gave Lynita a grand total of \$2300
14 and that was in the month of January.

15 A And that's what the report shows, yes.

16 Q And do you know what that was for?

17 A I do not.

18 Q And then we see across the board here expenses that
19 total \$10,703. Those -- the majority of those expenses are
20 for her health insurance, is that correct?

21 A I don't know.

22 Q Okay. If you turn sir to 6 -- Bates Stamp 6836.

23 A Yes, I have it.

24 Q So reflects that during 2011 you gave directly to

1 Lynita \$5,750, is that correct?

2 A That's what this report says, yes.

3 Q And now with the \$5,000, wasn't that Court

4 sanctioned for attorney's fees?

5 A I have no idea.

6 Q And wasn't the 750 that you gave her reimbursement

7 for children's medical expenses?

8 A I have no idea.

9 Q Okay. And then we see the expenses that you paid on

10 her behalf that you have not paid any expenses for her since

11 January of 2011, is that right?

12 A Yes, that's what the report shows.

13 Q All right. So during the same period of time

14 whether it's January of 2009 or May of 2009 up until the first

15 three and a half months of 2012, we see that at the same time

16 you gave Lynita less than \$90,000 you gave related

17 individuals, family members \$3,915,000.29, is that correct?

18 A Well, no. That's incorrect in I gave them anything.

19 That would be from the sale of Russell Road and other assets.

20 Q That's all laid out, sir. Do you want to go through

21 those numbers too?

22 A It's up to you, sir. Your questions.

23 Q So if you'll turn to Bates Stamp 6828 again, please.

24 A Okay.

1 Q Okay. So these set out showing that looking on this
2 for example, your sister Alita Nelson.

3 A Yes, sir.

4 Q You made direct payments to her of 260,000 plus,
5 correct? Is that true?

6 A Let me find that.

7 Q Right down towards the bottom where it says related
8 individuals. Do you see it?

9 A Yes, sir.

10 Q You paid expenses for her of just short of 13,500,
11 correct?

12 A These are actually commissions.

13 Q Sir.

14 A She -- she earned a commission on the sale of real
15 estate. And so that was -- I didn't give her anything on
16 that. It's just the report reflects money flowing to her, but
17 it doesn't show where this income came from. When she would
18 sell a property through her auction company or my auction
19 company.

20 Q So it shows that you gave your sister 260,000
21 directly.

22 A I didn't give her anything. She received those
23 funds through income that she derived or through a loan, sir.

24 Q Sir, it shows that you took monies that you

1 received.

2 A Yes, sir.

3 Q Turned it over to your sister.

4 A Yes, sir.

5 Q In excess of direct payments, in excess of \$260,000,
6 is that correct?

7 A Yes.

8 Q In that for monies that you received during this
9 entire period of time of 2009 to the first three and a half
10 months of 2012 you paid expenses on her behalf of just short
11 of 13,500? I'm sorry, this is just 2009.

12 A Okay.

13 Q Okay. For 2009 you paid those expenses for her,
14 correct?

15 A Those would be expenses.

16 Q Those expenses --

17 A But not necessarily related directly to Alita, but
18 she may have like the auction company --

19 Q Well, the auction company --

20 A -- Alita's a licensee under Eric Nelson
21 Auctioneering.

22 Q Well, Nelson Auctioneering is owned by her, correct?

23 A No, Eric Nelson Auctioneering is owned by me.

24 Q But Nelson Auctioneering is owned by her?

1 A Yeah, that's unrelated to this.

2 Q Well, that's the next item down. Nelson

3 Auctioneering, you made payments to Nelson Auctioneering of

4 just short of \$88,000.

5 A Yes. And those have been additional fees that --

6 Q Is that true, sir?

7 A -- commissions she earned. Yes, sir.

8 Q Okay. And then you reimburse -- made reimbursements

9 or what purported to be reimbursements of around \$12,000,

10 correct?

11 A It appears that way, yes.

12 Q Now Brock Nelson is your nephew.

13 A Yes, sir.

14 Q You gave Brock Nelson \$6,000 in 2009, correct?

15 A I -- it shows that I made a payment to him of

16 \$6,000. Yes, sir.

17 Q And then Kyle Nelson, your brother, you gave him

18 \$48,000 in 2000 --

19 MS. PROVOST: No, that's Bryce.

20 Q I'm sorry, Bryce -- Bryce Nelson. That's your

21 nephew?

22 A Yes, he worked for me.

23 Q Okay. You gave him 48,000.

24 A Yes, sir. He was an employee.

1 Q And then you made payments to your brother Cal
2 through -- through Cal's Bluewater Marine of a little more
3 than a hundred and fifty-eight thousand, correct?

4 A Yes. And what that is --

5 Q Sir.

6 A -- those dollars were recaptured --

7 Q Isn't that true, sir?

8 A You're only looking at part of the slip. I just
9 wanted to be clear. Is I didn't give him anything. These
10 monies were offset in the purchase of Russell Road.

11 Q You -- you made direct payments to him of a hundred
12 and twenty?

13 A Yes, he's an employee.

14 Q So these were the monies that -- the -- he's an
15 employee and you're paying him these monies. Right. So he --
16 he owns Cal Bluewater Marine, yet he's an employee of yours,
17 correct?

18 A Yeah, Cal worked for me, but in -- in addition to
19 the report so you can understand the report's side of it is if
20 he would receive a cashier's check and would purchase a
21 property, it would show an outflow through this portion of the
22 report. The income side of it be reimbursed either A, an
23 offset like a due to, due from would be made up to on the sale
24 of Russell Road or when we resold the property or for

1 instance, Cal would purchase a property, get a cashier's
2 check, that would be reimbursed. The -- the report, the full
3 report reflects it all. So it's a rollover report.

4 Q While we're on this page, if you take a look at the
5 children's expenses up above.

6 A Yes, sir.

7 Q It lists first Amanda Stromberg. That's your adult
8 daughter?

9 A Yes, sir.

10 Q Actually, the monies that are reflected there are
11 the tuition -- tuition monies for her husband to go to law
12 school?

13 A I couldn't tell you that. Possibly a portion of
14 them, yes.

15 Q And you're paying the tuition for her husband to go
16 to law school, is that correct?

17 A Yes, sir.

18 Q And he's not a beneficiary of any of these trusts,
19 is he?

20 A No, he's married to my daughter.

21 Q And Aubrey Nelson, she's another adult?

22 A Yes, sir.

23 Q Okay. And the only -- the only minors are Carli and
24 Garret, correct?

1 A That's correct at this stage. I believe in 209 --
2 no, that's correct. Just Garret and Carli are the minor
3 children at this time.

4 Q All right. If we go to the next year, let's -- I
5 think that would be 6832.

6 A I'm sorry?

7 Q 6832.

8 A 6822?

9 Q 6832.

10 A 6822.

11 MS. FORSBERG: 32.

12 THE WITNESS: 32?

13 MS. FORSBERG: I thought you said 32. Bob, did you
14 say 32?

15 MR. DICKERSON: 32.

16 MS. FORSBERG: 32.

17 THE WITNESS: Oh, okay. I'm here.

18 Q So again, looking at those, those lists would show
19 that during the year 2009 all the payments that went directly
20 or indirectly to Alita, to Bryce, to Cal and to your adult
21 children and Carlene, is that correct?

22 A Yes, I see it. See, for instance --

23 Q All right. That's fine. Thank you, sir.

24 A Okay.

1 Q And we can go to the other tabs that we went to,
2 6838 and 6847 and see what you paid to each of those
3 individuals for 2010 and for three months in 2011, do you
4 agree?

5 A Where was this?

6 Q Well, 6836 and 3847 deal with the same individuals
7 that you gave money to during 2010 and the first -- excuse me,
8 2011 and the first three and a half months of 2012, correct?

9 A I believe it's a similar nature with, you know,
10 footnotes on each -- each one of these reports.

11 MR. DICKERSON: I have nothing further, Your Honor.

12 THE COURT: Redirect?

13 **REDIRECT EXAMINATION**

14 BY MS. FORSBERG:

15 Q Eric, let's start -- let's work a little bit
16 backwards just for -- what Mr. Dickerson was just doing, okay?
17 That will be most fresh in the Court's mind. Okay. He had
18 you look at 6828.

19 A Is that 11?

20 Q Yes, still under Tab 11.

21 A Okay.

22 Q Had you look at Number 6828.

23 A 6828. Okay.

24 Q Can you explain to the Court what Brock Nelson and

1 Bryce Nelson what those payments were for? Start with Brock,
2 please. What did Brock do for you?

3 A Brock doesn't work for me. He works periodically,
4 just he did some work for me on repair work. But I don't
5 recall. Like Bryce is a line item. I knew he worked on
6 month-to-month 4,000 a month to do all the repairs on the
7 properties.

8 Q Now Alita Nelson, did you take out a loan from Alita
9 Nelson?

10 A Yes, that's what's reflected in -- in the 32. If
11 you go to 6832, it'll show related party individual 620,000.
12 That's the payoff. So when we paid off Alita to the 620,000,
13 so it shows a related tran -- party transaction of 620,000.

14 Q So if we go back to 6828, do you recall what the
15 \$260,000? Were you making payments on that one?

16 A It would be payments and commissions that she was
17 due as a realtor.

18 MR. DICKERSON: You know what, Your Honor, maybe if
19 we simplify this. If you take a look at Bates Stamp 6766 --

20 MS. FORSBERG: It's fine. I still want to go
21 through it. I'll just continue --

22 MR. DICKERSON: All right.

23 MS. FORSBERG: -- with my --

24 MR. DICKERSON: Go ahead.

1 MS. FORSBERG: -- questions. Thank you though.

2 Thank you though. That helps.

3 Q So Eric -- and back to where we were before Mr.
4 Dickerson -- you were going through Alita Nelson's on 6828.

5 A Yes, sir. I mean, yes, ma'am.

6 Q And what were those payments for?

7 A The 6828 to Alita. These would have been -- direct
8 payments would have been payments that when we borrowed money
9 from her or auction expenses to her company or real estate
10 commissions on direct payments or reimbursements for our
11 auction company. All would have been 1099.

12 Q Why would you have any -- why would you have any
13 payments to her auction company?

14 A On occasion she would sub out work and she would be
15 working for companies like Kennedy and Wilson, national
16 companies. I don't do the work. She does the work for them.
17 But since I have a broker's license, she has to work
18 underneath my broker's license even though her sub company was
19 doing all the work. So she was entitled to those funds.

20 Q And then Cal Nelson, we -- he actually bought this
21 Cal's Bluewater Marine.

22 A And that -- that's where you have these offsets. If
23 you go back to the Russell Road transaction that happened,
24 part of that \$4,000,000 we recaptured from the due to, due

1 from the hundred and fifty-eight thousand approximately that
2 was an advance to him. Less the payments because he did all
3 the work on hundreds of homes for us here in Las Vegas.

4 Q Mr. Dickerson also asked you in 2009 on the 6828
5 about Erica Nelson. When did -- now one of your children
6 turned an adult during this action, is that right?

7 A I think that's Erica. No, she's 20 -- 21. Yeah,
8 she started at 18. So in '09 she might have been 18.

9 Q And when's her birthday?

10 A Heck if I know.

11 Q Put you on the -- put you on the spot.

12 MR. DICKERSON: Why don't you take a look at his
13 complaint.

14 A April something. April 5th, I think. I don't know.

15 Q Going through to 6832, Mr. Dickerson went over the
16 same thing on Alita Nelson. And --

17 A Which one?

18 Q 6832.

19 A 6832. Okay.

20 Q Do you recall what your big loan from Lynita [sic]
21 was, how much it was?

22 A Alita?

23 Q Yes, Alita.

24 A Alita, yes, he gave us 620,000 cash to invest.

1 Q Do you show that amount returned to her in that --
2 in anywhere in that document?
3 A Yes, on -- yes.
4 Q And when did you pay her back the 620?
5 A January 10. It was more efficient to pay her off.
6 Q And would the rest of the things be exactly how you
7 explained it before in '09? Is it the same scenario with
8 Nelson Auctioneering? What would you have been paying her
9 \$8500 for?
10 A That would have been for services that her company
11 would have been paid and -- and we were reimbursing her for
12 commissions.
13 Q And Bryce Nelson?
14 A Bryce worked up til February when we shut down the
15 Banone purchasing arm. And so we laid -- laid him off.
16 Q Is that why there's no entries past March --
17 A That's correct.
18 Q -- 2010?
19 A Uh-huh. (Affirmative).
20 Q Okay. If you turn to our Exhibit -- Mr. Dickerson
21 asked you a question about our Exhibit 241.
22 A Yes.
23 Q Do you recall that?
24 A Uh-huh. (Affirmative).

1 Q You've tried to explain and now is your chance.
2 Okay. You were trying to explain to the Court about income.
3 He was asking about income. He went through these -- these
4 lists and he said that the only income generating property was
5 the Smallwood on the RV park I believe and then Lindell, is
6 that correct?

7 A That's correct.

8 Q Okay. Can you tell me what you know about her
9 income as far as the cash?

10 A The cash -- previous cash she had it set up as she
11 was getting an annuity of 15,000 a month. And then she moved
12 those funds, of course reduced her cash capital greatly by
13 paying professional fees. And so I don't know what she has.
14 But in relationship, if she wanted to take that million
15 seventy-one and apply it to real estate rentals, she would
16 have 20 rental properties there.

17 Q Can you turn to in our -- our Exhibit 239? Can you
18 turn to that page, please?

19 A In ours?

20 Q I believe you said she moved the Mellon stuff, is
21 that right?

22 A Yes.

23 Q Okay. Can you tell the Court what under Exhibit 239
24 is, please? With the exception of the first page. The first

1 page is demonstrative for the Court and we'll go through that.

2 MR. DICKERSON: Your Honor, 239 would be beyond --
3 would be beyond the scope of my direct examination.

4 MS. FORSBERG: No, you -- you went on what income
5 she could make off of those listed. That's part of that
6 million dollar she had left, so --

7 THE COURT: Well, the Exhibit 239 it hasn't been
8 admitted yet. So I haven't looked at it yet, so --

9 MR. DICKERSON: It hasn't -- it wasn't even
10 referenced and is -- I mean, they didn't even go to it.

11 THE COURT: And I don't know what it shows or how it
12 ties in to the testimony.

13 MS. FORSBERG: Mr. Dickerson said that -- wouldn't
14 let him answer the question back to when he said about the
15 income off the cash, that she makes income off her cash,
16 interest in -- investment interest off the cash. He said that
17 she didn't make anything, that he should -- she only was
18 making income off of those two properties. This proves that
19 that's not true.

20 MR. DICKERSON: Who said she didn't make anything?
21 I didn't say that.

22 MS. FORSBERG: You said the only thing that -- that
23 she's making interest -- income on was Lindell and that RV
24 park. You went through it ad nauseam.

1 THE COURT: I think --
2 MS. FORSBERG: This is just --
3 THE COURT: -- he went through the proposed property
4 settlement CBA --
5 MS. FORSBERG: Correct.
6 THE COURT: -- and said the property he proposed,
7 the only ones that had income potential was Lindell and the
8 Mississippi RV which was --
9 MS. FORSBERG: Correct.
10 THE COURT: -- nominal and a hundred bucks for the
11 --
12 MS. FORSBERG: Right. And I'm going to prove that
13 that is not true. This is what this is showing, that -- that
14 the other one that he's -- that he's leaving off there is not
15 true, Your Honor.
16 THE COURT: But the million seventy-one thousand in
17 cash --
18 MS. FORSBERG: Uh-huh. (Affirmative). Correct.
19 THE COURT: -- that she can invest that in. We can
20 invest that and make money off it, but --
21 MS. FORSBERG: Well, we actually prove -- have
22 amounts of what she actually make money off of, Your Honor.
23 He -- he said she didn't and that's where I'm heading.
24 THE COURT: As far as I don't think he said she

1 didn't make anything off her own investments. I think you can
2 get that through --

3 MR. DICKERSON: And unfortunately --

4 MS. FORSBERG: We can get through --

5 THE COURT: -- Ms. Lynita, but --

6 MR. DICKERSON: -- the money's all gone.

7 THE COURT: Yeah. Well, the money's there, but --

8 MR. DICKERSON: Well, not all of it, but I mean,
9 she's been using -- having to live on that.

10 MS. FORSBERG: She got a lot of income off of it and
11 that's where we're heading. I can certainly do it through Ms.
12 Lynita if you would like, Your Honor. I just thought this is
13 in fact where he was headed. He said she only made off those
14 two and I can prove that she made \$300,000 in 2009 off the
15 other.

16 THE COURT: And well, if you can get it through her
17 as far as income she's coming, that will go to her need for
18 spousal support like you said, but I think from the 241 that
19 talks about the property settlement that he was proposing or
20 break down if that was equitable as far as what she's doing.
21 I mean, as far as that \$1,071,000, she can make -- if you want
22 to get into that what she's made off that, that's fine through
23 Lynita, but I don't think Exhibit 239 will help us.

24 MS. FORSBERG: That's fine. I'll save it for

1 Lynita. That's fine, Your Honor.

2 BY MS. FORSBERG:

3 Q Eric, Mr. Dickerson asked you several things about
4 the McGowans and the -- the note and all of that. Do you
5 recall that part?

6 A Yes.

7 Q That Ms. McGowan's parents had rented a home, is
8 that right?

9 A That's correct.

10 Q Okay. Did you sell the home to them for fair --
11 fair market value?

12 A Yes, for the money we had invested in it, yes.

13 Q He also talked about Mr. Little, that there was a --
14 a house that -- that you have a note from Mr. Little, is that
15 right?

16 A That's correct.

17 Q Okay. Is Mr. Little making you all the payments?

18 A Yes.

19 Q Okay. Do you know what interest rate that note is?

20 A Eight percent. I -- I sold the property for
21 everything we had invested at eight percent. He had off at
22 some of that for some work that he's doing for and stuff.

23 Q Mr. Dickerson stopped you when you were trying to
24 explain as far as down payments. Can you explain the down --

1 how the down payment was arrived by the McGowans?

2 A They -- there was quite a bit of work that needed to
3 be done on the property. So instead of -- I just wanted to
4 get all the money we had invested back. And so I took that
5 amount and I sold it to them for that amount approximately.

6 Q Working backwards, Mr. Dickerson questioned you
7 regarding the option to purchase on that -- 200 acres in
8 Wyoming. Remember that?

9 A Uh-huh. (Affirmative). Yes.

10 Q Did they ever exercise that option?

11 A They did not exercise it.

12 Q So you didn't get \$2,000,000 or whatever it was on
13 that exercised, whatever it was on that?

14 A That's correct. We never get it.

15 Q On Exhibit 11, Mr. Dickerson went over the Banone
16 houses and all of that, do you recall that? Can you turn to
17 Exhibit 11 in Mr. Bertsch's report, Tab 11, Mr. Bertsch's
18 Exhibit GGGG?

19 A Yes, I have it.

20 Q Mr. Dickerson asked you whether you had a net of a
21 million twenty-four thousand dollars on the properties that
22 are listed at the top half of Banone --

23 A On 6818?

24 Q Yes, 6818, please. Sorry.

1 A Yes, I see it. Uh-huh. (Affirmative).

2 Q Can you explain what's missing?

3 A And what you -- what you have is when you're
4 managing performing, subperforming and nonperforming, you're
5 taking the company itself which would be the trust. And you
6 take all the assets of the trust because some are making
7 money, some are losing money and some are breaking even in
8 essence. And so you do a bottom line number of where you're
9 at on a yearly basis and not cherry pick as I call it certain
10 assets.

11 Q But what -- what expense that would need be factored
12 in to there be company operating expenses?

13 A Yes.

14 Q And how much was that for that 2009 to 2012 period?

15 A It shows for the total?

16 Q Yes.

17 A \$600,000 approximately.

18 Q Roughly 600,000? Okay. Was this operating
19 expenses, what would those include?

20 A It might not be in the employees expenses related to
21 that.

22 Q So you don't write out all the checks for all the
23 taxes and the insurance and all of that?

24 A No, that's -- that would probably be a -- a top line

1 number on the application where he put that. As far as the
2 operating expenses, that would not be taxes out of that, no.

3 Q I don't think you heard my question. Was it the --
4 and you don't actually -- you personally don't physically --
5 you have staff that writes out the checks and performs all the
6 operations, is that right?

7 A I don't -- That's correct. I don't write any checks
8 or very few.

9 Q Mr. Dickerson went over some questions about the
10 Bella Kathryn home.

11 A Yes.

12 Q Can you explain to the Court how you buy and sell
13 properties and how Bella Kathryn would have tied in?

14 A Well, Bella Kathryn was a foreclosure. And I bought
15 it at a trustee sale on the courthouse step with a cashier's
16 check. At the -- at the time I paid about 25 cents on the
17 dollar for what was invested. It was a very good investment
18 at the time. And as time went forward, we ran into some
19 engineering expenses and other expenses on that property. So
20 it was just an investment that we'll come back eventually at
21 some point, I hope. But as far as today's value, it would
22 more like towards a real estate appraisal.

23 Q And do you often buy properties that you into
24 problems with?

1 A Yes.

2 Q Can you explain any other situations for that
3 occurring?

4 A Oh, like for instance on 39th Avenue I had to pull
5 out a gas tank and the gas tank was cracked. So we had to
6 mediate some areas in deeper digs and concerns on that.
7 Asbestos at that property. Turned out to be more extensive on
8 the roof than we anticipated originally. So that was -- that
9 was, you know, more expense in that.

10 Virtually all the assets that I buy for my side of
11 the trust will have liabilities that are real liabilities that
12 are real. Even though they may be designated liabil --
13 contingent, they're real liabilities. There are environmental
14 areas that's got to be fixed on it, title issues that have to
15 be fixed on it, zoning issues that have to be fixed.

16 Q And you say you found some of those Bella Kathryn
17 now with engineering.

18 A Bella Kathryn was one that it definitely ran over
19 budget of what it was going to cost to bring that property
20 around.

21 Q Who owns Bella Kathryn now?

22 A Banone which is owned by the Eric L. Nelson Trust.

23 Q Mr. Dickerson repeatedly asked you questions about
24 selling property during this action. Do you recall that?

1 A Yes.

2 Q Okay. Can you explain to the Court how your
3 business operates anyways as far as buying and selling
4 properties?

5 A The normal course of business for the Eric L. Nelson
6 Trust would to be buy, sell properties. And we sold hundreds
7 of properties, maybe three, 400 properties in a period of --
8 from '08 til -- until we shut her down basically in, you know,
9 '11 we started to slow down drastically and '12 completely
10 stopped, I believe.

11 Q Did you feel you were doing anything wrong to
12 continue to operate businesses as usual?

13 A Definitely did not.

14 Q Did you undertake anything unusual that you wouldn't
15 have done previously?

16 A Over the course of business to protect the assets of
17 the trust.

18 Q Mr. Dickerson made a statement that Page 241 needs
19 to be adjusted for Lynita's cash, do you recall that statement
20 he made --

21 A Yes.

22 Q -- when he's questioning you? Can you turn to Tab
23 -- in Mr. Bertsch's book it would be --

24 MS. FORSBERG: The Court's indulgence, Your Honor.

1 Q 17, please.

2 A Okay.

3 Q We went over this and -- and Mr. Dickerson made a
4 statement that Lynita's cash would have gone down, correct?

5 A That's correct.

6 Q Does this show you that it would have gone down?
7 Did she have a positive or a negative on her overall income
8 during the action of this divorce?

9 A Well, based on 17, there is some inconsistencies
10 under the report. Under 6742, it shows a tremendous amount of
11 cash had been taken out, 576,000, in unknown deposits. He --
12 he put back some of the cashier's checks of 350,000, but has
13 still left 225,000 -- there's some unknowns in that area and
14 you wouldn't know unless you go back even farther in -- on
15 time on this.

16 Q But overall, did we determine that she actually
17 earned money over that period of time?

18 A Yes.

19 Q Okay. And did that report under Page 6749, does her
20 income and expenses take into consideration her attorney's
21 fees and professional fees for this action?

22 A I believe so, yes.

23 Q And this report was done as of February 2012?

24 A February 27th, 2012. It's when the report was

1 turned in.

2 Q Did this report also show all of her expenses, her
3 living expenses and everything else?

4 A Yes.

5 Q So would you have expected her cash to have gone
6 down --

7 A Well, if she --

8 Q -- from this report?

9 A No. If you -- if -- with the professional fees, I
10 mean, it's very, very -- I mean we're looking approximately
11 maybe a million dollars if you're take into consideration this
12 year. So I don't know. If you excluded that --

13 Q But if you look at 6 --

14 A -- she would not have.

15 Q -- 749, does it include the professional fees?

16 A It -- the -- which one?

17 Q Under Page 6749, does it actually include her
18 professional fees --

19 A Yes.

20 Q -- already removed?

21 A It shows the professional fees. Uh-huh.

22 (Affirmative).

23 Q SO her total expenses of 1,000,009 already include
24 that.

1 A Yes.

2 Q Is that why you didn't reduce the amount of cash
3 that she had because you didn't expect there to be any?

4 A To be honest with you, I didn't -- hadn't thoroughly
5 gone through her report completely.

6 Q Mr. Dickerson repeatedly talked to you about the
7 Russell Road property and -- and a 6.5 million dollar note, is
8 that correct?

9 A Yes.

10 Q And you guys -- you did not receive -- Eric L.
11 Nelson Trust nor Cal Nelson Trust didn't receive payment out
12 of that 6.5 million dollar note, did you?

13 A No.

14 Q It's just a note.

15 A And it's separate for me now though.

16 Q When you say subperforming, what is subperforming?

17 A They're paying a portion of the payment. I can't
18 tell you the exact amount, but they're paying. A full
19 performance would be if they paid the full amount.

20 Q Can you explain to the Court what you actually owned
21 as far as percentages and what -- what's the -- the breakdown?

22 A Approximately two-thirds of the notes we owned with
23 the exception of the 300,000 I owned I believe a hundred
24 percent of that.

1 Q Now you said the notes were done for tenants
2 improvements and betterments, correct?

3 A Yes.

4 Q Okay. But the improvements and betterments were
5 before the sale, isn't that right?

6 A Combination I believe during and before and after,
7 some of them.

8 Q At the time that you did the majority of the 300,000
9 though, was that to get the school more confused on how that
10 goes? Can you explain to the Court? Because I'm --

11 A Fortunately or unfortunately when you have tenants
12 and you have commercial properties, even residential, you're
13 partners with those individuals in there. The better they do,
14 the better you do. Some tenants as in the case of the church
15 started off high performance when we did the transaction and
16 they had -- ran into a lot of problems with the city and the
17 construction side of it. So they became nonperforming. And
18 now they've come back up to the subperforming. So you live
19 with your tenants and part of the investment that will
20 evaluate the appraisal on that particular date what it's
21 worth.

22 MS. FORSBERG: The Court's indulgence, Your Honor.
23 I'm almost done I believe, so --

24 Q Oh, Mr. Nelson, the other question was Lynita Nelson

1 has -- or the Lynita Nelson Trust owns the acreage, the 200
2 acres at -- in Wyoming --

3 A Yes.

4 Q -- to the racetrack. That's a different 200 acres
5 than the other one that was on the -- on the option to buy, is
6 that correct?

7 A That is the same piece.

8 Q And can you explain -- I think Mr. Dickerson cut you
9 off a couple times on explaining how -- what she received for
10 her 11 acres.

11 A Yeah, the 11 acres was a square up to two parcels,
12 because Lynita had the 200 acres as they actually -- 80
13 parcels, sub map parcels that my brother Paul got all put
14 together. And in order to get to that parcel, you had to go
15 through the racetrack property to gain access so you didn't
16 have to go over the river or buy somebody's house out to gain
17 some other access. So it was critical to have the value or
18 you would be landlocked. So to increase the value, we had to
19 have an easement cut through there. And that was a fair
20 assessment in giving up that easement was for the 11 acres.

21 MS. FORSBERG: I have no further questions, Your
22 Honor.

23 THE COURT: Any --

24 MR. DICKERSON: Yes.

1 THE COURT: -- recross?
2 MR. DICKERSON: Briefly, Your Honor.
3 THE COURT: Just a few? So --
4 MR. DICKERSON: Yes.

5 RECROSS EXAMINATION

6 BY MR. DICKERSON:

7 Q The Bella Kathryn home.

8 A Yes, sir.

9 Q You're living in that home.

10 A Yes, sir.

11 Q And you purchased that. You indicated you purchased
12 it at a foreclosure sale, correct?

13 A Yes, sir.

14 Q It was a -- pretty much an uncompleted home at the
15 time, privileged framed and you had to do additional work,
16 correct?

17 A I would say 65 percent finished.

18 Q Now you indicate engineering problems you ran into.
19 What engineering problems?

20 A Not necessarily engineering problems.

21 Q That's what your words were, engineering problems
22 you ran into. You didn't run into any engineering problems
23 did you?

24 A Yes.

1 Q You built a pool.
2 A Well, do you want me to explain the problem?
3 Q Built a four car garage.
4 A Yes. No, it's --
5 Q Purchased the lot next door.
6 A Yes, I did that.
7 Q You landscaped the lot next door.
8 A Yes.
9 Q You have been living in that house since you got it
10 completed.
11 A Yes.
12 Q Now you want to turn this into an investment, right?
13 A Yes.
14 Q Would you tell the Judge how many single family
15 residences have you purchased through your trust for
16 investment purposes that cost in excess of \$200,000? Now I'll
17 tell you I'll remind you when that question was asked to you
18 in 2010 you said none.
19 A I would have to say there's probably a couple, but I
20 -- I can't really recall.
21 Q How many single family residences have you invested
22 in for the purposes of selling have you invested
23 \$1,839,494.79?
24 A It would just be this one.

1 Q When -- isn't it true that at no time since you
2 acquired that home in a foreclosure sale up to this date have
3 you listed that home for sale?

4 A That's correct.

5 Q You indicated that you read the decision from the
6 bankruptcy judge in Mississippi.

7 A Yes.

8 Q Do you recall reading or following that -- that
9 Judge wrote at trial Mr. Nelson was given the opportunity to
10 show a valid bankruptcy purpose for seeking Chapter 11
11 protection for Dynasty, this Court must assess Mr. Nelson's
12 credibility as a witness even if we were to assume that any of
13 the reasons he gave at trial --

14 MS. FORSBERG: Your Honor, I object. I don't have
15 this document. I don't know if he has it to provide to us or
16 --

17 MS. PROVOST: He will bring it -- it's on its way.

18 MR. DICKERSON: You had it. You provided it.

19 BY MR. DICKERSON:

20 Q Even if we were to assume that any of the reasons he
21 gave at trial could constitute a valid bankruptcy purpose per
22 se as a witness he simply lacked credibility despite
23 admonitions by this Court he often failed to provide direct
24 answers to straightforward questions which gave the impression

1 that he was being less than forthcoming in his responses? At
2 times he even became belligerent and was sanctioned by the
3 Court for cursing at opposing counsel in connection with an
4 evidentiary objection addressed to the Court.

5 In assessing the substance of this testimony on this
6 issue, the Court notes that Mr. Nelson offered of series of
7 irreconcilable contradictions. First, he contends that he
8 signed the petition on behalf of Dynasty in order to maximize
9 the value of Dynasty's assets for the benefits of its true
10 creditors. Yet, the evidence showed that Mr. Nelson depleted
11 the assets of Dynasty on the eve of this bankruptcy filing in
12 three separate transfers.

13 On April 7th of 2011 he purchased a car for his
14 daughter with \$30,000 of Dynasty funds. According to Movant's
15 Exhibit A --

16 MS. FORSBERG: Your Honor, I've been patient. I --
17 is there a question here, is there a document question and a
18 --

19 A Yeah, what is it?

20 MS. FORSBERG: -- question to go with it?

21 A What's the meaning?

22 MR. DICKERSON: He could not recall.

23 MS. FORSBERG: I object. I would like a ruling.

24 THE COURT: Want --

1 MR. DICKERSON: He could not --

2 THE COURT: Want to do -- want to do parts at a time
3 to see if he remembers the whole thing or go item by item?
4 Okay.

5 BY MR. DICKERSON:

6 Q He could not recall his credibility being challenged
7 by the Judge.

8 THE COURT: Okay.

9 Q He could not even recall the real credibility being
10 assessed by the Judge. I'm reading this and I'll ask him do
11 you recall that is what the Judge wrote.

12 MR. DICKERSON: If I may proceed, Your Honor.

13 A My understanding was he -- that, you know, myself
14 and the counsel that when we filed --

15 Q May I continue reading?

16 THE COURT: Well, instead of reading the whole thing
17 on that, what's your understanding of --

18 MS. FORSBERG: But he said a question, isn't it?

19 THE COURT: -- it and get the whole exhibit in there
20 and I'll read the whole exhibit. If -- but if it's an order
21 from a Judge, the Judge made determination as to credibility,
22 that's relevant. A judicially determination to someone
23 credibility or lack thereof is credible -- is relevant
24 evidence and another court on that. Someone has been found to

1 be not credible. Doesn't mean I'll find him not credible.
2 But it is probative value and they get the whole document in
3 there if you read the decision. They can authenticate it
4 through him if it was a decision and -- because I would like
5 to see the whole decision because you can take it out of --

6 MR. DICKERSON: And for the record, Your Honor --

7 THE COURT: -- context too --

8 MR. DICKERSON: -- I'll --

9 THE COURT: -- you can take pieces out on that
10 that's different, but I like to see the --

11 MR. DICKERSON: For the record then Your Honor, I
12 will have that during the -- the afternoon session as to the
13 transcript of the Court's ruling. It was done on June 24th,
14 2011 in Jackson, Mississippi. I have nothing further at this
15 time. I -- I will question him on that at -- during the
16 afternoon session.

17 THE COURT: Okay. As far as this afternoon, you got
18 Mr. Gerety coming in at 1:30? So we're doing Mr. Gerety first
19 and then go back to Mr. Nelson so we could finish up?

20 MS. FORSBERG: Yeah. Well, we could. I mean, I can
21 finish up now if he's done with his question. I'll just ask
22 him a couple of (indiscernible) of Mr. Nelson if he does.

23 THE COURT: I think he said he wanted to ask a few
24 questions about the --

1 MS. FORSBERG: Now is the time.
2 THE COURT: -- bankruptcy finding --
3 MS. FORSBERG: I mean, are we going to --
4 THE COURT: Did you want to finish up? It's fine by
5 me. Said he wanted to ask a few questions about that
6 bankruptcy decision. So did you want him to --
7 MS. FORSBERG: You know, he's actually talking to
8 you.
9 MR. DICKERSON: Oh, I'm sorry.
10 THE COURT: Yeah.
11 MR. DICKERSON: Yes.
12 THE COURT: He said you want --
13 MR. DICKERSON: I'll -- I'll have a --
14 THE COURT: So you'll have him finished
15 MR. DICKERSON: I'll have a copy for her. Yeah,
16 I'll have -- I'm sorry.
17 THE COURT: So you haven't finished your question
18 yet.
19 MR. DICKERSON: Yes.
20 MS. FORSBERG: He's talking to you.
21 THE COURT: My question was Ms. Forsberg said if --
22 MR. DICKERSON: I'll -- I'll bring that in. I'll
23 ask him if --
24 THE COURT: See, that --

1 MR. DICKERSON: -- if that's the correct transcript

2 --

3 MS. FORSBERG: Your Honor, if I can cover just a
4 couple questions and --

5 THE COURT: Sure.

6 MS. FORSBERG: -- then we can --

7 **REDIRECT EXAMINATION**

8 BY MS. FORSBERG:

9 Q Mr. Nelson -- and he cut you off when you were
10 trying to explain the engineering problems. Do you want to
11 explain the engineering problems with Bella Kathryn?

12 A Well, engineering problem from the sense that there
13 is about a 60 to \$70,000 engineering report that we needed to.
14 have in order to get the final.. And so that was a engineering
15 problem because it cost us money to get that report.

16 Q Mr. Dickerson also asked you about whether this
17 placed this house up for sale. Would you place it up for sale
18 now?

19 A Not at this recession of time, no.

20 MS. FORSBERG: Thank you. No further questions,
21 Your Honor.

22 MR. DICKERSON: Nothing further.

23 THE COURT: Why don't we take a break and then we'll
24 finish up and we'll get Mr. Gerety in and give you a few

1 questions on the bankruptcy order.

2 MS. FORSBERG: You don't have anybody coming in here

3 to --

4 THE COURT: No.

5 MS. FORSBERG: -- like a quick hearing or anything,

6 are you?

7 THE COURT: You can leave everything.

8 MS. FORSBERG: The last time we did and we felt bad

9 that we left them with a mess.

10 THE COURT: Yeah, that's all right then. We'll be

11 in recess til 1:30.

12 (Off record)

13 THE COURT: We'll be calling the matter of Eric and

14 Lynita Nelson, case number D-411537. We're just picking up

15 after our lunch break and are you ready to go forward then Ms.

16 Forsberg? Did you want Mr. Gerety?

17 MS. FORSBERG: Actually, I told Mr. Gerety that he

18 can delay just like 15 minutes. We can finish up Mr. Nelson

19 hopefully and we can kind of try to keep it more succinct for

20 the Court, Your Honor.

21 THE COURT: Okay.

22 MR. DICKERSON: Great. Perfect.

23 MS. FORSBERG: That helps.

24 THE COURT: We'll get you finished up, Mr. Nelson.

1 Remember you're still under oath, okay?

2 THE WITNESS: Yeah.

3 THE COURT: Thanks.

4 MR. DICKERSON: May I have -- may I have two
5 exhibits, five Qs and five Rs, please.

6 **RECROSS EXAMINATION**

7 BY MR. DICKERSON:

8 Q Mr. Nelson, I am showing you what has been marked
9 for identification purposes as Defendant's Exhibit QQQQQ, five
10 Qs.

11 A Yes, sir.

12 Q Now you had mentioned that you had read the decision
13 of the bankruptcy judge in Jackson, Mississippi.

14 A Quite some time ago, yes.

15 Q And this is a transcript of his ruling and his
16 decision that he has entered and -- and filed, is that
17 correct?

18 A I believe so.

19 Q Okay. And you had indicated that you do not recall
20 that judge questioning your credibility.

21 A That's correct.

22 Q Okay. If you take a look sir starting at Page 6,
23 starting on Line 18. Could you just read to yourself on
24 through Page 7 up to Page 8 -- or excuse me, up to -- on Line

1 8 on Page 8? Actually, to -- to the end of the decision if
2 you would, please. Sir, if I can just have you read through
3 Page 12, Line 1.

4 A Okay.

5 Q All right. So you've read up to Page 12, Line 1?

6 A Yes, sir.

7 Q And after reading that, sir -- and you were in court
8 that day when the Judge --

9 A Yes, sir.

10 Q Correct?

11 A Well, for one of the two days, yes.

12 Q Well, you were in court on the day he rendered his
13 decision.

14 A No.

15 Q Okay. But you have -- had an opportunity to read
16 this transcript before?

17 A Yes.

18 Q Okay. And does that refresh your recollection now
19 in response to the question about what I asked you about the
20 Judge questioning your credibility?

21 A Well, my understanding of the credibility came from
22 the filing more than my -- being a witness. We didn't have
23 other proper filings of the information.

24 Q You interpret what he says there as being your

1 filings and not the testimony that you gave before the Court,
2 sir?

3 A Well, it simply lacked credibility. I think my
4 understanding was because we didn't have all the proper
5 paperwork, the things that wiped out in the storm. And we
6 were trying to build a case and we didn't have ample time to
7 -- to get together all the paperwork that he was requesting.

8 Q All right. I -- I understand your --

9 MR. DICKERSON: Your Honor, move for the admission
10 of Exhibit QQQQQ.

11 THE COURT: Any objections?

12 MS. FORSBERG: No objection.

13 THE COURT: Hereby admitted as 5Q.

14 (Defendant's Exhibit QQQQQ admitted)

15 BY MR. DICKERSON:

16 Q All right. Mr. Nelson, I -- if you take a look now
17 at Exhibit RRRRR, five Rs. Do you see that?

18 A Yes.

19 Q I have kind of dog eared a page that's just a few
20 pages back, maybe 10 pages of the C -- I just wanted to get
21 you to the page -- do you see it, sir?

22 A What does it say?

23 Q It's -- it's the page that shows the rents -- it's
24 this page right here.

1 MS. FORSBERG: Page 9. Look at the top, the very
2 top.

3 MR. DICKERSON: Oh, I got it. I got it. You marked
4 it.

5 MS. FORSBERG: The very top. You can see it in the
6 middle.

7 MR. DICKERSON: Oh, okay.

8 Q Page 9.

9 MS. FORSBERG: Does that help?

10 Q Okay. Do you see that, sir?

11 A Got it.

12 Q All right. This is the appraisal of the -- of the
13 Lindell property, is that correct?

14 A Yes, sir.

15 MR. DICKERSON: Move for the admission of Exhibit
16 five Rs.

17 MS. FORSBERG: Your Honor, I would -- and it's been
18 admitted -- it was already filed with -- by Mr. Bertsch with
19 the Court.

20 MR. DICKERSON: It has been filed with the Court,
21 but it's not -- it's not an exhibit.

22 THE COURT: Just for the interest of keeping a
23 complete on that, we'll admit it. It's already been filed by
24 Mr. Bertsch. However, to keep it clear with all the trial on

1 that, we'll just admit it as Exhibit five R. That way we'll
2 have all the exhibits under one thing. So if there's any
3 further appeals or anything, they'll have the stuff at --

4 MS. FORSBERG: Got you.

5 THE COURT: -- for the transcript.

6 (Defendant's Exhibit RRRRR admitted)

7 BY MR. DICKERSON:

8 Q All right. Now I've directed you to that Page 9.
9 It indicates -- you had indicate that Dr. Stock is still
10 there. And -- and is this a correct representation? He's pay
11 \$2100 a month?

12 A And I apologize. I don't know the exact amounts of
13 these rents. But it's approximately I would say yes.

14 Q And his lease ends in May of 2013.

15 A Yes.

16 Q All right. Then we see that JM Business
17 Consultants. They're still there, correct?

18 A Yes.

19 Q They're paying a dollar a square foot?

20 A Yes.

21 Q And their lease ends in September of next year.

22 A I believe so, yes.

23 Q Now smart investments I -- I believe you said is --
24 is no longer there, correct?

1 A That's correct.

2 Q And now one more time. That lease -- now that was
3 to a -- that was to a -- your nephew, is that right?

4 A Yes.

5 Q Now you leased that to your nephew for 25 cents
6 square foot less than you did JM Business Consultants when
7 essentially they were -- the leases were entered into three
8 months apart?

9 A Yes.

10 Q And your nephew is no longer there, correct?

11 A That's correct.

12 Q Now I'm -- I'm sorry. I -- I'm trying to -- did you
13 say that you have replaced that tenant?

14 A Yes, I have.

15 Q And the name of that tenant again?

16 A I don't know the new tenant's name.

17 Q Do you know what -- are you charging at least a
18 dollar a square foot for that?

19 A I know it goes to 800, but I don't know when that
20 kicks in. We gave some concessions as most new tenants we
21 give them concessions.

22 Q Okay. Now Fresh -- Freshwater Holdings, is it true
23 sir as it indicates here they're paying a dollar thirty-five a
24 square foot?

1 A Yes.

2 Q And -- but is -- is that a month-to-month lease?

3 A If they're gone, then the readjusted rent I believe
4 is a dollar.

5 Q A dollar a square. Okay. So now who's there now?

6 A A real estate -- third party real estate company.

7 Q Do you recall that name?

8 A I don't.

9 Q Okay. Is that on a month-to-month lease or is that
10 -- is there a turnaround?

11 A No, I believe that goes through a full year.

12 Q And then you mentioned that Odor Masters is still
13 there?

14 A That's vacant.

15 Q Oh, that is vacant. And then the -- the new church,
16 these two suites, they are still leasing those properties?

17 A Yes, they are.

18 Q Now I noticed that both those leases for space 107
19 and 108 actually have already expired. Have you renewed
20 leases for long term or are they on month-to-month?

21 A We generally keep them on a month-to-month. It may
22 have gone -- Rochelle may have taken them to a year. I don't
23 know.

24 Q And do you know whether you've increased the rental

1 per square foot on those properties?

2 A We have not.

3 Q Is there a reason that you are leasing those at --
4 at such lower amounts? You're apparently leasing Space 107 at
5 63 cents a square foot and 108 at 89 cents a square foot.
6 What's the reason for that?

7 A Well, there's a certain degree of functional
8 obsolescence with that corner space that's at the end of the
9 building, parking design, the overall design of that property.
10 So it doesn't command as much as the spaces that are at the
11 front of the building and facing more of the street.

12 Q Okay. Then the final one there is the owner
13 occupied suite. That's your suite, Suite 201, correct?

14 A Yes.

15 Q You've already testified that you'd be willing to
16 pay a dollar a square foot or \$3200 a month for that space, is
17 that correct?

18 A Yeah, it was -- it's not 2300 square foot. I think
19 that is correct.

20 Q 32. If I said 23 --

21 A Yeah.

22 Q -- I'm sorry. That's my dyslexia setting in again.
23 32 -- but I thought I did pretty good with the numbers
24 earlier.

1 A No, you did good.

2 Q I didn't get them all screwed up. So it's 32 --
3 3200 square feet and you would be willing to pay a hundred
4 dollars a square foot, correct?

5 A A dollar, yes.

6 Q Well, a dollar a square foot.

7 MS. PROVOST: Yeah, a hundred dollars a square foot?
8 Wow.

9 MR. DICKERSON: I know.

10 Q All right. And if I understood your correctly, you
11 would be willing to even sign a three year lease.

12 A Yes.

13 Q Okay. If I may have Exhibits five Os and five Ps,
14 please. Well, actually, let's go back. Yeah. Five Ns also.

15 MS. FORSBERG: Is this the one ones you just gave
16 us?

17 MR. DICKERSON: Yeah, I think this morning, that
18 these are all --

19 MS. FORSBERG: The small one. Okay.

20 MR. DICKERSON: Yeah, these -- these have been
21 around forever.

22 Q All right. All right. Mr. Nelson, I'm -- let's
23 start with Exhibit five Ns. If you take a look at that,
24 please.

1 A Okay.

2 Q Now that is your handwriting, is it not?

3 A Yes, it is.

4 Q And these are notes that you took on September 18th
5 of 2006, correct?

6 A I believe so. I'm not sure. But if it's dated, so
7 I would assume it's at something reference to those dates.

8 Q All right. And so this would have been shortly
9 after you sold the Wyoming property, the Wyoming racetrack on
10 or about September 15th or 16th of 2006, is that correct?

11 A It appears, but I can't tell you if this is a
12 projected date or if it is a current date. Not that it
13 mattered, but --

14 Q Well, you indicate there your deposits -- these are
15 deposits that you're making into one of your Eric L. Nelson
16 Trust accounts, is that correct?

17 A That's correct. So this would be after the fact at
18 some point in time because it wouldn't say 9/29/06 if it was
19 on 9/18.

20 Q Well, 9/29 could have been the date that you were
21 anticipating that you were going to transfer that money in,
22 correct?

23 A Not likely, because that's to a penny. And so it
24 would have to be sometime October, November, December or

1 whenever.

2 Q All right. So the date at top where it says 9/1806
3 you don't believe -- does that say start?

4 A Yeah, that's definitely not the -- that definitely
5 cannot be the date of this document.

6 Q So do you believe you prepared this document
7 sometime in September or October of -- of 2006?

8 A I -- well, I'm just -- I for sure can tell you it's
9 after the fact. I don't know how it's relevant or whatever,
10 but it was definitely after 9/29 for some reason. I don't
11 know what this is exactly for.

12 Q So looking at these numbers so we can put them in
13 perspective, the deposits where you had deposits, you have
14 \$11,120,957.50. That is the amount that you netted from the
15 sale of the approximately 200 acres of the Wyoming Racetrack
16 property, correct?

17 A The racetrack, not the -- not to be confused with
18 Lynita's 200 acres. That did not sell.

19 Q Right. Nor to be confused with the -- Lynita's 11
20 acres that you had her transfer to them, correct?

21 A Exactly.

22 Q Correct?

23 A That's correct.

24 Q All right.

1 A It had nothing to do with that.

2 Q Now the next number there then, the -- the
3 \$1,460,190.58, that is the money that Dan Gerety testified
4 about that you took when -- of the LSN Trust sold the Tierra
5 Del Sol property, is that correct?

6 A That's correct.

7 Q Okay. So of those proceeds, what happened in that
8 transaction, that was a -- the Tierra Del Sol was sold as
9 installment sale, is that correct?

10 A Correct.

11 Q And the -- that would have been in August and
12 specifically on August 5th of 2005 Tierra Del Sol was sold by
13 the LSN Trust to a group, the -- the Fagans (ph), correct?

14 A I believe so.

15 Q And the total sale price was 4.8 million dollars?

16 A I believe so.

17 Q And of that sale there was a 3.5 million dollar
18 promissory note made payable to the LSN Trust to be paid by
19 the Fagans anytime they had to pay it within 15 months but it
20 was a 12 month note, correct?

21 A I believe so.

22 Q And they could have had an additional up to 15
23 months if they needed that additional time to pay, correct?

24 A I believe so.

1 Q Okay. Now when that promissory note became due, it
2 was actually paid on or about September 28th of 2006, correct?

3 A I believe so, yes.

4 Q And the Fagans paid 3.5 million dollars on that
5 promissory note plus probably some interest that was due,
6 correct?

7 A Probably just the opposite. They probably paid
8 3,460,190.58. There probably was closing costs and things
9 like that, prorations with, you know, whatever on that side.
10 Because I believe Lynita got a direct wire for \$2,000,000 of
11 this 1,406,000 approximately 800,000 plus was designated for
12 taxes that I paid. And another 600,000 was designated to
13 payoff a line of credit on her house.

14 Q Okay. So what you did is you agree that you had
15 \$2,000,000 of that 3.5 -- approximate 3.5 transfer to open up
16 the LSN account at Mellon Bank, correct??

17 A Well, I didn't, but Lynita did, yes.

18 Q Well, and how did she do that?

19 A Well, she would have had to --

20 Q Did she go to -- did she go to Fidelity National
21 Title in Phoenix and have them do that?

22 A She would have had to setup all the accounts at
23 Mellon. I wouldn't have that privileged information to setup
24 the --

1 Q Now wait a second. Mellon, you -- Bob Martin works
2 there, correct?
3 A Yes, Bob Martin does.
4 Q That's your buddy.
5 A Bob is a very --
6 Q That's --
7 A -- close fiend.
8 Q That's Lola's [sic] husband.
9 MS. PROVOST: Lana.
10 A Lynita -- well, Lana, whatever.
11 Q I'm sorry, I did it again.
12 MS. FORSBERG: But the time this is over --
13 MR. DICKERSON: Sorry, Lana.
14 MS. FORSBERG: -- she's going to be Lola.
15 MR. DICKERSON: Sorry. Sorry. It's -- I'm sorry.
16 THE WITNESS: Lynita would have had to sign all the
17 escrow directions and they would have had to be notarized and
18 sent back to the title company and -- and she would have had
19 to setup the account with Mr. Martin even though he's a friend
20 of mine, she would have to set everything up with her trusts,
21 just line all the trust papers, have a preliminary meeting,
22 meaning that you have to meet with your investment banker at
23 Mellon. You just can't open account. It's an investment
24 account for --

1 BY MR. DICKERSON:

2 Q Did you participate in these meetings that you say
3 occur?

4 A With Lynita? Probably one or two, but -- but Bob
5 would definitely had -- I believe would have conducted
6 meetings by -- listen. Bob likes Lynita more than he likes
7 me. Let's just put it that way.

8 Q If you take a look --

9 MR. DICKERSON: Your Honor, move for the admission
10 of Exhibit five Ns.

11 MS. FORSBERG: Your Honor, I have to object. I
12 can't even authenticate what all this is. He hasn't even told
13 us a date. He can't even pinpoint a date of when this
14 occurred.

15 THE COURT: Do you recognize these as your notes,
16 Mr. Nelson?

17 THE WITNESS: On NNN?

18 THE COURT: Yeah.

19 THE WITNESS: Yeah, those are my notes. I just
20 can't tell you. This is a -- this is making reference to
21 something else because the same were funds potentially are
22 coming in and going out to IRS. It's probably an IRS paper.

23 THE COURT: Yeah, but do you recognize making these
24 notes? You think these are dated?

1 THE WITNESS: Yes, these are definitely my notes.

2 THE COURT: Overruled. They will be admitted as far
3 as probative value I guess is something to determine exactly,
4 but you do recognize those notes and they were made sometime
5 in that 2006 time frame you said sometime probably after
6 September 29th?

7 THE WITNESS: Yeah, it could have been a 2007 for
8 tax -- this looks like a tax --

9 THE COURT: Tax thing?

10 THE WITNESS: -- scenario. So between this period
11 of 9/29 and sometime when taxes are filed in --

12 THE COURT: The tax thing?

13 THE WITNESS: -- '07.

14 THE COURT: All right. Be admitted as quadruple N?

15 MS. PROVOST: Yes.

16 (Defendant's Exhibit NNNNN admitted)

17 BY MR. DICKERSON:

18 Q Sir, can you take a look at Exhibit quadruple O?
19 Quadruple, is that five?

20 THE COURT: I think it's five, yeah..

21 MS. PROVOST: No, that's four.

22 THE COURT: That's only four, so I guess you'll be

23 --

24 MR. DICKERSON: I'm sorry again.

1 MS. PROVOST: It's five Os.
2 THE COURT: -- five Ns. The last one should have
3 been five Ns --
4 MR. DICKERSON: Five -- five Os.
5 THE COURT: -- and this will be five Os.
6 A Yes.
7 Q If you take a look at that, that is a page from --
8 this is a page from your September 2006 bank statement in the
9 name of the Eric L. Nelson Trust which reflects the money that
10 1. -- that \$1,460,190.58 being deposited into your account, is
11 that correct?
12 A I would say yes.
13 Q And you see that transaction on September 28th,
14 2006?
15 A Yes.
16 Q And that was a direct deposit from Fidelity National
17 Title Insurance Company --
18 A Yes.
19 Q -- true? And that is the title company in Phoenix,
20 Arizona that handled the transaction for the sale of Tierra
21 Del Sol, correct?
22 A Yes.
23 MR. DICKERSON: Your Honor, move for the admission
24 of Exhibit five Os.

1 MS. FORSBERG: No objection.

2 THE COURT: Hereby admitted as five O.

3 (Defendant's Exhibit 00000 admitted)

4 BY MR. DICKERSON:

5 Q Can you please take a look at Exhibit five Ps?

6 A Yes.

7 Q This is a series of deposits --

8 A Yes.

9 Q -- that were made into the Lindell Professional
10 Plaza account. And there are a total of three deposit slips
11 here with the checks or at least some of the checks that were
12 being deposited at the time, if you'll take a look at the
13 first one, there appears to have been a deposit into the
14 Lindell Professional Plaza account on October 20th of 2005 of
15 \$25,000, the \$25,000 check which is attached. Do you see that
16 check?

17 A Yes.

18 Q Okay. Now the -- this deposit that was made into
19 the -- the Lindell Professional Plaza account, now that is an
20 account for the Lindell office building, correct?

21 A It's actually Lynita's account.

22 Q Okay. So this is Lynita's account.

23 A Yes.

24 Q And this is then a deposit into Lynita's account of

1 \$25,000 that Lynita received from the Grada Group that somehow
2 relates to the sale of the Flamingo property, correct?

3 A Correct.

4 Q Now if you take a look at the next deposit slip,
5 November 18th, 2005, we see another check from the Grada Group
6 in the amount of \$50,000 that was being deposited into
7 Lynita's account, correct?

8 A Correct.

9 Q And then the final -- we see that on December 5th,
10 2005 there was a deposit of a check for 200 -- or \$490,000
11 from the Grada Group made out to the LSN Nevada Trust that was
12 deposited in this account, correct?

13 A Yes.

14 Q Now there's an additional \$200,000 check from the
15 Grada Group, do you see that?

16 A Yes.

17 Q What was that for? The first check, the 490 was the
18 extent of the sales proceeds that Lynita has received,
19 correct?

20 A Yeah, I'm --

21 Q Just take -- take it -- let's -- let me ask a series
22 of questions then. Larry Bertsch has already testified with
23 respect to the Flamingo property and how it went from Lynita's
24 trust, a hundred percent interest in Lynita's trust --

1 Lynita's trust to the Grada Group in which Lynita now owns a
2 one-sixth interest. Do you recall his testimony?

3 A No, that's incorrect.

4 Q Well, you do not recall Mr. Bertsch testifying to
5 that?

6 A The testimony on the record will show that the
7 properties was purchased in all my brother's and sister's and
8 Lynita's name. It flowed to Lynita for asset protection she's
9 holding -- like a title loan. She's holding the title. Then
10 it went to Grada.

11 Q Let me ask you. Do you disagree with Mr. Bertsch's
12 testimony that he gave here I believe it was on July 25th or
13 July 24th with respect to that transaction of how the Flamingo
14 property ended up with the Grada -- the Grada Group? Do you
15 disagree with that?

16 MS. FORSBERG: Your Honor, objection.

17 A I don't know if it's okay.

18 MS. FORSBERG: He's misstating the -- the testimony.
19 I believe Mr. Nelson just stated it correctly. He explained
20 how it went.

21 MR. DICKERSON: What's the objection?

22 THE WITNESS: I'm disagreement with your --

23 MS. FORSBERG: It misstates the testimony.

24 THE WITNESS: -- statement, not with Mr. Bertsch's

1 report. Mr. Bertsch's report was correct.
2 BY MR. DICKERSON:
3 Q Okay. So you'll stand by --
4 A It showed --
5 Q -- Mr. Bertsch's report.
6 A To the extent that it's true.
7 Q Okay. Well, that's what I'm asking --
8 A I mean, I -- we've -- we've --
9 Q Do you disagree --
10 A -- got the chain of title and we can look at it
11 right now. You had it produced before.
12 Q Do you disagree with Mr. Bertsch's testimony?
13 A I don't mean to argue with you. Mr. Bertsch's
14 testimony if I understand it correctly Your Honor showed that
15 the --
16 Q Let me just ask you something.
17 A Hold it. Let me finish the question.
18 Q You read the report, did you not?
19 A Showed the -- showed it was in all my brothers and
20 sister's one-sixth interest. It went to Lynita then went back
21 to the Grada. All the money came from my parents' death from
22 their inheritance.
23 Q Now before Lynita's one-sixth interest in the
24 Flamingo property, she received the \$490,000 check that --

1 that is in this exhibit, correct?

2 A Yes.

3 Q She received the \$50,000 check that was deposited in
4 November -- November 18th of 2005, correct?

5 A Yes.

6 Q And she received the \$25,000 check that was
7 deposited on October 20th of 2005, correct?

8 A It appears, yes.

9 Q Can you tell us what the \$200,000 check, the last
10 page of this exhibit, what is that?

11 A The -- yeah, the \$200,000 there was a 10 acre
12 parcel. It's a little bit involved that was involved in a
13 condemnation action about 8.5 acres. And what that did was
14 that spun off several different transactions. One that --
15 when the condemnation action happens, Chuck Gardner did it for
16 us, they give you the money, X amount of dollars in advance.
17 And then you take them to court and you get a different. In
18 addition to that, we had still one and a half acres left that
19 we transferred oh, someone for three and a quarter acres on
20 Flamingo. And so you have both that property is the one that
21 I would call never died. It -- it sold off probably about six
22 or seven times.

23 Involved in that is instead of taking an actual
24 sale, it appears on the 200, a portion of it was under in a

1 release option which is effectively as good as a sale.
2 However, sometimes not clever, but a wise purchasers will take
3 an option on the property, give you the majority of the money
4 and then exercise it to assist in probably a 1031 exchange at
5 a later date. And that's what this probably appears to be
6 with the lease option side of it, because Grada would not have
7 received any other money outside of that Flamingo property.

8 Q Now after these monies were deposited into Lynita's
9 account that you have referenced and we just gone through --

10 MR. DICKERSON: Your Honor, I move for the admission
11 of those -- that exhibit --

12 MS. FORSBERG: No objection, Your Honor.

13 THE COURT: Hereby admitted as five Ps.

14 (Defendant's Exhibit PFFFF admitted)

15 BY MR. DICKERSON:

16 Q After those deposits were made into Lynita's account
17 that you referenced, you then withdrew substantially all of
18 those monies and put the monies in your account.

19 A All of those funds would have been accounted for and
20 I can't even begin to --

21 Q Let me just ask you. Explain --

22 A -- explain -- I don't know. The question is Dan
23 Gerety's report has all the due to, due froms to every dime
24 from 2001 forward.

1 MR. DICKERSON: The Court's indulgence, please.

2 THE WITNESS: Were you calling Dan Gerety in?

3 MS. FORSBERG: Yeah, but I just wanted to -- are you
4 almost done, Bob? Because you -- you said you were only going
5 on those two issues and I made him wait.

6 MR. DICKERSON: I'll be through here shortly.

7 Q Okay. If I may refer you to Exhibit --

8 MR. DICKERSON: Madam clerk, if I can provide the
9 witness with Exhibit four Ts.

10 MS. PROVOST: Five -- five Ds.

11 MR. DICKERSON: And five Ds, please.

12 Q We'll start with Exhibit five Ds.

13 MS. FORSBERG: Which one are on, Katherine? Since
14 --

15 MS. PROVOST: Five Ds.

16 MS. FORSBERG: That is the --

17 MS. PROVOST: The management fee checks.

18 Q I'm showing you what's been admitted into evidence
19 as Exhibit five Bs. Now going back -- and if you take a look
20 at those deposit slips, Exhibit P -- five Ps, we note that --
21 all right. Sir, if you'll take a look -- take a look at check
22 number 1769 in Exhibit five D.

23 A Yes.

24 Q Okay. Now that's a check made payable to you

1 individually for \$350,000, correct?

2 A The check states that, right.

3 Q And that check did clear. Dan Gerety's already
4 confirmed that that check did clear.

5 A Okay.

6 Q Correct? Do you agree?

7 A Yes. Yes, sir.

8 MS. FORSBERG: Your Honor, I would object. I let it
9 go a long time. This was all a previous testimony that we had
10 on the previous part of the -- of this issue. This isn't
11 anything to do with now community issues or that. This is
12 about trust issues now. We're going back to about Mark
13 Solomon and -- and their opportunity to object or anything
14 else. It seems like now we're going back. We were told that
15 we would have two things about basically a bankruptcy and that
16 -- the bankruptcy report and that appraisal and now we're
17 going far field.

18 MR. DICKERSON: What's far field?

19 THE COURT: How much more do you have on that? Are
20 you going to finish up? Yeah, let's finish it up --

21 THE WITNESS: This was a loan of 350,000.

22 BY MR. DICKERSON:

23 Q Well, it says management fee, however.

24 A Yeah, but it was -- it was accounted for with Mr.

1 Gerety on the due to, due froms.

2 Q I understood. Mr. Gerety treated a loan. You took
3 it as a management fee in December 7th of 2005, correct?

4 A No.

5 Q Exactly two days after the -- the \$490,000 was
6 deposited into Lynita's account, correct?

7 A No, it was a loan because it was paid back.

8 Q Now let's take a look at Exhibit -- was it five Ls?
9 No, four Ts, please. Now you indicated that -- you indicated
10 that the -- let me ask you this question. You're familiar
11 with a company by the name of Property Holdings Corporation?

12 A I don't recall.

13 Q Okay. Do you know who Jim Ward (ph) is?

14 A Jim Ward?

15 Q Yes.

16 A I believe he owned land title. Maybe it was a
17 different Jim.

18 Q Okay. Do any of your brothers or sisters have any
19 interest in an entity called Property Holdings Corporation?

20 A Not that I'm aware of.

21 MR. DICKERSON: May I have Exhibit four Ts, please?

22 Q I'm showing you what's been admitted into evidence
23 as Exhibit four Ts. Take a look at this, sir. This is the --
24 these are the deeds to the Flamingo property.

1 A Yes, sir.

2 Q Correct?

3 A Yes.

4 Q Now your testimony you just stated was that this
5 property was titled in the names of all of your brothers and
6 sisters and then they transferred it to Lynita for what you
7 call asset protection purposes. And then Lynita transferred
8 it to the Grada Group. That was your testimony, correct?

9 A Yes, sir.

10 Q Okay. Show us the deed where your -- any of your
11 brothers or sisters owned this property prior to you
12 transferred a hundred percent into Lynita's name.

13 A Yes. What you're looking at here is not actually
14 the Flamingo property, sir. The Flamingo property was
15 acquired back in the 80s, the 10 acres. And through a certain
16 degree of -- of exchanges from -- and sales, this property Jim
17 Ward was probably a facilitator on property holdings or he
18 owned that piece of property that we exchanged for in 2002.
19 So what you're not looking at is a complete history of the
20 West Flamingo property. You're looking at only a segment of
21 part of an exchange of that.

22 So if you could pull the other documents, it's
23 really clear. The other documents that whoever put this
24 together shows the date that we purchased that property with

1 the funds of my mom and dad. It was in one-sixth interest to
2 everybody. And then it graduated into -- to multiple
3 transactions. This is one of the parcels in 2002.

4 Q Will you agree that Lynita acquired this property
5 that's referenced here from Property Holdings Corporation,
6 went to her trust on -- on November 15th, 2002, correct?

7 A That's correct.

8 Q And then she held onto it for almost 1.6 years and
9 then you had her transfer it to the Grada Financial
10 Partnership, correct?

11 A I did not have her transfers. She voluntarily
12 transferred it to Grata. She would have had to sign those
13 documents. I didn't sign them for her.

14 Q So you didn't prepare those documents and tell her
15 what she was going to do.

16 A Alita or Paul would have prepared those for Grada
17 Financial Partnership. And I believe Jeff Burr, her own
18 attorney prepared those documents as you had stated.

19 MR. DICKERSON: Thank you. I have nothing further,
20 Your Honor.

21 THE COURT: Any followup?

22 MS. FORSBERG: Just a couple, Your Honor.

23 **REDIRECT EXAMINATION**

24 BY MS. FORSBERG:

1 Q Mr. Nelson, can you turn to Dan Bertsch's -- or Dan
2 Gerety's report, please? And turn to Tab -- well, it's 7, but
3 you don't have tabs in yours. But it's DG-00073.

4 A Is that 00 --

5 Q 73.

6 A Okay. Okay.

7 Q Can you tell the Court where on there that it shows
8 that Tierra Del Sol as a -- if that was in the due to, due
9 from columns?

10 A Yeah, it's in -- kind of in the middle of the page
11 there.

12 Q But it's accounted --

13 A The last transaction includes Tierra Del Sol
14 proceeds.

15 Q Okay. So it's included in that figure right there,
16 the million three -- thirty-seven four forty-six, is that
17 correct?

18 A Yes.

19 Q Okay. Eric, are you a signor on Grada?

20 A No.

21 Q Are you a signor on LSN bank accounts?

22 A Not that I'm aware of.

23 Q Were you a signor on Lynita or LSN's Mellon account?

24 A Definitely not.

1 MS. FORSBERG: No further questions, Your Honor.
2 THE COURT: Thank you, Mr. Nelson.
3 THE WITNESS: You're going to miss me.
4 THE COURT: I've grown accustomed to your face. I
5 think there's a --
6 THE WITNESS: Sorry.
7 (Witness excused)
8 THE COURT: Mr. Gerety?
9 MR. DICKERSON: I'll get him.
10 THE MARSHAL: Who?
11 MS. FORSBERG: Mr. Gerety. Didn't mean to get you
12 up.
13 THE MARSHAL: That's fine. I'm doing nothing.
14 THE COURT: We didn't wake you up or disturb you,
15 did we?
16 MS. FORSBERG: I'm sorry, I'm just teasing. I'm
17 just teasing. I'm --
18 THE MARSHAL: Well, I'll go back to my corner.
19 THE COURT: Now you know why I never marshals to
20 work for him.
21 MS. FORSBERG: Because we tease him to death?
22 THE MARSHAL: Why do I even come in here?
23 THE COURT: Go on.
24 MS. FORSBERG: Could have got his coat while you

1 were out. We're ready for Mr. Gerety, Your Honor.

2 THE COURT: Sure.

3 MS. FORSBERG: Thank you, Your Honor.

4 (Witness summoned)

5 THE MARSHAL: Right here, sir.

6 THE WITNESS: Okay.

7 THE MARSHAL: Face madam clerk and raise your right
8 hand, sir.

9 THE WITNESS: All right.

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

13 THE WITNESS: I do.

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

15 THE WITNESS: Thank you, sir.

16 **DANIEL GERETY**

17 called as a witness on behalf of the Plaintiff and being first
18 duly sworn, testified as follows on:

19 **DIRECT EXAMINATION**

20 THE COURT: Go ahead. And start off by spelling
21 your first and last name again to make sure we have it right
22 in the record.

23 THE WITNESS: Okay. It's Daniel, D -- D-A-N-I-E-L,
24 Gerety, G-E-R-E-T-Y.

1 THE COURT: You've kind of been here before, so you
2 kind of know the routine. So we'll jump right into it.

3 THE WITNESS: Okay.

4 MS. FORSBERG: Thank you, Your Honor.

5 MR. DICKERSON: Last time we promised we -- we
6 wouldn't see him again.

7 MS. FORSBERG: Well, we're trying -- this is pretty
8 easy. There's only going to be a --

9 THE WITNESS: And --

10 MS. FORSBERG: -- few questions, so --

11 THE WITNESS: -- the Judge did not make that
12 promise.

13 THE COURT: They're attorneys, there will be -- and
14 know what that's worth.

15 THE WITNESS: Yeah.

16 MS. FORSBERG: But I believe that was Mr. Solomon
17 who made that promise, right?

18 THE COURT: Yeah, it was.

19 MS. FORSBERG: At least I'm assuming it was. Bob?

20 MR. DICKERSON: I thought it was Dan.

21 MS. FORSBERG: Oh.

22 BY MS. FORSBERG:

23 Q Mr. Gerety, there's been discussion today on some
24 payments made to Ms. Nelson. And if I could get you turn in

1 the white book I believe is Mr. Bertsch's report. Have you
2 gone through Mr. -- to begin with, have you gone through Mr.
3 Bertsch's reports when you were working on your report?

4 A I did.

5 Q Okay. Can you turn to Tab 11 in that book, please?

6 A Okay.

7 Q On Page --

8 MS. FORSBERG: Sorry, Court's indulgence, Your
9 Honor.

10 Q Could you look at Defendant's 6828 in that section,
11 please?

12 A Okay.

13 Q There was some question on -- on payments to Ms.
14 Nelson and how they were handled. And I need to ask you for
15 the Court did you look at these and did you take all the
16 payments into consideration that were made to Ms. Nelson from
17 Mr. Nelson's trust?

18 A We did.

19 Q So any of the payments that would have been made,
20 you were up to what date?

21 A If I -- if I recall, our report covered through
22 September of 2011. So any payments made to Mrs. Nelson or to
23 her trust we would have covered in our report.

24 Q Okay. Now could you turn in your report is in the

1 blue book to the right of you. It's Tab 11 in ours, but I
2 believe it's DG-266. Can you get to that page, please? It's
3 Exhibit 11 in your report.

4 A Yes.

5 Q When you were here last time, nobody really went
6 over much on the debts. Do you recall that?

7 A Yes, I do.

8 Q Okay. Can you explain to the Court --

9 MR. DICKERSON: Well, I respectfully disagree, but
10 -- objection, form of the question.

11 MS. FORSBERG: Well, I said can you for the Court.
12 I haven't gotten there yet, so --

13 MR. DICKERSON: No, I -- I -- the -- the question
14 that nobody really went over the debt. He did discuss the
15 debt, but --

16 MS. FORSBERG: Well, you want to --

17 BY MS. FORSBERG:

18 Q Mr. Gerety, can you explain the debt that -- that
19 you've categorized and what you've categorized, please?

20 MR. DICKERSON: This has been asked and answered.
21 He absolutely testified to this in the trust portion of the
22 case. He absolutely went through Tab 11.

23 MS. FORSBERG: I disagree, Your Honor. I don't
24 think we went through any of it.

1 MR. DICKERSON: He absolutely discussed it,
2 discussed what were contingent, what -- how we did it, what he
3 felt -- I mean, he went through all this.

4 THE COURT: I'll allow the testimony. Did you want
5 something -- to generalize or summarize your specific
6 questions on this exhibit?

7 MS. FORSBERG: I just have a couple specific ones
8 Your Honor and then we'll be done --

9 THE COURT: Okay.

10 MS. FORSBERG: -- with Mr. Gerety.

11 THE COURT: Sure.

12 BY MS. FORSBERG:

13 Q Mr. Gerety, there's some places on here that have --
14 that are still listed but don't have anything shown. Can you
15 explain to the Court why that is?

16 A Yes. The Wyoming 200 acres I -- there was just no
17 way to quanti -- it's a contingency, potential contingency an
18 there was no way to quantify it. So it was not listed. It
19 was listed, but not dollar amount placed on it. And then the
20 second item on here was for wetland violations. There might
21 have been some cleanup costs for some invasive grass into the
22 area. Again, there was -- the -- no way to quantify any
23 particular dollar amount to show here. So I just left it that
24 as a dash or -- or a zero at the moment. But there is a

1 potential liability there, just unknown.

2 Q And down further where you're going those Dynasty
3 parks.

4 A Which -- which one again?

5 Q Is there more on that on those pages that were left
6 blank? Can you explain those?

7 A Yes, there were. There was Dynasty Development
8 Group, Mike Kuhr (ph), Cliff -- I -- there's a hole punched --
9 McCarlie (ph). And -- and also Dynasty Development Group for
10 this -- those first two were investors in the Silver Slipper
11 which had purchased options to share in the profits of the
12 Silver Slipper and all of that disappeared because of this
13 divorce. One of the other investors had actually filed suit.
14 These people had not as of the date, but there was -- I just
15 listed them there as a -- a potential that because of the
16 actions of Eric in handling the Silver Slipper operations they
17 may have come after their lost investment.

18 Q But you didn't actually put those in the total,
19 correct?

20 A I did not put them in a total.

21 Q Isn't the same with the last two on the -- the final
22 numbers? There's one for -- two for Banone. Do you see
23 those? Can you explain those?

24 A Yes, on those there is an agreement for percentage

1 of profits. So there be a future -- if there's future profits
2 from those entities, there may be future liabilities due to
3 work performed. But as of the date thing, you know, I didn't
4 see any -- any particular liability as of the date of this
5 report.

6 Q So you're concerned about what you put as far as --

7 MR. DICKERSON: Object to the form --

8 Q -- the debt?

9 MR. DICKERSON: -- of the question, Your Honor.

10 THE COURT: Why don't you ask him how he -- what he
11 felt the projections were.

12 BY MS. FORSBERG:

13 Q How did you come to this project -- projection then?

14 A Well, I -- I only put down dollar amounts for items
15 where I had specific dollar amounts that had been claimed that
16 were due by other people. And if there was a potential
17 liability, a contingent, but no way to determine what that
18 potential would be. I left it off.

19 MS. FORSBERG: Thank you. No further questions,
20 Your Honor. Told you it would be quick.

21 CROSS EXAMINATION

22 BY MR. DICKERSON:

23 Q The -- these option agreements that you referenced
24 down at the bottom of the this page, Mike Kuhr, Cliff

1 McCarlie. Those option agreements only would entitle those
2 individuals to a potential share of a profit that would have
3 been made from the sale of the Silver Slipper, correct?

4 A The -- they would have -- actually, no. It was --
5 if I recall the agreements -- it's not quite right. They
6 invested -- purchased options which would allow them to
7 purchase equity in Dynasty, Inc. which owned the Silver
8 Slipper. Therefore it wasn't just profits but also the equity
9 that the Dynasty LLC --

10 Q You've seen those --

11 A -- held.

12 Q Have you seen those agreements?

13 A I have.

14 Q They've been admitted into evidence here back in
15 2010...

16 A I believe so, yes. I'm not -- can't say for sure.

17 Q You have a copy of one of those in your --

18 A I believe I -- I did include the copy, yes, in my
19 report.

20 Q Look at 429. This is the option purchase profit
21 interest, correct?

22 A That's the title of the agreement, yes.

23 Q And this one relates to who? They're all similar to
24 this, is that correct?

1 A That's correct.

2 Q And can you tell me how much did Mike Kuhr invest
3 for the purpose of this option?

4 A I don't know if I can tell off of this particular
5 agreement. I do had -- I did have in my file what the dollar
6 amounts were that each person put it.

7 Q So it's -- you have no idea of -- when you mentioned
8 invest -- you have no clue what any of these people invested,
9 did you?

10 A Yes, I do.

11 Q Where is that?

12 A It's in my work papers.

13 Q Now if you take a look, sir, Paragraph 11.
14 Paragraph 11 tells them what they have the rights to see, is
15 that correct? Correct, sir?

16 A Let me finish reading, please. That is correct.

17 Q So that paragraph makes it pretty darn clear that
18 anybody that may be purportedly holding one of these options
19 that Mr. Nelson gave to him is not entitled to receive any
20 portion of the capital account, correct?

21 A That is correct.

22 Q Talking about profits only.

23 A That is correct.

24 Q Now we've had Paul Alanis testify before this Court

1 in 2010 with respect to what Mr. Nelson's capital account was.
2 Do you know what his capital account was?

3 A I knew what it originally was. I've -- I have that
4 in my work papers also.

5 Q It was in excess of 1,568,000, isn't that true?

6 A Originally, yes.

7 Q Okay. Well, when he received the 1,568,000 for his
8 interest in the Silver Slipper or if Dynasty received that
9 amount or the L -- Eric Nelson Trust, whoever received that
10 money, the money that he received was not the full amount of
11 his capital account, was it?

12 A No.

13 Q Okay. So there are not profits that were received
14 from the sale of Silver Slipper, would you agree?

15 A That -- not -- well, Bob, it -- it's -- there were
16 losses that reduced the capital accounts. So technically I'm
17 looking at a tax basis he had.

18 Q The capital account was in excess of \$3,000,000.

19 A Which was reduced by losses incurred by the entity
20 during the year. So the -- there is going to be a profit when
21 I report that million five coming on Eric's return. Well, is
22 -- is there profits in there? It all depends on how you
23 define profits, I guess, is what I'm trying to explain.

24 Q So that amount, his capital account was in excess of

1 1.58 million dollars, correct?

2 A And then it was negative at the time he received the
3 million five.

4 Q After they bought him out it was negative.

5 A No, it was negative prior to that because of the
6 lawsuits --

7 Q So what doc -- what documentation do you have to
8 support that?

9 A The K-1s.

10 Q Where are they?

11 A In my work paper file.

12 Q And where is that?

13 A I believe I have them right here actually.

14 Q It's on your computer?

15 A Yes.

16 Q If you have to go through that process, I mean --

17 A Only if you want to --

18 Q We have -- we have the documents in evidence as to
19 what --

20 A Okay.

21 Q -- his capital account.

22 A Right.

23 MR. DICKERSON: Okay. Thank you. I have nothing.

24 THE COURT: Any redir --

1 MS. FORSBERG: No further questions, Your Honor.

2 THE COURT: Mr. Gerety, it's always a pleasure to
3 see you. I'm sorry we didn't keep you on the stand and grill
4 you. I know you were looking forward to it, so I apologize
5 for that.

6 MS. FORSBERG: I promised him it wouldn't be very
7 long, Your Honor.

8 THE COURT: Thank you, Mr. Gerety. It's always a
9 pleasure to see you, sir.

10 THE WITNESS: Thank you, Your Honor.

11 (Witness excused)

12 THE COURT: Ms. Forsberg, any other witnesses?

13 MS. FORSBERG: Your Honor, can I take a quick
14 recess?

15 THE COURT: Sure. Why don't we take a 10 minute
16 break. Take a 10 minute bathroom break.

17 MS. FORSBERG: That's where I was getting at.

18 (Off record)

19 THE COURT: Just going back on the record in the
20 matter of Eric and Lynita Nelson, case number D-411537. We're
21 coming back after a brief recess. Ms. Forsberg, did you have
22 any other witnesses for --

23 MS. FORSBERG: Ms. Lynita Nelson, Your Honor.

24 (Witness summoned)

1 THE MARSHAL: You got to be standing for that.
2 THE WITNESS: Oh.
3 THE MARSHAL: Not me. I can't swear you in.
4 THE WITNESS: I know you can't. I know you don't
5 pull it out from under me.

6 THE MARSHAL: No, I wouldn't do that to you.

7 THE WITNESS: No, I know.

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

11 THE WITNESS: Yes.

12 THE CLERK: Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: You've been here more often than me, so
15 I guess I don't need to explain the whole process to you. So
16 we can jump right into it. Ms. Forsberg.

17 LYNITA NELSON

18 called as a witness on behalf of the Plaintiff and being first
19 duly sworn, testified as follows on:

20 DIRECT EXAMINATION

21 BY MS. FORSBERG:

22 Q Ms. Nelson, can you state your name and spell it for
23 the record, please?

24 A Lynita Sue Nelson, L-Y-N-I-T-A, S-U-E, N-E-L-S-O-N.

1 Q And you're the Defendant in this action, right?
2 A Uh-huh. (Affirmative).
3 Q We'll dive right in and hopefully we'll get you done
4 quickly, okay? Ms. Nelson, you've heard some of the
5 information that Mr. Nelson talked about today about some
6 possible proposals on this. Did you not --
7 A Proposal on settlement? Uh-huh. (Affirmative).
8 Yes.
9 Q Can you look at Exhibit 231, please?
10 A Let me just put this away here. Okay. I'm there.
11 Q Mr. Nelson testified as to -- for this apprai -- the
12 appraisal on your Palmyra house. Do you see that one? It
13 says --
14 A I do.
15 Q -- Palmyra --
16 A Yes.
17 Q -- house.
18 A Yeah.
19 Q Can -- can you turn to Mr. Bertsch's Exhibit -- Tab
20 18, please?
21 MR. DICKERSON: We'll stipulate, Your Honor --
22 MS. FORSBERG: Will you stipulate? Do you want me
23 --
24 MR. DICKERSON: Yeah. Because his page that they're

1 referencing, it's a preliminary appraisal. And so we'll
2 stipulate to the 250 -- Or 750.

3 MS. FORSBERG: That's fine. You don't have to look
4 now.

5 THE WITNESS: Oh.

6 MS. FORSBERG: He -- he stipulated into the record.

7 THE WITNESS: Okay.

8 THE COURT: So stipulated.

9 MS. FORSBERG: Mr. Dickerson knew where I was going
10 and he saved you the trouble.

11 THE WITNESS: Oh, good.

12 MS. FORSBERG: Do you want to stipulate to the rest
13 of them Bob or no? I'm just stating that the numbers match
14 what we show.

15 MR. DICKERSON: Go ahead and I'll let you go where
16 you need to go.

17 MS. FORSBERG: Okay. At least we got you laughing.

18 BY MS. FORSBERG:

19 Q Ms. Nelson, Mr. Nelson basically proposed that the
20 division be as it already is and that basically though that he
21 takes the cabin for Lindell. That's basically what this is.
22 Is that your understanding of this?

23 A I understand the portion that he discussed that he
24 wanted the cabin and that he wanted me to take Lindell. I did

1 understand that portion.

2 Q Is that what you're wanting here today?

3 A I really hadn't made any decisions on that.

4 Q Isn't it true ma'am that you have basically three --
5 three properties that are entangled between the two trusts or
6 three groupings of properties I should say?

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

8 MS. FORSBERG: Your Honor, I don't want to treat her
9 as a hostile witness -- she's -- you know, his --

10 THE COURT: You want to talk about --

11 MR. DICKERSON: Why is she is a hostile witness?
12 I'm hostile, I guess. I made the objection.

13 MS. FORSBERG: That is possible, Bob. I mean, she's
14 the (indiscernible) witness.

15 THE COURT: You talk about that -- Mr. Bertsch's
16 report that shows --

17 MR. DICKERSON: She -- I mean, treat her as a
18 hostile witness. She -- she can lead her if she's like.
19 She's opposing party.

20 THE COURT: I think you're referring to --

21 MS. FORSBERG: Well, that was what I was going to
22 say, opposing party. That's exact -- sorry.

23 THE COURT: -- Mr. Bertsch's report to show three
24 properties that were owned by each of the trust. That's the

1 one you want.

2 MS. FORSBERG: That's what I was asking.

3 THE COURT: Okay.

4 BY MS. FORSBERG:

5 Q Do you understand that Mr. Bertsch's report showed
6 that there was three properties -- or three groupings? One of
7 them actually isn't just one property, correct, the
8 Mississippi --

9 A I'm not sure what you're asking me. Are you asking
10 me if I own any properties with Mr. Nelson?

11 Q Yes. Well, your trust and his trust. According to
12 Mr. Bertsch's report, ma'am.

13 A Well, I would have to look at his report. I mean, I
14 know that there's Lindell and the cabin and --

15 Q Emerald Bay?

16 A -- and Mississippi.

17 Q Yeah, Mississippi. But Emerald Bay, isn't that
18 right? And Mississippi?

19 A I don't know specifically.

20 Q So those are basically the three properties that
21 would have -- that are in both of your trusts now.

22 A I'm not sure what -- what Emerald Bay -- what's
23 listed in Emerald Bay. I mean, there's a lot of properties
24 that -- oh, that we own together. I'm -- I see what you're

1 saying.

2 Q That are you in your trust and his trust.

3 A Well, there's Grada too, so I don't know if you're
4 going to include that.

5 Q Ma'am, can you turn to Tab 1 of Mr. Bertsch's
6 report?

7 A Sure. It should be --

8 Q It's not the blue one. That's Mr. Gerety's. We
9 should be done with that.

10 MS. FORSBERG: If I can approach, Your Honor, I'll
11 clear off the ones perhaps that the --

12 THE COURT: Sure.

13 MS. FORSBERG: -- I don't think she needs these.

14 MR. DICKERSON: I will stipulate that on 6657 the
15 properties at the bottom that Mr. Bertsch has indicated are
16 owned 50 percent by each trust is an accurate representation.
17 I -- we agree with that.

18 THE WITNESS: So yeah. I agree with all of his
19 reports and I don't -- I don't know if that's what she's
20 asking me.

21 BY MS. FORSBERG:

22 Q So that's why I asked you just to start as a
23 preliminary question, ma'am.

24 A Can you tell me again which tab -- I'm sorry, you --

1 where do you want me to be?

2 Q It's Tab 1.

3 A Oh.

4 MS. FORSBERG: If your counsel will stipulate to the
5 amounts, so --

6 MR. DICKERSON: Bate -- Bates Stamp Number 6657.

7 THE WITNESS: Okay. Okay. I'm there.

8 Q Okay. You're familiar with this page from this
9 report, aren't you, ma'am?

10 A Well, I did see it yesterday. I haven't studied it
11 however though. But I -- I did look at it, yes. Uh-huh.
12 (Affirmative).

13 Q And what your counsel just stipulated to is that
14 these bottom three items -- that's what I was talking about.

15 A I see --

16 Q Does that makes sense?

17 A Yes, sir. I mean, ma'am. Sorry.

18 Q And Emerald Bay is -- just as Mississippi Emerald
19 Bay. That's where I was getting it. Does that clarify it for
20 you? Is that a yes?

21 A Yes.

22 Q Okay. Mr. Nelson also suggested another way with
23 the Mississippi property, another possible proposal for you
24 with Mississippi property. Did you pay attention to that

1 proposal, ma'am?

2 A I listened to it.

3 Q What do you think of that proposal? Is that
4 something you're interested in?

5 MR. DICKERSON: What proposal specifically are we
6 talking about?

7 MS. FORSBERG: He's talking about -- we're talking
8 about the 1.5 million on the Mississippi with the 300,000 down
9 and --

10 THE WITNESS: I'm not -- I'm -- I'm not in a
11 position to really make any decisions of that right now.

12 Q Okay. We'll move onto your other properties that --
13 that are on your list, okay? Under Lynita Nelson -- on this
14 list that you're looking at right now.

15 A On 6657?

16 Q Yeah, that's fine. We can go off that list.

17 A Okay.

18 Q The Palmyra home is your residence, correct?

19 A That's where I'm living right now.

20 Q Does it have a mortgage payment on it?

21 A It does not, not unless --

22 Q To your knowledge it does not, correct, ma'am?

23 A It -- it doesn't actually. I do know that. I was
24 thinking I didn't know it, but I do. I was thinking of the

1 line of credit, business that's been closed, so --

2 Q So the answer is there is no loan on that property
3 at all.

4 A No.

5 Q How about the rest of these properties? Are you
6 aware of any loans on any of them? That Arizona 31 Gateway
7 lots, is there any loans there?

8 A Not that I'm aware of.

9 Q Pebble Beach?

10 A Not that I'm aware of. I -- I didn't manage any of
11 those. I paid the taxes on Gateway, because Eric had them
12 transferred over to my house. Pebble Beach I don't know
13 anything about it. Eric's worked with my sister on that ever
14 since he gave her the house. So I -- I don't -- I don't have
15 anything to do --

16 Q But --

17 A -- with those.

18 Q -- your trust actually owns title to that property,
19 doesn't it, ma'am, the beach, the Pebble Beach?

20 A Yeah, it does, but I've -- I've never managed it, so
21 --

22 Q And the Wyoming 200 acres, there's no loan on that?

23 A I wouldn't know.

24 Q How about Arnold? Is there a loan on that?

1 A Wouldn't know.

2 Q The RV park?

3 A I wouldn't know.

4 Q That was actually an -- an appraised value though,
5 isn't it, ma'am, on the RV park?

6 A I don't know if Mr. Bertsch ordered an appraisal on
7 it. It says appraisal, so I don't recall. I would have to
8 look.

9 Q Ma'am, can we turn -- you can turn in that book to
10 Tab 10, please?

11 A Great.

12 MR. DICKERSON: Is it in Mr. Bertsch's 10?

13 MS. FORSBERG: 10. Yeah, Bertsch's 10.

14 THE WITNESS: So 6909?

15 MR. DICKERSON: If -- if you're looking for a
16 stipulation, I'll stipulate that that's the price.

17 MS. FORSBERG: That's fine. It's okay. We're not
18 doing that. It's okay. There's -- the appraisals go back
19 further.

20 MR. NELSON: It's tab what?

21 Q Tab 10, please. It starts at 6909, ma'am, but can
22 you turn to 6915?

23 A Sure. Okay.

24 Q I'm going to go through some of your expenses, all

1 right?

2 A Sure.

3 Q And tell me what are your annual taxes on Palmyra?

4 A I don't know if it has it on here. I wouldn't know.

5 Q Okay. Let's talk a little about -- let's go down if
6 you could on Page 6915.

7 A Uh-huh. (Affirmative).

8 Q I noticed there's a list of lawn service. Do you
9 see that?

10 A Let me find it here. Yes.

11 Q Can you tell the Court why you spent an extra
12 \$22,870 on the lawn?

13 A Well, it looks like it's under --

14 Q In 2010?

15 A -- lawn service, but they do maintenance and if I
16 would have had them do other work besides the law service,
17 then that's what that would be for.

18 Q So would this be putting a new lawn, taking out
19 lawn, what would this be for?

20 A I didn't take out any new lawn. Didn't put any new
21 lawn in. I'm not sure specifically what that would be for.

22 Q What about the housing improvements? It looks like
23 you made \$50,000 worth of improvements on that house. Do you
24 see that line, ma'am?

1 A I do. Uh-huh. (Affirmative).
2 Q Okay. What improvements did you make on the home?
3 A I had a brick little short wall put in instead of
4 rock.
5 Q Replace any carpet?
6 A I did. And I had wood floor as well. I had the
7 carpet taken out and wood floor put in, because with the
8 animals I couldn't have the carpet anymore.
9 Q Ma'am, what is the total on the -- total under
10 income Mr. Bertsch credited to LSN? Do you see that total for
11 the -- all the -- since 2009?
12 A Oh, help me a little bit. I'm sorry. Where am I --
13 what do you need?
14 Q At the top section of Page 6915.
15 A Uh-huh. (Affirmative). Oh, I see. Okay. The
16 total of --
17 Q Of yeah, the total.
18 A -- income?
19 Q Correct.
20 A The total income -- I don't know if it's -- well --
21 oh, they're both the same. \$2,091,178.64.
22 Q Can you turn to the next page, ma'am, 6916?
23 A Sure.
24 Q And after it characterizes all your professional

1 fees, do you see those?

2 A I do.

3 Q Okay. So just under a million, like 826,000, is
4 that correct, ma'am?

5 A Yes.

6 Q And after that it shows the total -- total expenses
7 adding that figure in to 1,984,000. Would you agree that's
8 what the number says?

9 A Yeah, if this is Mr. Bertsch's report --

10 Q It is.

11 A -- absolutely.

12 Q So really between the two you netted a little bit
13 after all your -- and then it's all your expenses, right? All
14 your housing expenses and everything, is that correct?

15 A It looks like it includes all of that.

16 Q And at the top of the 6916 it also includes any
17 spending and personal expenses you have, is that correct?

18 A Could you ask that again? I'm sorry.

19 Q At the top of 6916 it also includes all your
20 personal expenses, doesn't it, ma'am?

21 A It says this, yes.

22 Q So by roughly net that it's roughly a hundred
23 thousand dollars net after all your expenses, is that about
24 right?

1 A I wouldn't understand what you're asking me.
2 Q If I take 2 -- 2,091,000 and I minus 1.984 from it
3 --
4 A Oh, okay.
5 Q -- it would be a little bit over a hundred thousand,
6 wouldn't you agree?
7 A Pretty close it looks like.
8 Q Ma'am, during this action, you had a car to begin
9 with that was free and clear, isn't that correct? Meaning you
10 had no payments on it, didn't you?
11 A I don't know. Before -- before we filed in '09?
12 Q During the -- during the action. Even when we were
13 here two years ago you had a car that was free and clear,
14 isn't that correct?
15 A Let's see.
16 Q In fact, you drive a Volkswagen, didn't you?
17 A I have had -- the Volkswagen was free and clear,
18 yes.
19 Q But now you've chose to have a car payment, is that
20 right, ma'am?
21 A I have --
22 Q It's a yes or no question.
23 A What was the question?
24 Q And now you've chosen to have --

1 A That I have a lease now?

2 Q -- a car payment. Yes.

3 A I do have a lease. Uh-huh. (Affirmative).

4 Q Ma'am, can you turn in the -- in the white book

5 there, that -- where that 241 was, can you turn to Exhibit

6 239, please?

7 A Okay. Okay. I'm there.

8 Q And turn past the first page and can you tell the

9 Court what these are?

10 A My statements from my investment account. Well,

11 this one is. Are they all? Yeah.

12 Q Is this the investment account ma'am that you

13 transferred from Mellon to here, isn't correct?

14 MR. DICKERSON: Mellon to Schwab.

15 MS. FORSBERG: Mellon to Schwab, yes. Sorry.

16 Thanks.

17 A Yes.

18 Q And the time you trans -- it looks like in January

19 2009 the starting balance was \$1,834,477.01, is that correct?

20 A That's what it says here, this starting account

21 value, yes.

22 Q Okay. Okay. Can you -- if we can continue on with

23 that, you can turn back the one page. I've done a spreadsheet

24 here that categorizes income. So I need us to go through that

1 with these pages, okay? It's going to be a little tricky, but
2 I think you can handle it. Okay. Do you see that the cash in
3 value of investments on your -- your page -- was a negative --
4 for the month of January 1st, 2009 to January 31st, 2009, do
5 you see the cash in value of investments? Do you see that
6 amount?

7 MR. DICKERSON: Talking about the change -- change
8 value --

9 A Are you --

10 MR. DICKERSON: -- of investments?

11 A Are you --

12 Q No, change of value of investments.

13 A Are you on the very first page?

14 Q The second page, ma'am.

15 A Oh, I thought I was supposed to go back to the
16 first. Okay.

17 Q You're --

18 A Can you start over? I'm sorry.

19 Q That's okay.

20 A So I'm on my January statement of '09.

21 Q Correct.

22 A Okay. And --

23 Q And do you see where it had -- you had actually a
24 loss in change in value of investments of 68,111.39? Do you

1 see that on there?

2 A Change in value of investments. Yes, I do.

3 Q And now if you can turn back to the page before you.

4 Do you see that that's the amount that's on there, the

5 negative 6011.39?

6 A Yes, ma'am.

7 Q Okay. Can you turn a few more pages in and you'll

8 see a February 1st, 2009 statement? It was from February 1st,

9 2009.

10 A Can I take it out of here?

11 Q Yeah, go right ahead.

12 A Because it looks like we're going to go through each

13 one.

14 Q We are, so if that'll make it easier, that will be

15 great. Do you see the change in value of your investments on

16 -- on that February 1st, 2009 to February 28th, 2009

17 statement?

18 A Oh, I'm getting there. I'm getting there. Yes.

19 And that looks like that number is correct.

20 Q Okay. Can you go to March, please?

21 A Okay.

22 Q Can you tell me if that number is correct at

23 50,695.45 and positive?

24 A That's the same -- yeah. Yes.

1 Q Can you turn to April, please?

2 A Yes, I'm there.

3 Q So April, it looks like you earned a hundred and

4 twenty-four thousand nine forty-five and ninety-five cents.

5 Wouldn't you agree, ma'am?

6 A That's what it says, ma'am.

7 Q Okay. So we go to May.

8 A Yes, I'm there.

9 Q Okay. And you earned 68,895.90 -- 97 cents, is that

10 correct?

11 MR. DICKERSON: I actually need to object to the

12 form of the question which is using the term earned. I mean,

13 that's not what that reflects. That reflects the change in

14 the investment account.

15 MS. FORSBERG: You bet, going up. Value increasing

16 for the increase in the -- in those particular stock. They

17 went down and then it went up. Do you disagree?

18 MR. DICKERSON: Well, she used money or she didn't

19 used money.

20 MS. FORSBERG: No, the transactions used and didn't

21 use money are -- are categorized differently. They're

22 categorized in the bottom, Bob. I'm just doing change in

23 value, period. I didn't do what she took money out for. I

24 only did what her change in investment was, not -- if you look

1 at the change in the value of investment, the value, not the
2 transactions where --

3 MR. DICKERSON: Well --

4 MS. FORSBERG: -- she withdrew.

5 MR. DICKERSON: I want to respectfully disagree.
6 What that is going to show is the change in the value of the
7 investment. If she withdrew money, that's going to be a
8 change and the value of investments is going to show up. In
9 these statements right now, I'm -- I'm sure you're going to
10 see they're not withdrawals. When you get into 2011 you're
11 going to start seeing the withdrawals, because you're coming
12 up with your bottom line ending account balance is how you get
13 there. And it's going to take care all of the withdrawals.

14 MS. FORSBERG: Actually, I -- I do disagree because
15 I went through them very carefully. And with she withdrew
16 monies, it comes on the transactions and income line. And if
17 you can see, those are not even part of this change in
18 investment value. This is value of the investment she made
19 change, just the value of the stocks that are within there. I
20 did not include that. It was there.

21 MR. DICKERSON: Okay. All right.

22 MS. FORSBERG: So all I did was a straight income of
23 where they went up or down. That's it. The amount of income
24 above that she put in, whatever she did with it, that's her

1 business. But just what the income is.
2 MR. DICKERSON: Okay. All right.
3 THE COURT: So these numbers --
4 MR. DICKERSON: I'll --
5 THE COURT: -- are not --
6 MR. DICKERSON: I'll accept that and I think she's
7 -- that's an accurate representation.
8 THE COURT: And these numbers do not reflect any
9 withdrawals that she had with the chance.
10 MR. DICKERSON: Okay.
11 THE COURT: That's basically -- that's the
12 investment account when the stocks went up or down or when --
13 MS. FORSBERG: Right. And how much she could have,
14 but it's up to her whether she leaves in and what she does,
15 because as you've made it very clear, Your Honor, what she
16 does with her money is her business, but we have to account
17 for what her income came from.
18 THE COURT: Absolutely.
19 MS. FORSBERG: And that's what I'm doing.
20 BY MS. FORSBERG:
21 Q Ma'am, I believe we were on May. So the change of
22 your specific investments just that portion is 68,895.97.
23 Were you there yet? Sorry, I got ahead of you.
24 A I was and I went past it. So let me go back. Okay.

1 May, I agree with the amount that you have as the same is the
2 statement.

3 Q Okay.

4 A Okay.

5 Q And in June?

6 A I agree with that as well.

7 Q So June you actually had a -- a loss for that month,
8 correct, the negative 21,143.63, is that correct?

9 A Because it has the parenthesis on it, right?

10 Q Correct.

11 A Okay.

12 Q And then to July, isn't it true ma'am that you
13 actually had a -- an income -- or an increase in the value to
14 a hundred and eight thousand nine hundred and five. Do you
15 see that?

16 A The amount is the same, yeah, on this other paper.
17 Yes.

18 Q Now if you go to August.

19 A Okay. I'm there.

20 Q You had 60,467.93, is that correct?

21 A That is.

22 Q In September, your -- your values on your account
23 actually increased by 66,287.

24 A I'm there now. And yes, the numbers coincide.

1 Q It looks like October wasn't as good of a month for
2 you. Do you see that? October shows a loss of 63,075.41.

3 A I'm getting there. Hold on. Yes, ma'am.

4 Q In November it looks like you had a gain of
5 \$42,340.28.

6 A Yes.

7 Q And then lastly on this year 2009 25,391.80, is that
8 correct?

9 A Yeah, that's the same.

10 Q Okay. I totaled them up on here and it shows the
11 total that you earned for -- for 2009 is \$304,963.

12 A Okay.

13 Q Does that sound about right, ma'am?

14 A It does. Without having to sit here and have a
15 calculator, I -- I trust that what you've done here is
16 accurate.

17 MS. FORSBERG: For the Court, I did it in Excel, so
18 it definitely wasn't even my math, Your Honor. So --

19 Q And that sounds about right for the income from this
20 account for that year, doesn't it, ma'am?

21 A I've never totaled it, so I don't know.

22 MS. FORSBERG: I'll offer Exhibit 39, Your Honor.

23 THE COURT: Any objections, Mr. Dickerson?

24 MR. DICKERSON: And the relevance being --

1 MS. FORSBERG: Her income, Your Honor. This
2 specifically with income. This is not amounts minus or
3 anything. Only took her increase in --

4 MR.. DICKERSON: Isn't -- and isn't that -- so this
5 is what, the income she received in 2009 is what you want to
6 do.

7 MS. FORSBERG: Well, that specific account.

8 MR. DICKERSON: That account.

9 MS. FORSBERG: Yes. And I went through every
10 month-by-month to show it.

11 MR. DICKERSON: Okay.

12 THE WITNESS: I'm sorry, where did you -- where did
13 you want me to go?

14 MS. FORSBERG: Well, he said wait a minute.

15 THE WITNESS: Oh.

16 MS. FORSBERG: We're just waiting.

17 MR. DICKERSON: I have no objection.

18 THE COURT: Hereby admitted as Exhibit 239.

19 (Plaintiff's Exhibit 239 admitted)

20 BY MS. FORSBERG:

21 Q Lynita, now you decided that you were going to move
22 things to the Mellon -- from the Mellon account to the Schwab,
23 isn't that correct?

24 A I did.

1 Q Okay.

2 A Uh-huh. (Affirmative).

3 Q This wasn't Mr. Nelson's decision right?

4 A It wasn't. In fact, he was pretty angry about it.

5 Q But actually it looks like it did pretty good in

6 that account for that year, is that correct?

7 A It came out a positive, so I can't complain.

8 Q Okay. Can you turn to Exhibit 240, please?

9 A Sure. Oh, and that's where we just were. Okay.

10 Q No, 240's the next one. It's similar to that one.

11 A Oh, it's '10.

12 Q Yeah, different year.

13 A Thank you.

14 Q Different year. Okay. You provided me with

15 statements for the Schwab account for 2010 as well, right?

16 A I'm not sure if I'm the one that gave them to you or

17 not, but -- I mean, they've been produced, so --

18 Q Perhaps if you want to take out that sheet again.

19 We're going to go through those as well.

20 A Oh, okay.

21 Q Are you ready?

22 A Oh, yes. I'm sorry. I'm racing to the next one.

23 Q So I have to ask you again, ma'am. In -- in

24 starting January 2010, it shows your change in value was

1 negative 26,148.20. Do you see that?

2 A I agree.

3 Q Okay. And February?

4 A I agree as well.

5 Q So it's 27,116.46. How about March?

6 A Yes.

7 Q April? 20,468.89?

8 A Yes.

9 Q Okay. And May, there was a negative 58,269.59?

10 A Yes.

11 Q How about June? Did you have negative 32,218.79 in

12 June?

13 A Yes, ma'am.

14 Q And July, 53,961.75 in July a positive?

15 A Oops, hold on. Yes, July. Yes.

16 Q Okay. And August, it shows a negative 23,244.74.

17 Do you see that?

18 A Yes, ma'am.

19 Q Okay. September looks like 49,668.26 positive. Do

20 you agree with that number?

21 A Yes, ma'am.

22 Q October, 17,056.38. Do you agree with that number?

23 A Yes.

24 Q And then November you had a small negative of

1 \$8,580.82. Do you agree with that number?
2 A Yes.
3 Q And December, 30,767.02. Do you agree with that
4 number?
5 A Yes, I do.
6 Q For a total of 97,362.75 that your account increased
7 as far as change of value.
8 A Okay.
9 Q Do you agree with that?
10 A That's what you have.
11 Q So you basically have an income off of that that
12 were raised but you could have withdrawn an initial 97,362, is
13 that right?
14 A Well, yeah. In my terminology, my investments made
15 that that year.
16 Q Okay.
17 A So --
18 Q So they made that that year.
19 MS. FORSBERG: I'd offer Exhibit 240, Your Honor.
20 MR. DICKERSON: Again, for the same purpose of
21 showing what the increase in the value of her investments was?
22 MS. FORSBERG: Yes.
23 MR. DICKERSON: I have no objection.
24 THE COURT: hereby so admitted as number 240.

1 (Plaintiff's Exhibit 240 admitted)

2 BY MS. FORSBERG:

3 Q Ms. Nelson, can you stay in that -- well, I'll have

4 to get it back together.

5 A Oh, yeah.

6 Q You can stay in that book.

7 A Oh, okay.

8 Q But in that book, I would like you to turn to

9 Exhibit 237. Can you tell the Court what Exhibit 237 shows?

10 What are these?

11 A It is tax return -- this is a 2010. And then 2009

12 and 2008 and '07 --

13 Q So when did you --

14 A -- tax returns.

15 Q So you would agree these are your -- are tax returns

16 for Lynita Nelson for '7 -- in 2007-2010, that -- is that

17 correct?

18 A That's what it appears to be.

19 MR. DICKERSON: First two pages.

20 MS. FORSBERG: Pardon me?

21 MR. DICKERSON: First -- first two pages.

22 MS. FORSBERG: Yeah, the first two pages to make it

23 simple for the Court.

24 THE WITNESS: Yeah, I was thinking they were awfully

1 short.

2 Q We just -- actually -- okay. So let's go through
3 those if we could, okay?

4 A Okay.

5 Q Can you tell the Court what your adjusted gross
6 income was for 2010?

7 A I couldn't unless you -- well, no. Line 37?

8 Q Correct.

9 A 90,841.

10 Q But you also had some tax exempt interest, didn't
11 you, up -- up above on Line 8(b) of 31,784?

12 A I would have to have you guide me, because --

13 Q 8(b).

14 A -- I am not familiar with these.

15 Q If you go up to 8(b) up above --

16 A Okay.

17 Q -- 7, 8(a) --

18 A I see that.

19 Q -- and then 8(b).

20 A Uh-huh. (Affirmative).

21 Q You had some tax exempt interest of 31,784, is that
22 correct?

23 A That's what it says, ma'am.

24 Q Return to 2009.

1 A Sure. Okay. I'm there.

2 Q It shows you had some tax exempt interest under 8(b)
3 of 39,661, is that correct?

4 A That's -- yes.

5 Q And you had additional income 21 -- adjusted gross
6 on Line 37 of 21,732, is that right?

7 A Yes, ma'am.

8 Q Okay. You turn to 2008.

9 A I'm there.

10 Q You had some tax exempt interest of 24,125, is that
11 right?

12 A Yes, ma'am.

13 Q And then you had additional income of 59,808 under
14 adjusted gross income, would you agree?

15 A Yes.

16 Q Okay. In 2007, do you see that tax return?

17 A I do, ma'am.

18 Q And you have tax exempt interest of 20,640, is that
19 right?

20 A Yes, ma'am.

21 Q And you had some adjusted gross income, an
22 additional 398,512 on Line 37, would you agree?

23 A Yes, ma'am.

24 MS. FORSBERG: I would ask that Exhibit 237 be

1 admitted, Your Honor.

2 MR. DICKERSON: Did you -- you didn't get to the '06
3 though.

4 MS. FORSBERG: Oh, I'm sorry. That little page
5 turned to the side that you guys gave us.

6 MR. DICKERSON: Actually, if I may --

7 MS. FORSBERG: Thank you. I will.

8 MR. DICKERSON: If I may, I have the entire exhibit
9 of 2006 which is our quadruple S which I have questioned. I
10 questioned Dan Gerety on it. I -- I forgot to move for the
11 admission of that. And -- and if you don't mind, the entire
12 -- the entire tax return '06 is quadruple S.

13 MS. FORSBERG: Quadruple S?

14 MR. DICKERSON: And I have no objection to these
15 exhibits.

16 MS. FORSBERG: Fine, we'll go through 2006 --

17 MR. DICKERSON: 237, I would ask that quadruple S
18 also be admitted.

19 THE COURT: Is it --

20 MS. FORSBERG: No objection, Your Honor.

21 THE COURT: Four S or five S?

22 MR. DICKERSON: Four S.

23 THE COURT: Four S, just to make sure --

24 MS. FORSBERG: Four S.

1 THE COURT: -- we're on that which --
2 MS. FORSBERG: And --
3 THE COURT: -- is the entire return from 2006?
4 MR. DICKERSON: Yes, in 2006.
5 MS. FORSBERG: And --
6 THE COURT: It will be admitted to supplement 237
7 which has the first two pages of the 2006, I believe.
8 (Plaintiff's Exhibit 237 admitted)
9 (Defendant's Exhibit SSSS admitted)
10 MS. FORSBERG: Thank you. Thank you, Your Honor.
11 BY MS. FORSBERG:
12 Q Ma'am, can we go over 2006? It shows your -- it's
13 the one that's little on its sideways. You see that, don't
14 you?
15 A I see it. Yes --
16 Q Okay.
17 A -- I have it.
18 Q Under 8(b), it shows you had tax exempt interest
19 income of 6,235, would you agree? Besides your ordinary
20 dividends of 4,879 below that. Do you see those?
21 A I -- I do see that. Uh-huh. (Affirmative).
22 Q Okay.
23 A Yes.
24 Q And then your adjusted gross income for 2006 was

1 \$3,379.87, is that correct?

2 A If that's what it says.

3 Q And this tax return is -- is Lynita Nelson's tax
4 return, right?

5 A It has my name on it, but I never prepared these.
6 Eric did.

7 MS. FORSBERG: Ma'am -- or Your Honor, I would ask
8 to strike the last statement. There's no question for her and
9 it doesn't show his name anywhere.

10 THE COURT: Sustained.

11 THE WITNESS: I never met Mr. Holderman (ph) --

12 MS. FORSBERG: Ma'am.

13 THE WITNESS: -- until --

14 MS. FORSBERG: There's no question before you. You
15 don't get to answer.

16 THE COURT: So you didn't --

17 THE WITNESS: Oh.

18 THE COURT: -- prepare these personally.

19 THE WITNESS: No, I didn't.

20 THE COURT: Okay.

21 THE WITNESS: I hadn't even met Mr. Holderman until
22 --

23 MS. FORSBERG: There's no question, ma'am.

24 THE WITNESS: I was talking to the Judge.

1 MS. FORSBERG: Your Honor --
2 THE COURT: You'll be okay then. Mr. --
3 THE WITNESS: Oh.
4 THE COURT: Mr. Dickerson will be able to explore
5 that a little bit for you.

6 THE WITNESS: Oh.

7 BY MS. FORSBERG:

8 Q Ms. Nelson, can you turn to Exhibit 238, please?

9 A Sure.

10 Q Okay. Can you tell the Court what this is?

11 A Yes, it says income tax return for 2009.

12 Q And who is this tax return for?

13 A It says Eric Nelson.

14 Q Okay. Can you tell me what his adjusted gross
15 income is on that 2009?

16 MR. DICKERSON: Well, why would we be going with her
17 through this? I'm going to object.

18 MS. FORSBERG: Your Honor, because they're saying
19 everything is community. I'm just going through all of it.
20 So everything is --

21 THE COURT: I don't know if she would have even seen
22 this. Does she have knowledge of what it would be? I don't
23 know if she sees his tax returns or not. So I think you need
24 some foundation to see if she would know. If not, Mr. Nelson

1 can testify, but -- so I don't know if she has any knowledge
2 of these returns or not. I don't know if they see each
3 other's returns or not. Do -- do you want to do some
4 foundation and see? If not, we get it in through Mr. Nelson
5 if you need to.

6 BY MS. FORSBERG:

7 Q Ms. Nelson, have you ever seen the tax returns that
8 Mr. Nelson has done?

9 MR. DICKERSON: Other than through the course of
10 this litigation.

11 Q Other than through the course of this litigation.

12 A I have not ever really ever seen mine. I've seen a
13 signature line and signed it, so --

14 Q Ma'am, you just said that you've never seen yours.
15 Who's Bradshaw Smith & Company? You said you don't know Steve
16 Holderman, but you know Bradshaw Smith & Company --

17 A I --

18 Q -- right?

19 A I did meet -- Mr. Holderman actually did my -- one
20 of my taxes and then I switched to Bradshaw. So I met him --
21 that was the first time I met Mr. Holderman. Eric told me
22 that we were -- that I was still with Mr. Holderman and that's
23 who I was supposed to go to. And then I found that --

24 Q Ma'am, there's no further question. Just you know

1 this Bradshaw, correct?

2 A Absolutely. I chose her, yeah. And I -- and I had
3 -- I had --

4 Q There's no question for you.

5 A Do you want me to clarify anything --

6 Q No.

7 A -- for you?

8 THE COURT: You'll be able to --

9 THE WITNESS: Okay.

10 THE COURT: Mr. -- Mr. Dickerson will clarify as
11 needed.

12 Q Ms. Nelson, you -- you were here when we were here
13 on our last go around of this where we went through all other
14 distributions of LSN Trust, correct?

15 A I was here for trial. I don't know specifically
16 what you're -- what you're talking about. If you could just
17 clarify.

18 Q I would be happy to do so.

19 A Is there something up here I need to go to or --

20 Q Do you recall going through the -- the minutes and
21 stuff where Lana Martin signed what your distribution was per
22 month, do you remember going through that --

23 A The notes --

24 Q -- for the LSN Trust?

1 A The -- the notes of the meetings?
2 Q Yes.
3 A Yes.
4 Q And do you agree that you did you did receive that
5 money into your LSN account? The amounts of money that were
6 shown to you on -- on the notes, the --
7 MR. DICKERSON: I have --
8 Q -- 15,000 per month.
9 MR. DICKERSON: I have to object to the form of that
10 question.
11 MS. FORSBERG: I'm trying to --
12 MR. DICKERSON: Those notes -- no, but those notes
13 don't indicate money being deposited. The Nelson and her
14 account, there's going to be reflecting monies coming out of
15 her account.
16 MS. FORSBERG: No, we're talking about the -- the
17 minutes where she got her distribution from the LSN. I was
18 just trying to short circuit, Bob.
19 MR. DICKERSON: Yeah.
20 MS. FORSBERG: As she remembered all those the
21 withdraw happened. Take her through them again. I just didn't
22 want to take her through those again.
23 MR. DICKERSON: And I think they're all in Larry
24 Bertsch's reports.

1 MS. FORSBERG: No, they're not -- they're not all in
2 Larry Bertsch's report. They're also be in the minutes of
3 where she received that into her account.

4 THE COURT: The -- her --

5 MR. DICKERSON: The minutes don't show that though.

6 THE COURT: -- monthly disbursements with -- there
7 was a lot of minutes on there that show disbursements which --

8 MS. FORSBERG: Correct.

9 THE COURT: -- were varied amounts going out there,
10 but I know there is some that authorized monthly
11 disbursements. And if you ask what she got monthly, she may
12 be able to clarify that for you.

13 MS. FORSBERG: That's what was I was trying to do,
14 Your Honor. So --

15 THE COURT: Sure.

16 THE WITNESS: I don't know if I can. I -- I just
17 don't remember that kind of stuff. And then I don't know that
18 I went through the -- like I didn't look at the distribution
19 and then go check my bank account. I didn't do -- I didn't do
20 that myself.

21 BY MS. FORSBERG:

22 Q Were you aware of the \$15,000 transfers from the
23 Mellon account to your -- your bank?

24 A I remember that -- oh, let me think. The amounts

1 changed over the years. And oh, I -- yeah, I -- I don't know
2 if I received this one. We had the Mellon or not, but I know
3 that Eric had -- Eric was the one that would tell me like
4 during a certain year like okay, we're going to start giving
5 you like \$5,000 a month. And then if it -- then it changed to
6 like 10,000. And then he's --

7 Q So as your -- as your advisor, ma'am, he advised you
8 of what he thought was best for you to take from your account?

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

10 A No.

11 MR. DICKERSON: If she can finish what she's saying.

12 THE COURT: Why don't you finish the --

13 THE WITNESS: He never advised. He never -- that
14 was -- it was not a discussion. He just told me what was
15 going to happen.

16 BY MS. FORSBERG:

17 Q Isn't it true that it ended up being \$15,000 direct
18 deposits from the Mellon account, your Mellon account to your
19 bank account, ma'am?

20 MR. DICKERSON: Well, object to the form of the
21 question? What time? I believe at one point in time yes, but
22 in the later years it was 20,000.

23 MS. FORSBERG: Let's start with --

24 THE COURT: I think -- and if there was different

1 amounts and if she said she thought it started at five and
2 then it went up and ended at 20 I thought, but do you remember
3 how it was? Do you know how it worked? Did you see deposits
4 monthly that went -- went into your account?

5 THE WITNESS: There was a time where I did have
6 direct deposits. Yeah.

7 MR. DICKERSON: And for clarification, we're talking
8 about these are withdrawals from her Mellon account --

9 MS. FORSBERG: Yes.

10 MR. DICKERSON: -- into her personal account. Yes.

11 MS. FORSBERG: Correct.

12 MR. DICKERSON: Okay.

13 MS. FORSBERG: Correct. Yeah.

14 THE WITNESS: He -- I was told that actually when he
15 setup the account, he said that -- that I would be getting
16 whatever interest that account made. That's what I would be
17 getting into my account was the interest. But I found out
18 later it wasn't interest. There was principal that was coming
19 to me as well. It wasn't making that much interest. I found
20 that out when I switched to Schwab.

21 BY MS. FORSBERG:

22 Q Okay. Let's talk about that. But now in your
23 Schwab account you made 304,000 in 2009 though, correct? We
24 just put up that --

1 A If that's what it says, yeah. If that's what --
2 yeah. We just did.

3 MR. DICKERSON: And again, I have to object to the
4 form of the -- that question. It indicates the entries and
5 value of the investments.

6 MS. FORSBERG: Of course she can take out whatever
7 she wants. It's an increase value you can use. Just like a
8 bank account. It goes up or it goes down. You can use it or
9 you don't use it.

10 MR. DICKERSON: Then you've got to sellout the
11 asset.

12 THE WITNESS: Then you lose money.

13 MR. DICKERSON: This is not interest income coming
14 to it. That's the increased value of a particular stock --

15 MS. FORSBERG: Of course, but if you're going to
16 leave it at the same amount, you can take out from there and
17 leave --

18 THE COURT: Well --

19 MS. FORSBERG: -- it at the same amount or not.

20 THE COURT: Yeah. Well, you made -- made more or
21 you may not. It's just a paper transaction until you sell it.
22 You don't know what it is. So what looks on paper may be a
23 true value. It could be less, it could be more depending on
24 when you sell it and all those things on that. But it would

1 show that the investments on the paper did show for that year
2 the 304,000 --

3 MS. FORSBERG: Right.

4 THE COURT: -- increase on that.

5 MS. FORSBERG: Exactly.

6 BY MS. FORSBERG:

7 Q Ma'am, did -- did you ever receive any deposits from
8 Eric Nelson's trust to yours other than the due to, due froms
9 we've seen already?

10 MR. DICKERSON: Other than what, I'm sorry?

11 MS. FORSBERG: Other than the due to, due froms
12 we've seen on Mr. Gerety's report.

13 MR. DICKERSON: Well, I -- can I --

14 Q Do you recall any other deposits from Mr. Nelson to
15 you?

16 MR. DICKERSON: I've got to object --

17 A I mean --

18 MR. DICKERSON: -- to the -- the form of the
19 question when she's saying any other other than these due to,
20 due froms. I mean --

21 MS. FORSBERG: We can go through all the due to, due
22 froms.

23 MR. DICKERSON: That -- that's a litigation
24 intervention --

1 MS. FORSBERG: I'm just trying to short shift it so
2 we're not --

3 MR. DICKERSON: -- due to, due from. So --

4 THE COURT: Yeah.

5 MR. DICKERSON: -- I object to the form of the
6 question, Your Honor.

7 THE COURT: Why don't you just restate that. And do
8 you know of any deposits you got from the -- from Eric Nelson
9 Trust? That -- was that the question?

10 MS. FORSBERG: Yes, Your Honor.

11 THE COURT: And the due to, due froms, Mr. Gerety
12 testified for a lot on that and that's a legal issue we'll get
13 through I guess on that, but your question was do you remember
14 any deposits from Eric Nelson's account -- trust to her trust
15 other than --

16 MS. FORSBERG: Right.

17 THE COURT: -- the due to or due from that --

18 MS. FORSBERG: Right. Exactly.

19 THE COURT: -- Mr. Gerety testified?

20 THE WITNESS: That is way over my head. There is no
21 way I would be able to answer that.

22 BY MS. FORSBERG:

23 Q So is that a no, you don't remember any?

24 A It's I would not be able to answer that.

1 MS. FORSBERG: The Court's indulgence, Your Honor.

2 Q Isn't it true Ms. Nelson that your trust paid for
3 all your expenses at the Palmyra home since at least the
4 beginning of this action?

5 A Ask me that again? I'm sorry.

6 Q Isn't it true that LSN Trust paid for all your
7 expenses in Palmyra? We'll start with the beginning of this
8 action and we'll work backwards.

9 A So what you're saying is that whatever expenses I
10 have in Palmyra house since the -- since the divorce was filed
11 came out of my Mellon account.

12 Q Or any other account from -- that LSN Trust owns,
13 isn't that correct?

14 A I would have to say that's probably true.

15 Q Okay. And before that, isn't it true that all the
16 expenses also came out of -- out of an LSN Trust account also?

17 A I don't know. What do you mean all other --

18 Q Let's start the --

19 A -- what expenses?

20 Q -- five years before that. Let's go on blocks of
21 time. Let's start backwards, okay?

22 A I wouldn't know. I didn't manage any of that. Eric
23 did that at the office with the girls.

24 Q Isn't it true that we heard testimony from Rochelle

1 McGowan that she talked to you about all these -- these items?
2 A Well, I understand that maybe what she said, but I
3 -- I don't agree. Just because she said that, doesn't mean
4 that I agree with that. She -- is that -- I don't know what
5 you're asking me. You're asking me if I have agreed with her
6 testimony? I don't.
7 Q I didn't ask you that, ma'am. I asked you --
8 A Well --
9 Q -- if she testified that all the expenses came out
10 for all of those items that were LSN Trust properties came
11 from LSN Trust.
12 A I don't know if I remember her testimony that well.
13 If you show me something, I can look.
14 Q Isn't it true ma'am as we sit here today you have no
15 documents to provide me that show that your Palmyra house was
16 paid for any other way but out of the LSN Trust?
17 A Well, it was free and clear. We built that house.
18 So we didn't -- never have a mortgage or anything on it.
19 Q What about the utilities and -- and those items?
20 You still have expenses at home, correct?
21 A Yes.
22 Q Okay. Isn't it true as we stand here today you
23 don't have anything that shows me that -- that you were -- you
24 or your LSN Trust, when I say you, I mean your LSN Trust, was

1 the regular payer of all those utilities, all the time that it
2 was titled in the trust name, is that correct, ma'am?

3 A You're asking me if I have anything to show you
4 right now that -- that those bills were paid by my trust?

5 Q That they were not paid by your trust, ma'am.

6 A Well, I can tell you what I know. Did you want me
7 to tell you what I know?

8 Q No, I just want you to answer to the question.

9 A I don't know that I can --

10 Q Isn't it true you don't have any documents here that
11 show that they were paid by anything other than the LSN Trust,
12 isn't that correct?

13 MR. DICKERSON: Was she subpoenaed to bring --

14 A I disagree.

15 MR. DICKERSON: Excuse me. Object to the form of
16 the question. Was she subpoenaed to bring documents with her?

17 MS. FORSBERG: It's her time for trial, Your -- Mr.
18 Dickerson.

19 MR. DICKERSON: Was she subpoenaed to bring
20 documents for it?

21 THE WITNESS: It's something to show --

22 THE COURT: That's all right. The question is do
23 you know during the -- since the filing of divorce of all the
24 expenses of Palmyra come from the trust. That was the first

1 question.

2 THE WITNESS: Yeah, I answered that.

3 THE COURT: Okay. The next --

4 THE WITNESS: Right.

5 THE COURT: -- question was prior to that did the
6 trust pay for those expenses to your knowledge prior to the
7 divorce being filed of Palmyra?

8 THE WITNESS: I understood they were paid out of a
9 bunch of different accounts.

10 THE COURT: Okay.

11 THE WITNESS: It just depended where the money was.
12 He would -- he would -- I mean, he had a couple accounts that
13 were in my name that he had the girls manage. And I know that
14 sometimes if there wasn't enough in one account, he would pay
15 bills from another account. That's what he would tell me.

16 BY MS. FORSBERG:

17 Q Ms. Nelson, the other accounts that you had more
18 than one account in the LSN Trust then, didn't you? You had
19 the Lindell account for instance, correct?

20 A I don't -- I can't tell you about that. Eric --
21 Eric and the girls managed that. So I -- I never saw a
22 statement. I never -- I got a -- I got -- they transferred
23 the B of A account to me and told me I was going to start to
24 manage that and that that was mine. And at -- prior to that I

1 don't know anything about. And nobody ever talked to me. I
2 never saw a statement, never signed a check.

3 MS. FORSBERG: The Court's indulgence.

4 Q Do you remember Ms. Nelson when we went through all
5 of the notes from the meetings from your trust, do you
6 remember that when we were going through those? Do you --

7 A I -- I --

8 Q -- recall that?

9 A I do. We -- we went through them I think -- I
10 remember going through them. I don't know if I can remember
11 everything on them.

12 Q Do you recall one of the specific lines on --

13 MS. FORSBERG: And if the Court doesn't mind one
14 second, I'm trying to locate it, because it's not memorized --

15 Q There was one specific one where you signed about
16 the signatures on the account, do you recall that?

17 A I signed to approve the people that were on the
18 account?

19 Q Yes, do you remember that, ma'am?

20 A I remember. Uh-huh. (Affirmative). Seeing that.

21 Q And you were assigned on those accounts, correct?

22 A I don't know if I was.

23 Q Can we turn to Intervener's 35, please? Do we have
24 that up there?

1 A This one probably, huh?

2 Q I think so.

3 A Actually, I think this only goes to 24. Is there
4 another one?

5 MS. FORSBERG: If I can approach, Your Honor.
6 Intervener's -- Intervener's book. It's the thing with the
7 yellow thing on the front.

8 THE WITNESS: Yes.

9 MS. FORSBERG: Does that help? Okay.

10 THE WITNESS: Okay. 34 you said?

11 THE COURT: 35.

12 MS. FORSBERG: 35.

13 THE WITNESS: Okay.

14 Q Do you recall seeing this one -- this particular
15 one?

16 A When we were in court I -- I do remember seeing it.
17 Uh-huh. (Affirmative).

18 Q And you agree that that was your signature on there,
19 didn't you, ma'am?

20 A I did. Yeah, that's my signature. Uh-huh.
21 (Affirmative).

22 Q And nowhere on those signers is Mr. Nelson, is
23 there?

24 A Nope, it doesn't look like it. I do know though

1 that when I went to go try to get --

2 Q Ma'am, there's no question before you. Ms. Nelson,
3 how about we go to -- to 36. And now we're right in the line
4 of where we were talking before. Do you see Exhibit 36 in the
5 Intervener's book?

6 A I do.

7 Q Okay.

8 A It's 4180 at the bottom?

9 Q Correct. Correct.

10 A Okay.

11 Q And do you see this was a distribution out of LSN
12 Trust to Lynita Nelson for a hundred thousand dollars? Do you
13 recall that?

14 A I see that.

15 Q Okay.

16 A I see -- do I recall what?

17 Q That's just Lynita -- the LSN Trust, not Eric L.
18 Nelson Trust, is that correct?

19 A Yeah.

20 Q So all these distributions were made out of your own
21 trust too, is that correct?

22 MR. DICKERSON: Object to the form of the question.
23 It's assuming distributions were made. I mean, those
24 documents mean nothing with respect to distributions actually

1 being made.

2 THE COURT: Right. He can say what it says on there
3 as far as all the arguments. We've gone through a lot of
4 those things on it, but is -- does that reflect a
5 distribution?

6 THE WITNESS: Well, it's a piece of paper that says
7 that.

8 THE COURT: Okay.

9 THE WITNESS: It -- I mean, that's all it says. I
10 didn't sign it, nobody ever talked to me about it.

11 BY MS. FORSBERG:

12 Q Ma'am, in --

13 A I mean --

14 Q -- 2000 -- or in 2002 were you at anywhere in odds
15 with -- with Ms. Martin? You were friendly with Ms. Martin in
16 2002 --

17 A I don't consider myself --

18 Q -- correct?

19 A -- at odds today with her.

20 Q But in 2002 you certainly were not, is that correct?

21 A Do you want to define at odds? Maybe we should
22 start there.

23 Q That would be good. That would be good. Do you
24 have any reason to believe that she would fill this out

1 distribution to you and not pay you back in 2002?

2 A Knowing what I know now, yes.

3 Q Let's go into the next exhibit in that book if we
4 could, 37'.

5 A Okay.

6 Q And this says a distribution to you of \$15,000 for
7 that month, do you see that?

8 A Yes.

9 Q Is this the ones that you recall receiving some
10 direct deposits from Mellon, the \$15,000 that you referenced
11 earlier?

12 A You know, I -- I couldn't tell you what year it is.
13 I -- I couldn't tell you what year the 15,000 started. I just
14 -- I'm sorry. I just don't remember. I -- I just was in
15 charge of so many other things that --

16 Q But do you agree at least this shows that it
17 actually would have come from LSN Trust, correct?

18 A This is a piece of paper that says --

19 Q Is that a yes or a no, ma'am?

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

21 MS. FORSBERG: It was a simple question. I asked
22 her if it references that it's from LSN Trust.

23 THE WITNESS: It's a piece of paper that says that.

24 BY MS. FORSBERG:

1 Q So it's a yes?

2 A I don't know. I would have to ask the Judge.

3 THE COURT: It's a -- we'll take it as a yes.

4 MS. FORSBERG: Thank you, Your Honor.

5 Q Ms. Nelson, can you turn to Number 48 in the
6 Intervener's book, please?

7 A Sure.

8 Q Okay.

9 A Okay.

10 Q I believe you testified that this was your signature
11 on this page, didn't you, ma'am?

12 A Well, I wouldn't be able to tell you that, but it
13 does -- now that I'm looking at it, it looks like my -- it
14 looks like my tail on my Y is missing a little bit. So it
15 looks like it's my signature, but I don't -- I'm not going to
16 say that it wasn't transcribed or copied or --

17 Q Okay. Ma'am --

18 A -- that on it.

19 Q -- just answer the question yes or no and we'll get
20 done a lot quicker.

21 THE COURT: Does it look like your signature? Do
22 you have reason --

23 MS. FORSBERG: I believe she said yes in a
24 roundabout way, Your Honor.

1 THE WITNESS: When I talked -- when I talked about
2 my signature before, I felt that some of my signatures
3 appeared to be my signature, but I -- I was concerned that
4 some of them were copied. And so I thin it's important for me
5 to state whether or not there's inconsistencies with them. So
6 just because that appears to be my signature, there are some
7 things that just don't look right with it. And I think it's
8 important for me to clarify that. I don't know if you -- do
9 you want me to do that, Judge, or --

10 THE COURT: Well, yeah, if you want.

11 MS. FORSBERG: Your Honor, I'm just asking yes or no
12 questions. It's pretty simple.

13 THE COURT: Well, she can if you asked --

14 THE WITNESS: Well, you asked if it was my
15 signature.

16 THE COURT: -- her if that's her signature and she's
17 saying it kind of looks like it but she has concerns about to
18 why or whatever it was, but --

19 THE WITNESS: Yeah. So if I say that it's my
20 signature, does that mean that I'm saying that I signed this?

21 THE COURT: No, you can just say basically if it
22 looks like your signature, that's fine. Whether you signed it
23 or not, that -- that some one else could have copied from
24 somewhere in that. So the admission that it's inaccurate

1 unless you remember signing it or you remember not signing it.

2 THE WITNESS: So it appears --

3 THE COURT: But it looks like your signature based
4 on some concerns about the Y, is that what --

5 THE WITNESS: It does, sir.

6 THE COURT: Okay.

7 BY MS. FORSBERG:

8 Q Ma'am, on this one, I show that it shows your
9 expenses not to exceed 20,000 per month including all personal
10 expenses paid by the trust until our next meeting, do you see
11 that?

12 A Let's see. Under -- that that was resolved?

13 Q Yes.

14 A So I guess there was supposedly an agreement.

15 Q Correct. Some discussion about it where -- where
16 Ms. Martin approved that payment to your -- to you, is that
17 correct? And didn't you just testify earlier ma'am, that you
18 did receive different amounts from 5,000 to 20,000, is that
19 correct?

20 A Well, yeah. Over the course of my marriage, yeah.
21 There was times where it didn't receive those amounts either.
22 I -- so yeah, what are you -- what are you asking me?

23 Q Is that a yes, ma'am?

24 A Do you want to ask me again?

1 Q I'll restate -- restate the question. Does this not
2 comport with what you said that at one point you made -- you
3 were getting 5,000 from your trust and then you were up to
4 \$20,000. Doesn't this comport with that?

5 A The 5,000 I told you I didn't know if it was from my
6 trust. I don't know when I started getting -- I mean, I don't
7 know where that 5,000 came from. I used to get two. I have
8 no idea where that money came from. How would I know that?

9 Q You were with Mr. Nelson when you guys set up these
10 trusts, weren't you?

11 A I went in the -- which trust are you talking about?

12 Q The 2001 trust of -- of the LSN Trust. You signed
13 those, right?

14 A I signed them.

15 Q Okay. Ma'am, during this divorce action, isn't it
16 true that you took a trip with your girlfriends to Cabo?

17 A I did.

18 Q And you paid for it, didn't you, ma'am?

19 A I paid for some portions of it.

20 Q What portions did you pay for it, ma'am?

21 A I paid for the hotel and one of the fights.

22 Q One of the fights meaning for all of your friends?

23 A Well, who's all of my friends?

24 Q You tell me, ma'am. How many -- how many girls

1 went?

2 A Two.

3 Q Two and you, is that correct?

4 A Uh-huh. (Affirmative).

5 Q Okay. And you paid for their flights, right, ma'am?

6 A I paid for -- yeah, one of their flights. So mine
7 and one of them.

8 Q And you paid for their hotels?

9 A We all stayed in the same room. I paid for the
10 hotel. Uh-huh. (Affirmative).

11 Q Okay. And -- and you paid for most of the food
12 while you were there?

13 A We took turns.

14 Q Let's turn to Mr. Bertsch's reports if you could.
15 Do you see those?

16 A Okay. Where do you want me to go?

17 Q Mr. Bertsch did an amendment to your report. And I
18 believe it's 17.

19 A Tab number 17?

20 Q Yes, Tab 17, please.

21 A Okay.

22 Q Mr. Bertsch talks about some unknown deposits for
23 \$576,000. And you had some cashier's check for that amount
24 that you had in your possession withholding, wasn't that

1 correct?

2 A I never had cashier's checks. I think I've gotten
3 two cashier's checks in the past six years and they are just
4 to pay taxes with.

5 Q So can you explain why these unknown deposits for
6 \$576,000 all of a sudden \$350,000 of them came back in?

7 A Where are you at? And I'll try to see if I can
8 remember.

9 Q It's 6742 is the page number under 17.

10 A 6742. There was one time where I was getting checks
11 from -- I'm trying to think if this might be it. There were
12 times where I was getting checks from like -- I don't want to
13 call it a draw, but like a monthly check from Schwab. And so
14 it could have even been from Mellon. What year does it say it
15 was?

16 Q Well, it shows that you redeposited them in 2011 --
17 or 2 --

18 A It wouldn't have been '11.

19 Q 2010 statement, 2011. Shows that you had some cash
20 -- some unknown amounts that were withdrawals that you had,
21 but then they got redeposited. Do you recall this, ma'am?

22 A Depo -- deposits. I think that that's just my -- I
23 think Larry had asked me about this and when my -- I have a
24 direct deposit from Schwab. So in '11 -- in -- oh, it says --

1 it says 2009 through 2011. It doesn't say '11, right?

2 Q But it shows something about 2011 provided a copy --
3 Lynita's bookkeeper provided a copy of --

4 A Oh, I -- I see. I see. Under Lynita's response?

5 Q Right.

6 A Yeah, the -- I don't -- I don't know. I thought
7 they kind of resolved this, but my draw -- or the amount that
8 I was getting each month from Schwab comes -- it appears on
9 the statement as that it's cash, you know, like when it's
10 direct --

11 Q To your bank account.

12 A -- deposited. Yeah.

13 Q Okay.

14 A And so I think I've never gotten a \$350,000 check.
15 So I think that's just a cumula -- cumulation of sometimes I
16 was getting 25,000. And then to cover my legal expenses I
17 requested 50. So that's probably just a cumulation of that --
18 either 25,000 or 50,000 that came in. I have -- I -- I have
19 -- I would -- I mean, you would have to look at my Schwab
20 statements and see I've never taken 350,000 out in a lump sum.
21 Where would I get that kind of money?

22 Q I'm asking you, ma'am. That's my question for you.

23 A Well, did you see it on my Schwab statements?

24 Q Ma'am, I'll ask the questions. But it looks like it

1 shows 350,000 unknown deposits is removed. It shows removed
2 on there, correct? Do you see that?

3 A Yeah, and I'm --

4 MR. DICKERSON: Excuse me. Objection. Removed
5 means taken off the spreadsheet. He's correcting --

6 MS. PROVOST: He's reconciled it.

7 MR. DICKERSON: -- his previous -- he's reconciling
8 the difference.

9 THE COURT: Yeah, it says deposits were as a result
10 of previously recorded cash withdrawals and unknown checks, so
11 --

12 BY MS. FORSBERG:

13 Q So the unknown deposits are 576,000 then.

14 MR. DICKERSON: Correct.

15 Q And you say those are from direct deposits from your
16 Schwab account?

17 A That's the only place I have money coming from.

18 Q Ma'am, during this divorce proceeding, you went to
19 the cabin and -- and pretty much stripped most of the things
20 out of there, isn't that correct?

21 A It's not. Sorry about the object.

22 Q So when did you go --

23 A I mean --

24 Q -- take a lot of furniture out of the cabin, ma'am?

1 A I never took a lot of -- a lot of furniture out of
2 the cabin.

3 Q So what did you take out of there, ma'am?

4 A I took some of the decorator items out and things
5 that I had picked out over a long number of years that meant
6 something to me. And --

7 Q So you took a U-Haul out there to do it, didn't you,
8 ma'am, or one of those rental trucks?

9 A I did. I took a U-Haul out. Uh-huh.
10 (Affirmative).

11 Q And when was that?

12 A I'm not sure. It's been a number of years.

13 Q Have you been back since then to the cabin?

14 A Since I took the things out?

15 Q Yes.

16 A No.

17 MS. FORSBERG: One second, Your Honor. We're almost
18 done, Your Honor. I'm just double checking some things.

19 Q Ms. Nelson, your answer and counterclaim is
20 requesting alimony from Mr. Nelson, is that correct?

21 A It is.

22 Q Let's go through Mr. Bertsch's report on Exhibit
23 Number -- under 10, under Tab 10 if I could.

24 A Okay. I'm there at the beginning.

1 Q Can you turn to 6918, please? Oh, no. Let's just
2 stay there on the 6915. That actually gives a summation of
3 that and we'll just short circuit that way if we could.

4 A The -- the -- my --

5 Q 6915.

6 A Oh.

7 Q Tab 10.

8 A I don't have a 6908 under that one.

9 Q 6915.

10 A Well, I heard that. I just didn't wanted to tell
11 you --

12 Q I said 18.

13 A -- I didn't have that.

14 Q It was 18, but that's okay. Go ahead.

15 MR. DICKERSON: 6918.

16 Q 6915.

17 A Oh. Okay. I'm there.

18 Q What does it show for the children payments that you
19 paid for for the three and a half years?

20 A The total children payments is \$58,452.93.

21 Q How about if you turn to --

22 MS. FORSBERG: Sorry, Your Honor. One second.

23 Q 11, please.

24 A Okay. You want me to go to 11?

1 Q Yeah. I want to compare your amount with Mr.
2 Nelson's amount if we could.
3 A Just if you could tell me the number of the page.
4 Q 6818.
5 A Okay.
6 Q Can you tell me what Mr. Nelson's children expenses
7 were for the total?
8 A Oh, just help me with this, will you?
9 Q On the first column.
10 A It's be -- it's underneath 11.
11 Q Yes.
12 A Is that right?
13 Q 11, Page 6818.
14 A Okay.
15 Q Can you tell me what the children expenses on his
16 were, please?
17 MR. DICKERSON: The document speaks for itself, Your
18 Honor. And the -- and the attachments to it --
19 MS. FORSBERG: I still have a question to go with
20 it, so --
21 MR. DICKERSON: And the attachments to it reflect
22 which children payments were formed.
23 THE COURT: Do you see -- overruled. This isn't --
24 do you see where he's asking?

1 THE WITNESS: Well, is it under --
2 THE COURT: Do you see it?
3 THE WITNESS: -- applications?
4 MS. FORSBERG: Yes.
5 THE COURT: Under applications, the one, two, three
6 -- the fifth one down.
7 THE WITNESS: Yeah.
8 BY MS. FORSBERG:
9 Q And how much does --
10 A So --
11 Q -- does Mr. Bertsch show Mr. Nelson paid for the
12 children's expenses?
13 A Let me see. Well, it says a hundred and thirty-nine
14 363, but I don't know if that's for minor children or the
15 adult children as well.
16 Q I am showing --
17 A Does mine --
18 Q -- on Page 6818 showing \$407,392. Do you see that?
19 A Oh, yeah. That's not the minor children I'll tell
20 you that.
21 Q I'm sure it's not, but is that what you see there?
22 A I see that, yeah, but it's not for Carli and Garret.
23 Q And that doesn't include -- and my question was that
24 doesn't include the health insurance, does it, ma'am?

1 A I -- how -- I don't know. How would I know that?
2 Q Perhaps looks down further. There's a health
3 insurance line further down.
4 A Okay. I see that.
5 Q Okay.
6 A But yeah, I think -- I think he breaks it out
7 separately as to which children it is, because he hasn't paid
8 for any of their health, that I've been paying for it, so --
9 Q Okay. Let's go to those if we could.
10 A Okay. Will you -- will you direct me where that is?
11 Q You bet.
12 A Okay.
13 Q If you can turn to 6828, we'll start there.
14 A 6828. Okay. I'm not there yet. Okay. I'm here.
15 Q Do you see that three inches up it says -- it starts
16 listing your children. Do you see that, ma'am?
17 A Hold on.
18 Q And this is 2009.
19 A Oh, from the bottom here. Okay. I do see that.
20 Q Okay. And which one are the minor children?
21 A Garret and then Carli.
22 Q And so for 2009, it's 14,000 on Carli and another
23 5,270 on Garret, is that correct?
24 A Hold on. Just a minute. Yeah, 14,000. Uh-huh.

1 (Affirmative). And then Garret is 5,000.
2 Q Correct.
3 A Uh-huh. (Affirmative).
4 Q And that's for 2009, would you agree, that that
5 particular page is 2009?
6 A Yeah, that's what it says. That's when she was
7 attending Las Vegas day school as well.
8 Q How about turn to Page 6832.
9 A 6832. Oh, it goes to 30.
10 Q 6832? Keep going.
11 A So Exhibit -- it goes to --
12 Q Still on Exhibit 11.
13 A -- Exhibit C-2.
14 Q Still Tab 11.
15 A Yeah. Okay. So now we're in 2010. Okay.
16 Q And would you agree that it shows \$9,850 for Carli?
17 A It does.
18 Q And it shows 29,539 for Garret?
19 A It does. It must have been the year he got his car.
20 Q Can you turn to Page 6836, please?
21 A Okay. I'm there.
22 Q And would you agree that for Carli he paid 8,630?
23 A Yes.
24 Q And for Garret he paid 4,427.95?

1 A Yes, ma'am.

2 Q And isn't it true -- we just discussed already
3 though that doesn't include the health insurance that he's
4 providing for you or other children, does it, ma'am?

5 A Yeah, it appeared that it didn't.

6 MS. FORSBERG: No further questions, Your Honor.

7 MR. DICKERSON: Your Honor, I'm going to try to as
8 best I can limit my -- my cross examination to just the --
9 just the testimony on direct.

10 CROSS EXAMINATION

11 BY MR. DICKERSON:

12 Q Starting with the last issue there, Ms. Nelson, tell
13 the Court how much you have received from Eric Nelson in the
14 form of child support since the inception of this case.

15 A Child support. I haven't received anything.

16 Q So now you had primary physical custody of your
17 children since the time the two of you separated, is that
18 correct?

19 A I have.

20 Q In fact, you have an order in this case with
21 parenting which you have been awarded primary physical
22 custody, is that correct?

23 A Yes, sir.

24 Q Is it your testimony that you have not received one

1 dime in child support from Eric Nelson?

2 A I have not.

3 Q Now reference was made to your Schwab account and we
4 only have the statements in here for 2000 --
5 MS. PROVOST: '09 and '10.

6 Q 2009 and 2010. Would you tell the Court what
7 current balance is in your Charles Schwab account?

8 A It's just a little over \$200,000.

9 Q Now in addition to your Charles Schwab account, what
10 other accounts do you have held in your name or in the name of
11 the LSN trust?

12 A I have an account at Silver State Credit Union and
13 then I have an account at Credit Union 1.

14 Q Okay. Silver State Credit Union. How much do you
15 have in that account at the present time?

16 A Specifically I don't remember. I can --

17 Q The approximate amount within a hundred dollars, can
18 you do that?

19 A I have it written down. I don't know that I
20 remember. A couple thousand. It's over there by my water
21 bottle.

22 Q It's approximately \$2,000?

23 A Yeah.

24 Q Okay. And how much do you have in -- what was the

1 other account?

2 A Credit Union 1.

3 Q And how much do you have in that account?

4 A About \$55,000.

5 Q Okay. Now you say that you have notes written down.

6 Would it refresh your recollection to look at those notes?

7 A Yes.

8 Q Where are those notes?

9 A Just right there at the -- yeah.

10 Q Those are the notes you're referring to?

11 A Yes.

12 Q So the -- to refresh your recollection as to how

13 much you have deposited the -- as of today in the Charles

14 Schwab account?

15 MS. FORSBERG: Your Honor, if I can see the notes to

16 know what she's referring to.

17 THE COURT: Want to go up there and grab them? I --

18 should have shown them to you before he gave it to --

19 MS. FORSBERG: Your Honor, they appear to be

20 statements that just never been produced to us.

21 MR. DICKERSON: Well, all the statements have been

22 produced to you.

23 MS. FORSBERG: I haven't put all those ones --

24

1 MR. DICKERSON: But all -- see, these are -- these
2 are not statements that reflect the amount. These are --

3 THE COURT: So you can use that to refresh memory.

4 THE WITNESS: I -- I'm sorry.

5 THE COURT: But does that refresh your memory of
6 reading those?

7 THE WITNESS: It -- it does. Uh-huh.

8 (Affirmative). I just actually called today on the phone for
9 a couple of them. So I wrote them down on here.

10 BY MR. DICKERSON:

11 Q What is the current balance on the Charles Schwab
12 account?

13 A 200,000, 16 --

14 Q 200,000 --

15 A 16,702.90.

16 Q How much is in the Silver State Credit Union
17 account?

18 A Silver State is -- I just have -- I didn't -- oh,
19 1,888.96.

20 Q And how much is in --

21 A That includes like the \$5. You have to leave \$5 in
22 there. I know that includes that too, but --

23 Q And how much is in the Credit Union 1 account?

24 A Credit Union 1 -- I don't know if that -- let's see.

1 Is approximately \$56,000.

2 Q So by my calculations, you're --

3 A But I have some bills that are on my credit --

4 Q I haven't asked that --

5 A Oh.

6 Q -- question yet.

7 A Oh.

8 Q Okay. I haven't --

9 A Sorry.

10 Q Okay. Let me do what you pay me for, okay? Okay.

11 13 -- I have that you have approximately then just a little --
12 about 273, 275,000 of your monies left?

13 A Yes.

14 Q And is that the monies that are left from the
15 deposit of the \$2,000,000 into your Mellon account that we've
16 referenced here after the second installment payment for the
17 sale of Tierra Del Sol?

18 A Yes, sir.

19 Q Now how have you been living since the inception of
20 this case?

21 A From that money from the Mellon account.

22 Q Has -- other than what Mr. Bertsch represents here
23 and we'll go through those with respect to monies that you
24 have received directly or indirectly from Eric, have you

1 received any of the monies?

2 A No.

3 Q Now you indicated that you presently have some

4 outstanding bills that need to be paid from that roughly

5 \$273,000.

6 A I do.

7 Q What are those?

8 A \$58,000.

9 Q And what are those -- what are those bills for?

10 A Legal expenses.

11 Q Is that legal expenses related -- is that --

12 A It -- I'm sorry?

13 Q Is that to my firm?

14 A Some of them are to you, some of them are to Mr.

15 Leauanae. Some is to Mrs. Antanassio's office.

16 Q Do you know how that is broken down? You received

17 my latest bill. I don't think you --

18 A I know that there's more.

19 Q Okay. So --

20 A It's -- that's just what I have on my credit cards

21 right now that I have to pay off.

22 Q And that's what -- what you have to pay off on your

23 credit cards.

24 A Yeah.

1 Q Correct. So those are amounts that you charged on
2 your credit card that you have to pay off.

3 A Yeah.

4 Q But there are still outstanding balances and -- and
5 legal fees that are -- is that correct?

6 A Yeah, I -- I --

7 Q So if what you're telling us, you have a credit card
8 statement of \$58,000 that needs to be paid off?

9 A Yes.

10 Q So then you've roughly got approximately \$215,000
11 available to you after you pay those monies, is that right?

12 A Yes.

13 Q Now then if you take a look at -- if you take a look
14 at Exhibit 241.

15 A Oh.

16 Q And if you'll also take a look at Mr. Bertsch's
17 report, do you have Mr. Bertsch's report up there?

18 A I do, sir.

19 Q It is the Bates Stamp Number -- I believe this is
20 the number -- Bates Stamp Number 6657. That's under Tab 3.

21 A They're in order, I think. Uh-huh. (Affirmative).

22 MS. PROVOST: 657?

23 THE COURT: 6657.

24 A Yeah, I don't know where that is.

1 MS. PROVOST: What is it part of?
2 MR. DICKERSON: I think it's another one.
3 MS. PROVOST: Yeah.
4 MR. DICKERSON: I think it's Tab 1.
5 MS. PROVOST: It is.
6 MR. DICKERSON: Yes, it is. Under Tab 1.
7 THE WITNESS: Oh.
8 MR. DICKERSON: Bates Stamp 6657?
9 MS. FORSBERG: Are we under Mr. Bertsch's report,
10 counsel? Sorry.
11 MR. DICKERSON: Under Bertsch's, I'm -- I'm looking
12 at --
13 MS. FORSBERG: I lost the --
14 MR. DICKERSON: -- Bertsch's, that page, and then
15 also your Exhibit 241.
16 THE WITNESS: Okay. You said 6657, correct? .
17 MR. DICKERSON: Yes, ma'am. Yes.
18 THE COURT: Okay.
19 THE WITNESS: And then you want me at 241.
20 MR. DICKERSON: Right.
21 THE WITNESS: Okay. I'm there.
22 BY MR. DICKERSON:
23 Q Now if you can compare those two, if you take a look
24 at where it says approximate cash, Mr. Bertsch has \$1,071,035

1 as of March 31st of 2011. I'll -- approximately --
2 approximately a year and a half ago. Is that an accurate
3 amount that was undeposited at that time?

4 A That's from 241?

5 Q Yes.

6 A Yes, sir.

7 Q Okay. Well, actually, what was from Mr. Bertsch's
8 6657.

9 A Yes.

10 Q Correct?

11 A Yes.

12 Q And then you see what Mr. Nelson has done as he
13 simply transposed that amount over on his Exhibit 241, is that
14 correct?

15 A Yes.

16 Q So in light of your testimony here today, is it your
17 position that the approximate cash that you have available to
18 you after the payment of that credit card is roughly \$215,000?

19 A It would be about that, yes.

20 Q Now take a look at Mr. Bertsch's report. Do you
21 have that in front of you?

22 A I think this is his book right here. Yes.

23 Q Turn to -- under Tab 10.

24 A Okay.

1 Q And if you'll turn to the summary page which is
2 6915.

3 A Okay. I'm there.

4 Q All right. Now we see then what Mr. Bertsch is
5 summarizing that he has each year following this showing that
6 under sale of investments.

7 A Okay.

8 Q 1 -- \$1,828.534.65. Do you know what that number
9 represents?

10 A I don't.

11 Q Does that number represent --

12 MS. FORSBERG: Your Honor, objection. Leading.

13 BY MR. DICKERSON:

14 Q Do you know where that -- do you know what the --
15 what he is referring to by sale of investments?

16 MS. FORSBERG: Asked and answered.

17 THE COURT: Overruled. Do you know what the --

18 THE WITNESS: Well, from my -- I -- that -- this is
19 my -- this my thing.

20 BY MR. DICKERSON:

21 Q This is yours.

22 A Yeah. So that would be from my Mellon account.

23 Q Okay. So let's take a look by your --

24 A Or my Schwab, I'm sorry.

1 Q Let's go -- let's go back and let's take a look.
2 Let's start with this first where it has -- sets everything
3 else. That's on 6918. This is for the year 2011. Take a
4 look under income, the third item down says sale of
5 investments.

6 A Yes, sir.

7 Q Okay. So you notice that you took \$50,000 in
8 January, \$50,000 in March, April, May, June and July. And
9 then you took \$25,000 in August and September, took just short
10 of 30,000 in October, another 50 in both November and
11 December. Where -- where is that money coming from?

12 A Schwab, my -- my investment account.

13 Q And what were you using that money for?

14 A To live on and to pay my expenses for the -- this
15 divorce.

16 Q Now with respect to the children expenses, who is
17 paying -- which -- which one of your child goes to private
18 school?

19 A Carli.

20 Q Carli. Who's paying Carli's tuition?

21 A Now or before?

22 Q Well, let's start -- tell me what is the history of
23 Carli's tuition. Before this divorce action started, how was
24 Carli's tuition being paid?

1 A She was -- I believe Garret was there as well and
2 that was paid from the office, from Eric's office.

3 Q Okay. And that -- that was for the Las Vegas Day
4 School?

5 A It was.

6 Q And then Carli's still attending Las Vegas Day
7 School?

8 A She's not. She's graduated and yeah.

9 Q And Garret, is he attending private school now?

10 A He's not, but Carli's -- Carli's going to private
11 school in just a week.

12 Q Oh, you mean to college.

13 A No. And she's going to high school.

14 Q Oh, yeah, I --

15 A Carli's going to high school.

16 Q Sorry. So she is -- Carli's going to where, Faith
17 Lutheran?

18 A Yes.

19 Q And there is a tuition then?

20 A There is, sir. Uh-huh. (Affirmative).

21 Q Where did she go last year?

22 A Las Vegas Day School.

23 Q Who paid tuition for Las Vegas Day School last year?

24 A The Judge ordered Eric to pay last year.

1 Q How about the previous year?

2 A I paid it.

3 Q And how about this year? What has been -- has the

4 tuition for Faith Lutheran been paid for Carli?

5 A August was paid. And I paid for that.

6 Q And so at this point in time as we sit here today,

7 only one month of tuition has been paid for Carli?

8 A Yes, there was actually a cost prior to that. And

9 Eric and I split that cost and then I -- I don't remember, but

10 it was like just enrollment fees or something?

11 Q Do you know how much that was?

12 A I think we paid about \$259 each or 257, I think

13 Q And what was the tuition that you just paid for the

14 one month?

15 A 970. It's \$970 a month for 10 months, I believe.

16 Q And have you asked Eric to pay that?

17 A I have not.

18 Q Is it your desire that Eric pay that tuition?

19 A It is.

20 Q Now if we can go then to Mr. -- back to Mr.

21 Bertsch's report, we see the -- if you go over to 6920.

22 That's for the -- we -- 2012. So this is the first three and

23 a half months of 2012 we see once again sale of investments

24 you're withdrawing \$50,000 a month from -- from which account?

1 A My Schwab account.

2 Q And again, that's the same purpose for living
3 expenses?

4 A It is, sir. Yes. I --

5 Q And if we take a look at Bates Number 6593. This is
6 for the year 2009, is that correct? Do you see under sale of
7 investments?

8 A Well, I -- you said on --

9 Q 6593.

10 A 6593. What tab is that under?

11 Q The same -- just move back from --

12 MS. PROVOST: We're in 10.

13 Q -- Tab 10. Move back from where we were, 593. Do
14 you see it?

15 A Hold on. Oh, I'm just a little confused. 69?

16 Q 6593.

17 A Under Tab 10?

18 Q It's just a couple pages back from the last one we
19 were looking at.

20 A Oh, just -- hold on. Oh, okay. Hold on. 659. I
21 think it's ahead, but hold on. Okay. I'm there. I'm sorry.

22 Q Now this is now for 2009 showing the sale of
23 investments. The total that year \$317,604.65.

24 A Yes, sir.

1 Q Correct?

2 A Yes, sir.

3 Q Again, where is this money coming from?

4 A From my Schwab account.

5 Q Now do you recall -- this divorce action was filed

6 in 2009, correct?

7 A It was.

8 Q Do you recall when it was filed?

9 A I think it was filed in March or May. I'm not for

10 sure.

11 Q Take a look at -- moving to 2010. If you'll look at

12 Bates Number 6595.

13 A Okay. I'm there.

14 Q Okay. So this then shows during the entire year

15 2010 the amount of money that you were withdrawing, is that

16 correct?

17 A Yes, sir.

18 Q And so you took a total of 876,000?

19 A Yes.

20 MS. FORSBERG: Bob, can you tell me what tab -- what

21 page you're on? I'm sorry.

22 MR. DICKERSON: Yeah, 6595.

23 MS. FORSBERG: Thank you.

24 Q These are monies then coming from your -- your

1 Schwab account?

2 A Yes.

3 Q Okay. Now there's some significant amounts out of
4 there. Is this how you're also paying your legal fees?

5 A It is.

6 Q Now Lynita, if we -- now if I can direct you to Mr.
7 Bertsch's report to the similar summary sheet that Mr. Bertsch
8 prepared for Eric's expenditures. And that is at 6818. Do
9 you see that?

10 THE COURT: It's Tab 11.

11 A It's behind 11?

12 Q Tab 11, yes.

13 THE COURT: Tab 11.

14 A Okay. Thank you. Remind me again, 6818?

15 Q 6818.

16 A Okay.

17 Q Now if you'll look down --

18 A Oh, wait. Wait. I'm not --

19 Q Okay.

20 A Okay. Okay. Okay. I'm there.

21 Q And I believe you saw this earlier. If you look
22 down the reference to you, we see that over this period from
23 2009 through -- through the first three and a half months of
24 2012 Eric gave you just short of \$90,000, \$89,517. Do you see

1 that?

2 A I do.

3 Q And we see the vast majority of that was in the year
4 2009.

5 A I do, yes.

6 Q So if we -- do you -- let's go to the reports that
7 are in the back. We see then for 2009 looking at that same
8 category for you.

9 A Yes.

10 Q We see the 65,000. Do you know -- do you see these
11 payments that are made -- again, this divorce action you
12 believe was filed in -- in May or -- the May time frame or
13 whatever, is that correct?

14 A I wish I knew. I just don't know. June or
15 something.

16 Q My recollection it was May 6th, but I could be
17 mistaken. It may be June 6th, but --

18 A Okay.

19 Q All right. So do you know what these payments are
20 that you're receiving each month?

21 A Like we're on 6818?

22 Q Yeah, let's take for month -- for example, the month
23 of January that you received \$8,225.79. Do you know what that
24 was for?

1 A I think I'm on -- I'm looking at the wrong thing.
2 Q Take a look at Bates Number 6820. Are you there?
3 Okay. And you see about -- down towards the bottom of the
4 page where it says Lynita Nelson?
5 A I do.
6 Q And do you see the number where it says the total
7 for 2009, 65,505.94?
8 A Yes. I was on the wrong one.
9 Q Okay.
10 A Okay.
11 Q That's all right. Now do you know what these
12 payment -- these monthly payments that you're receiving what
13 they're for?
14 A Oh, it's -- it's really interesting. I -- I don't.
15 Q Okay. How about --
16 A I don't know.
17 Q How about if we move over to Bates Number 6822 which
18 is for the year 2010?
19 A Okay.
20 Q Now we see during that year 2010 during when this
21 case was proceeding before this Court you received a grand
22 total of \$13,003.58 from Eric.
23 A Yes.
24 Q Do you know what these payments are for? Do you

1 know what for example that \$2300 in January, what's that for?
2 A I have no clue. I -- I do need to tell you that at
3 -- at some point and I think it was in '08 but it could have
4 been in '09, I -- I would -- like Carli got braces and there
5 were some things like that. And sometimes I would put the
6 bills together and give them to him. And sometimes he would
7 give me money for it and sometimes he wouldn't. But that
8 wasn't happening in 2010 because it just -- it was just -- he
9 just wasn't going to pay it, so --
10 Q Well, do --
11 A -- I had no clue what 2010 what -- what that \$2300
12 would have been for.
13 Q Do you know if these are payments being made
14 directly to you or to somebody else or some entity on your
15 behalf, do you know that?
16 A I know that I have -- yeah, I never got a check
17 directly. The only check -- yeah, I'm not -- I don't know.
18 Q Well, have you received any checks from Eric -- now
19 you mentioned some possible reimbursements, but did you
20 receive monthly checks from Eric --
21 A No.
22 Q -- or check --
23 A I didn't.
24 Q Do you recall ever receiving a \$2300 check from Eric

1 in January of 2010?

2 A No.

3 Q Do you know what these amounts down towards the end
4 for September, November and December of \$1,002.72 for each of
5 those month? Do you know what that is for?

6 A I have no clue.

7 Q Do you see that the month of July is double that
8 amount?

9 A I do.

10 Q Do you know if Eric was paying your medical
11 insurance?

12 A He was supposed to have been, yes.

13 Q On a point in time that he cut you off from your
14 medical insurance.

15 A He did. Not just me.

16 Q The whole family?

17 A Uh-huh. (Affirmative).

18 Q Okay. And when did that occur?

19 A I believe the paperwork said that it was done --
20 payments weren't being made I believe either from December or
21 January of this year. And so on May the 4th it was -- I --
22 none of us had insurance.

23 Q And what did you do?

24 A Oh, I didn't know on the 4th. I didn't know until

1 the 6th that we didn't have insurance.

2 Q And what did you at that point?

3 A What did I do?

4 Q Did you get substitute insurance?

5 A I did not.

6 Q Are you insured today?

7 A I am.

8 Q And how are you insured today?

9 A Eric is paying -- or he's -- they -- I was told by

10 the insurance company that the insurance was being -- was

11 reinstated.

12 Q All right. If you take a look at Bates Stamp Number

13 6824.

14 A Yes.

15 Q Those appear to be for the year 2011. And again, if

16 you go to that category for Lynita Nelson, you see that during

17 2011 you received a total of \$10,763.60 from Eric.

18 A Yeah. Uh-huh. (Affirmative).

19 Q Do you know what these amounts are for? Again, we

20 see the first two months of \$1,002.72. Did you receive checks

21 from him for that amount?

22 A I did not.

23 Q How about the month -- the -- the next month?

24 \$3,008.16? Do you know what that is for?

1 A I don't know.

2 Q Okay. Did you receive a check?

3 A No, I did not.

4 Q Now we see -- we see that you go all the way until
5 July 11th.

6 A Yes, sir.

7 Q I mean, June of 2000 -- there's a \$5,000. You did
8 receive that check, did you not?

9 A I did.

10 Q And that was for what?

11 A It was for payment of attorney's fees on a
12 particular legal matter that we had to bring to Court. And he
13 was instructed to pay your office. And instead he paid it to
14 me.

15 Q Okay. And then we see that in October of 2011 he --
16 \$750. Do you know what that is?

17 A I think that is probably a reimbursement for the
18 children's counseling.

19 Q And then if we can go to Bates Stamp Number 6826
20 which is for the first three and a half months apparently of
21 2012.

22 A Yes, sir.

23 Q If you go down to your category, Lynita Nelson, we
24 see that the only payment that you have received earning --

1 the thing relating to Eric giving to you or for your benefit
2 is \$244 in February of this year, is that correct?

3 A Yes.

4 Q Did you receive a check from Eric for \$244?

5 A I have not.

6 Q Do you know what that is for?

7 A I do not.

8 MR. DICKERSON: If I may have Exhibit quadruple S.

9 Q Lynita, I'm showing you what's been admitted into
10 evidence as Exhibit four Ses.

11 A Okay.

12 Q Now this is a copy of your 2006 tax return, is that
13 correct?

14 A Yes.

15 Q And this --

16 A Okay.

17 Q -- tax return was prepared by Steven G. Holderman.

18 A Did -- did you say 2006?

19 Q 2006, yes.

20 A Because of this -- okay. Oh, these are vouchers.
21 Okay. All right.

22 Q Take a look at the first page. You probably need to
23 move back a few pages. Preliminary pages. But do you see the
24 first pages of your return?

1 A Yes. Oh, well --
2 Q Let me help you. It's the one that has 1040 written
3 on the top.
4 A Might as well be in Japanese.
5 Q All right. The first page of your return. Now this
6 --
7 A Okay.
8 Q -- this is the return you referenced towards what's
9 prepared by Steven Holderman, is that correct?
10 A Yes.
11 Q And who is Mr. Holderman?
12 A He is our tax accountant that Eric used.
13 Q Now had you ever met Mr. Holderman before he
14 prepared this return?
15 A This one? No.
16 Q Yes. Did you retain or hire Mr. Holderman to
17 prepare this return for you?
18 A No.
19 Q Now Mr. Holderman on this return on Line Item 13
20 shows a capital gain of \$3,23 -- 234,441, correct?
21 A Yes.
22 Q Do you know what that relates to?
23 A I don't.
24 Q Take a look, ma'am, back. There is a form 6252

1 related to the same Tierra Del Sol property.

2 MS. FORSBERG: Your Honor, leading. I mean, I let
3 her go further, but now he keeps going onto that. He said she
4 didn't know what it was for.

5 THE COURT: Well, we'll go through the document and
6 she was going to be a backup for it. They have to put the
7 documentation on the tax form.

8 MS. FORSBERG: Your Honor, Mr. -- Mr. Nelson's going
9 to just --

10 MR. NELSON: Go to the bathroom.

11 THE COURT: Sure.

12 MS. FORSBERG: I'll be okay with that. Can't keep
13 him dancing in the seat.

14 MR. DICKERSON: All right. Your Honor, do you see
15 the -- the form --

16 MS. FORSBERG: What page are we on?

17 MR. DICKERSON: -- 6252 for Tierra Del Sol?

18 BY MR. DICKERSON:

19 Q Do you see that, Ms. Nelson?

20 A I do.

21 Q That reflects a capital gain from the sale of Tierra
22 Del Sol, your interest in Tierra Del Sol for a total
23 installment sale. That shows the total installment sale.
24 It's just short of 3.5 million dollars, is that correct?

1 A It does.

2 Q Now this is the transaction we have heard quite a
3 bit about and I think even Mr. Gerety confirmed. You did not
4 receive that entire amount, did you?

5 A I didn't.

6 Q That's the \$2,000,000 that was used to start your
7 own account?

8 A That's what I was told.

9 Q So it's true then from your understanding you only
10 received \$2,000,000 of that.

11 A Yes.

12 Q Yet, the entire amount is reflected on your return.

13 A Yes.

14 MR. DICKERSON: I have nothing further, Your Honor.

15 **REDIRECT EXAMINATION**

16 BY MS. FORSBERG:

17 Q Ms. Nelson, you testified that you received -- that
18 the children received no support from Eric Nelson, is that
19 correct? During the pendency of this action?

20 A I haven't received money from Eric --

21 Q Is that a yes or a no?

22 MR. DICKERSON: That -- well, she mischaracterizes
23 her testimony. Then I object to the form of the question.
24 Mischaracterizes her testimony.

1 THE COURT: I think her answer -- question what she
2 said haven't received a dime in child support from Mr. Nelson
3 I think what her testimony was.

4 THE WITNESS: I have not received any child support.

5 THE COURT: Okay.

6 BY MS. FORSBERG:

7 Q Do you think the only way -- do you believe that the
8 only way that Mr. Nelson can provide child support is by
9 giving you a check, ma'am?

10 A That's how I understand how it happens.

11 Q During a divorce action, do you -- do you believe he
12 could actually pay their expenses and some of their -- their
13 needs and take care of it that way?

14 A Not child -- not substantially, no.

15 Q Isn't it correct ma'am that he's paid over --

16 A He doesn't know what the expenses are.

17 Q Ma'am, isn't it correct that he's paid over \$70,000
18 when you add in the -- the health insurance for the children?

19 A I don't know. I would have -- I wasn't totaling net
20 up here.

21 Q Ma'am, Mr. Dickerson asked you regarding Mr.
22 Leauanae's bills and the \$56,000 that you have outstanding.
23 Do you recall those questions?

24 A Yeah, did I say 56? Because I think it's 58.

1 Q 58,000. So you're saying that's what you have
2 outstanding for your professionals, correct?

3 A No, that's just what I have on my credit cards right
4 now. I have other outstanding bills that I haven't even --

5 Q You specifically referenced Mr. Leauanae. Do you
6 recall that?

7 A Specifically?

8 Q That he specifically reference Mr. Leauanae.

9 A I said Leauanae and Ms. Antanassio.

10 Q Okay. But they haven't testified at this case, have
11 they, ma'am?

12 A They haven't been here, no. I think we took
13 depositions, but I don't think they testified.

14 Q But didn't you hire Mr. Leauanae because you
15 believed there was hidden assets somewhere?

16 MR. DICKERSON: Object to the form of the question,
17 Your Honor. She didn't hire Mr. Leauanae. He was working and
18 consulting with me. And there's a vast number of things of
19 what we had --

20 THE COURT: Okay. Want to restate the question on
21 that? I'm not sure if she had a contract with him or if he
22 was hired through the law firm or --

23 BY MS. FORSBERG:

24 Q Ms. Nelson, did you or -- or Mr. Dickerson's office

1 hired Mr. Leauanae?

2 A Mr. Dickerson brought him in.

3 Q And do you know why he brought him in?

4 A Somewhat.

5 Q Isn't it true ma'am that your deposition that you

6 testified that you brought him in to find fraud?

7 A I didn't say that. I didn't say fraud. I -- I

8 don't use that word really.

9 Q Oh, hidden assets. I'm sorry. You're correct. You

10 said hidden assets.

11 A I don't know. Maybe you can show me my -- my --

12 show it to me and I'll see.

13 Q Roughly how much did you pay Mr. Leauanae?

14 A I have no idea.

15 Q Let's go through Mr. Bertsch's report if we could.

16 A What number?

17 Q Tab 10, please.

18 A Okay. I should know that, huh?

19 Q That's okay. There's so many tabs it gets a little

20 confusing.

21 A I -- I keep thinking maybe another one will come up.

22 Q Mr. Leauanae is an Anthem Forensics, is that

23 correct?

24 A That's the name of his company, yes.

1 Q Do you know how much of this outstanding \$58,000 you
2 owe to Mr. Leauanae?

3 A Well, that includes on my credit card. So I believe
4 the last bill that I -- oh, I don't know if I put him on a
5 credit card or I paid a check. I believe the last payment to
6 him was approximately \$7,000.

7 Q So 71,699 plus you're thinking another \$7,000, is
8 that correct?

9 A Yes.

10 Q Okay. And from that, have we been presented any
11 documents that show any hidden assets from Mr. Nelson --

12 MR. DICKERSON: Object to the question.

13 Q -- or Mr. Leauanae?

14 MR. DICKERSON: Object to the form of the question,
15 Your Honor.

16 THE COURT: Can -- can you answer that? I don't
17 know if they -- they know what it means.

18 MR. DICKERSON: Hidden assets? I mean, does she --

19 THE WITNESS: I don't --

20 MR. DICKERSON: -- really want to go there? I mean,
21 if she really wants to go there, we will go there.

22 MS. FORSBERG: I asked her --

23 MR. DICKERSON: We have --

24 MS. FORSBERG: -- if there's been anything --

1 MR. DICKERSON: We --
2 MS. FORSBERG: -- presented, Your Honor.
3 MR. DICKERSON: We had determined we --
4 THE WITNESS: Can she ask it again?
5 THE COURT: If you feel you can -- yeah.
6 THE WITNESS: Yeah. I don't --
7 THE COURT: If you can answer it if you feel you
8 can.
9 THE WITNESS: I kind of forgot what it was.
10 BY MS. FORSBERG:
11 Q Have you presented this court with anything that
12 would justify spending \$80,000 for that kind of a bill?
13 MS. FORSBERG: Change of question, so I'll make it
14 simpler, Your Honor.
15 A You're asking me if the money that's been paid to
16 Mr. Leauanae is worth \$80,000?
17 Q Yes. Did you present anything --
18 A Necessary or --
19 Q Yes.
20 A I have become aware --
21 Q Is that a yes or a no question? It's a yes or no
22 answer, ma'am.
23 A Whether it's presented, I don't know. But I have
24 obtained --

1 MS. FORSBERG: Then you have answered the question.

2 A -- a lot of information --

3 MS. FORSBERG: Your Honor, I ask to strike --

4 A -- for Mr. Leauanae.

5 MS. FORSBERG: -- the rest of them thereafter she
6 said she doesn't know.

7 THE COURT: Do you feel you got services rendered
8 for the 71,699.50?

9 THE WITNESS: Absolutely.

10 BY MS. FORSBERG:

11 Q And you also said the other question you have
12 outstanding besides Mr. Dickerson who I believe said his bill
13 wasn't there or something to that effect yet or --

14 MR. DICKERSON: But she -- but she also --

15 Q -- hasn't --

16 MR. DICKERSON: -- hadn't received my July bill.

17 MS. FORSBERG: Right. So if you'll --

18 MR. DICKERSON: Probably because this is fair to
19 send it to her.

20 Q You also said you have a big part of the payment to
21 Ms. Antanassio, correct? I'm sure I butchered her name, so I
22 apologize for the record.

23 A Do I have an outstanding bill?

24 Q Yeah.

1 A I have -- I have a credit card that needs to be paid
2 off from some of her billing.

3 Q Okay. And she charged you on this statement from
4 the -- Mr. Bertsch 91,730, correct?

5 A Well, I -- well, will you tell me -- I -- I got to
6 10 --

7 Q Tab 10.

8 A -- but I didn't know what --

9 Q 6916.

10 A Okay. This is helpful. Thank you.

11 Q Do you know how much of this additional 58,000 is
12 for Ms. Antanassio?

13 A Ask me -- how much more additional --

14 Q You said --

15 A -- there is?

16 Q -- \$58,000 and you said part of it was made up for
17 Mr. Leauanae's and Ms. Antanassio's.

18 A Oh, I don't -- I don't recall.

19 Q Ms. Antanassio is not testifying here today either,
20 is she?

21 A Not to my knowledge.

22 Q Or in this trial so far yet, correct?

23 A No.

24 MR. DICKERSON: No, but she had -- her deposition

1 was taken.

2 Q Ma'am, in -- Mr. Dickerson went over 2009 under Tab
3 10, Page -- Bates Number -- looking for the 2009 one. I
4 believe that's Page 6593. Do you remember us going through
5 that one? Mr. Dickerson went over this \$317,604 that you --

6 A Oh, can you hold on just til I get there? Okay.
7 6593.

8 Q Correct.

9 A And what are you referring to? I'm sorry.

10 Q Still an investment. Do you see that line? Mr.
11 Dickerson went over that --

12 A Oh, yes, ma'am.

13 Q -- quite at length.

14 A Yes. Uh-huh. (Affirmative).

15 Q The total for 2009 was 317,604, is that correct?

16 A That's what it says on the report. Uh-huh.

17 (Affirmative).

18 Q Can you turn to Exhibit Number -- so if we can
19 remember that number, that 314,000.

20 A I'll keep my finger there.

21 MR. DICKERSON: 17.

22 MS. FORSBERG: 317.

23 A Okay.

24 MS. FORSBERG: Great. Thanks, Bob.

1 MR. DICKERSON: Those are 318.

2 THE WITNESS: Because I won't remember it, I'm sure.

3 Q If you get to -- in our exhibit book, the 2 -- 239 I
4 believe it was. Let me look. 239. The starting of your
5 Schwab account for 239 was \$1,834,477, do you agree?

6 A Yeah, when it came to Schwab?

7 Q Right.

8 A Okay.

9 Q Okay. You said all those amounts were taken from
10 Schwab, right?

11 A The -- yeah, your paper that you prepared came from
12 the change in value of investments.

13 Q But that -- that one on Mr. Bertsch's report on Tab
14 10, the roughly 3 -- the 318,000 if we round about what Mr.
15 Dickerson suggested came from the Schwab account, correct?

16 A That's --

17 Q That's what you just testified to, is that right?

18 A Yes, ma'am.

19 Q Okay. If you look at the last -- the very last
20 statement in Section 239, Exhibit 239 where it's got December
21 to December 31st.

22 A Oh, wait. You lost me. The last Exhibit 239?

23 Q In 239, the last month. Do you remember you went
24 through each month? We're to December. So can you go to

1 December? You started with 800 -- 1,834,000 --
2 A I -- I don't know what you want me to be looking at,
3 my Schwab account or --
4 Q Your Schwab account.
5 A Okay. So you want me to be in January?
6 Q You saw January 1,834,477 was your starting balance.
7 Do you see that?
8 A Yes, ma'am.
9 Q Okay. So that's what you had there to begin with,
10 correct?
11 A That's what it says.
12 Q Okay. Can you turn to December 31st, 2009
13 statement?
14 A Sure.
15 Q It's the last little section in 239. The last few
16 --
17 A Oh, okay.
18 Q -- five or six pages.
19 A Okay. Yeah. And you want the --
20 Q Ending balance. What was your ending balance?
21 A 1,844,969.20.
22 Q So even though you took out that \$318,000, your
23 balance actually went up about \$10,000, wouldn't you agree?
24 MR. DICKERSON: I'll stipulate to that.

1 A Uh-huh. (Affirmative).
2 Q Correct?
3 A Yeah, what he said. Yeah.
4 Q So tell me when you start pulling out the big
5 amounts for your attorney's fees and professional fees did
6 your account ever go down, is that correct, ma'am?
7 A It appears so.
8 Q Okay. During this time since it was going down, did
9 you ever try to get a job?
10 A I'm a mom and that's my job.
11 Q Are both your children in school full-time?
12 A They are. Uh-huh. (Affirmative).
13 Q And how old is your youngest?
14 A She is 14 right now, but she's almost 15.
15 Q So you're telling this Court that you saw the
16 numbers go down but you never thought you should get a job to
17 -- to try to -- to keep your own income stable.
18 A I -- I didn't see a need to do that. I've -- I've
19 always been at home. That's where Eric always told me that --
20 Q Is that a no, ma'am? It's a yes or no question.
21 A Did I go get -- attempt to get a job?
22 Q Yes.
23 A I did not.
24 Q Okay.

1 A I already had one.

2 Q you mentioned about the health insurance, do you
3 recall that?

4 A That we discussed it?

5 Q Uh-huh. (Affirmative). Yes. Do you recall talking
6 about that a few minutes ago? Isn't it true that basically
7 the payment crossed in the mail so it was reinstated?

8 A Actually, how -- I have no idea. That's not what I
9 understood. We actually subpoenaed paperwork and it wasn't
10 paid. The bill wasn't paid.

11 Q But it was reinstated, wasn't it, ma'am?

12 A Joan had been called, letters have been sent --

13 Q The question -- ma'am, there's no other question
14 before you. It was reinstated, isn't that correct?

15 A I was told over the phone it was reinstated. I have
16 no knowledge, wasn't given the opportunity or the respect to
17 say that it was. Actually, Aubrey was told --

18 Q Ma'am, there's no question.

19 MS. FORSBERG: Your Honor, can I ask -- can you ask
20 the witness to answer the question and strike the last of her
21 response?

22 THE COURT: She -- she's always testified it was
23 reinstated and your question was --

24 MR. DICKERSON: That's why that --

1 THE COURT: -- crossing the mail and she said she
2 has no idea if you're crossing the mail. All she knows that
3 --

4 MS. FORSBERG: It's --

5 THE COURT: -- it was reinstated --

6 MS. FORSBERG: It's the diatribe after.

7 THE COURT: -- or stopped and it was reinstated,
8 yeah.

9 MS. FORSBERG: No problem, Your Honor. I'm almost
10 done, Your Honor. The Court's indulgence.

11 BY MS. FORSBERG:

12 Q Ma'am, in the beginning of this action, isn't it
13 true you had approximately \$600,000 in your Silver State
14 account?

15 A It could have been four or six. I'm not sure.

16 Q And that's in addition to the 2,000, correct?

17 A Uh-huh. (Affirmative).

18 MS. FORSBERG: No further questions, Your Honor.

19 RECROSS EXAMINATION

20 BY MR. DICKERSON:

21 Q Lynita, are you pleased with the professional
22 services that you have received from Joe Leauanae and his --
23 his business through the course of these proceedings?

24 A Absolutely.