

Case No. 78341

In the Supreme Court of Nevada

In the Matter of the Estate of
MILTON I. SCHWARTZ, deceased.

A. JONATHAN SCHWARTZ, Executor of
the Estate of MILTON I. SCHWARTZ,

Appellant,

vs.

THE DR. MIRIAM AND SHELDON G.
ADELSON EDUCATIONAL INSTITUTE,

Respondent.

Electronically Filed
Jan 29 2020 04:47 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable GLORIA J. STURMAN, District Judge
District Court Case No. 07-P061300-E

**APPELLANT'S APPENDIX
VOLUME 17
PAGES 4001-4250**

DANIEL F. POLSENBERG (SBN 2376)
JOEL D. HENRIOD (SBN 8492)
DALE KOTCHKA-ALANES (SBN 13,168)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

ALAN D. FREER (SBN 7706)
ALEXANDER G. LEVEQUE (SBN 11,183)
SOLOMON DWIGGINS & FREER, LTD.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 853-5483

Attorneys for Appellants

CHRONOLOGICAL TABLE OF CONTENTS TO APPENDIX

Tab	Document	Date	Vol.	Pages
1	Petition for Probate of Will	10/15/07	1	1–26
2	Order Granting Petition for Probate of Will and Codicils and Issuance of Letters Testamentary	12/10/07	1	27–28
3	Petitioner’s Response to Objection to Petition to Probate Will and for Issuance of Letter Testamentary and Request for All Future Notices to be Properly Served	01/03/08	1	29–60
4	Notice of Entry of Order	01/04/08	1	61–66
5	Notice of Entry of Order	01/29/08	1	67–71
6	Ex Parte Order for Extension of Inventory	05/23/08	1	72–73
7	Petition to Compel Distribution, for Accounting and for Attorneys’ Fees	05/03/13	1	74–159
8	Notice of Entry of Order to Appear and Show Cause	05/14/13	1	160–163
9	Objection to Petition to Compel Distribution, for Accounting, and for Attorneys’ Fees and Ex Parte Petition for Order to Issue Citation to Appear and Show Cause	05/28/13	1	164–230
10	Petition for Declaratory Relief	05/28/13	1 2	231–250 251–298
11	Motion to Dismiss Executor’s Petition for Declaratory Relief	06/12/13	2	299–329
12	Adelson Campus’ Reply in Support of Petition to Compel Distribution, for Accounting and for Attorneys’ Fees & Preliminary Objection to Accounting	06/17/13	2	330–356
13	Recorder’s Transcript of All Pending Motions	06/25/13	2	357–385
14	Opposition to Motion to Dismiss	07/01/13	2	386–398

15	Reply in Support of Motion to Dismiss Executor's Petition for Declaratory Relief	10/02/13	2	399–432
16	Recorder's Transcript of Motions Hearing	10/08/13	2	433–475
17	Notice of Entry of Order Denying Adelson Campus' Motion to Dismiss Executor's Petition for Declaratory Relief Without Prejudice & Allowing Limited Discovery	11/13/13	2	476–479
18	Demand for Jury Trial	11/27/13	2	480–481
19	Motion for Reconsideration	12/02/13	2 3	482–500 501–582
20	Opposition to the Executor's Motion for Reconsideration of the Court's November 12, 2013, Order Denying Adelson Campus' Motion to Dismiss Executor's Petition for Declaratory Relief without Prejudice & Allowing Limited Discovery	12/09/13	3	583–638
21	Transcript of Proceeding: Motion for Reconsideration	12/10/13	3	639–669
22	Transcription of Discovery Commissioner Hearing Held on January 29, 2014	01/29/14	3	670–680
23	Notice of Entry of Order Denying Motion for Reconsideration and Re-Setting Discovery Deadline	02/27/14	3	681–684
24	Notice of Entry of Order Regarding Deposit of Funds in Blocked Account at Morgan Stanley	03/07/14	3	685–690
25	Notice of Entry of Order Granting Motion to Modify November 12, 2013 Order and/or Limit Discovery; and Order Denying the Dr. Miriam and Sheldon G. Adelson Educational Institute's Ex Parte Application (with notice) Countermotion to Continue the	03/07/14	3	691–696

	February 11, 2014 Hearing to Allow Discovery Commissioner to Resolve Discovery Dispute			
26	Adelson Campus' Motion for Partial Summary Judgment	04/22/14	3 4	697–750 751–772
27	Opposition to Motion for Partial Summary Judgment	05/27/17	4 5	773–1000 1001–1158
28	Supplement to Petition for Declaratory Relief to Include Remedies of Specific Performance and Mandatory Injunction	05/28/17	5	1159–1165
29	Errata to Opposition to Motion for Partial Summary Judgment	06/03/14	5	1166–1181
30	Adelson Campus' Reply in Support of Motion for Partial Summary Judgment	06/24/14	5 6	1182–1250 1251–1273
31	Supplement to Opposition to Motion for Partial Summary Judgment	07/02/14	6	1274–1280
32	Transcript for Motion for Summary Judgment	07/09/14	6	1281–1322
33	Notice of Entry of Order Denying the Dr. Miriam and Sheldon C. Adelson Educational Institute's Motion for Partial Summary Judgment	09/05/14	6	1323–1326
34	Opposition to the Adelson Campus' Motion for Reconsideration of Denial of Motion for Partial Summary Judgment	10/06/14	6	1327–1333
35	Reporter's Transcript of Proceedings	10/08/14	6	1334–1376
36	Notice of Entry of Stipulation and Order for Protective Order	03/05/15	6	1377–1389
37	Petition for Partial Distribution	05/19/16	6	1390–1394
38	Errata to Petition for Partial Distribution	06/02/16	6	1395–1410
39	Recorder's Transcript of Proceeding: All Pending Motions	08/03/16	6	1411–1441

40	Recorder's Transcript of Proceedings: Calendar Call	08/18/16	6	1442–1454
41	Recorder's Transcript of Proceeding: Status Check	09/28/16	6	1455–1464
42	Transcript of Proceedings: Motion for Protective Order on Order Shortening Time	04/19/17	6	1465–1482
43	Notice of Entry of Order Regarding the Adelson Campus' Motion for Protective Order	05/08/17	6	1483–1486
44	Notice of Filing Petition for a Writ of Mandamus of Prohibition	05/17/17	6	1487
45	Notice of Entry of Stipulation to Stay Matter Pending Petition for Writ of Mandamus or Prohibition	05/24/17	6	1488–1492
46	Motion for Partial Summary Judgment Regarding Fraud	06/04/18	6 7	1493–1500 1501–1523
47	Motion for Partial Summary Judgment Regarding Statute of Limitations	06/04/18	7	1524–1541
48	Motion for Summary Judgment Regarding Breach of Contract	06/04/18	7	1542–1673
49	Opposition to Motion for Partial Summary Judgment Regarding Fraud	07/06/18	7 8	1674–1750 1751–1827
50	Opposition to Motion for Partial Summary Judgment Regarding Statute of Limitations	07/06/18	8	1828–1986
51	Opposition to Motion for Summary Judgment Regarding Breach of Contract and Countermotion for Advisory Jury	07/06/18	8 9	1987–2000 2001–2149
52	Errata to Opposition to Motion for Partial Summary Judgment Regarding Statute of Limitations	07/10/18	9	2150–2155
53	The Adelson Campus' Opposition to the Estate's Countermotion for Advisory Jury	07/23/18	9	2156–2161

54	The Adelson Campus' Reply in Support of Motion for Partial Summary Judgment Regarding Fraud	08/02/18	9	2162–2177
55	The Adelson Campus' Reply in Support of Motion for Partial Summary Judgment Regarding Statute of Limitations	08/02/18	9	2178–2209
56	Reply in Support of Motion for Summary Judgment Regarding Breach of Contract	08/02/18	9	2210–2245
57	The Estate's Pretrial Memorandum	08/06/18	9 10	2246–2250 2251–2263
58	The Estate's Pretrial Memorandum	08/06/18	10	2264–2274
59	The Adelson Campus' Pre-Trial Memorandum	08/07/18	10	2275–2352
60	Supplement to the Estate's Opposition to Motion for Partial Summary Judgment Regarding Fraud	08/08/18	10	2353–2386
61	Supplement to Opposition to Motion for Summary Judgment Regarding Breach of Contract and Countermotion for Advisory Jury	08/08/18	10	2387–2416
62	Recorder's Transcript of Hearing on Motions in Limine and Motions for Summary Judgment	08/09/18	10 11	2417–2500 2501–2538
63	The Estate's Motion for Reconsideration of: The Court's Order Granting Summary Judgment on the Estate's Claim for Breach of Oral Contract and Ex Parte Application for an Order Shortening Time	08/14/18	11	2539–2623
64	Supplement to the Estate's Motion for Reconsideration of: The Court's Order Granting Summary Judgment on the Estate's Claim for Breach of Oral Contract	08/14/18	11	2624–2646

65	Recorder's Transcript of Proceedings, Pretrial Conference, All Pending Motions	08/15/18	11 12	2647–2750 2751–2764
66	The Adelson Campus' Opposition to the Estate's Motion for Reconsideration of the Court's Order Granting Summary Judgment on the Estate's Claim for Breach of Contract and Countermotion to Strike the 8/14/18 Declaration of Jonathan Schwartz and All Attached Exhibits in Support	08/16/18	12	2765–2792
67	Recorder's Transcript of Proceedings, Pretrial Conference – Day 2, All Pending Motions	08/16/18	12	2793–2868
68	Motion for Judgment as a Matter of Law Regarding Breach of Contract and Mistake Claims	08/31/18	12	2869–2902
69	Trial Transcripts (Rough Drafts)	09/03/18	12 13 14 15 16 17 18	2903–3000 3001–3250 3251–3500 3501–3750 3751–4000 4001–4250 4251–4304
70	Opposition to Motion for Judgment as a Matter of Law Regarding Breach of Contract and Mistake Claims	09/03/18	18	4305–4333
71	The Estate's Motion for Judgment as a Matter of Law Regarding Construction of Will	09/03/18	18	4334–4341
72	Recorder's Partial Transcript: Jury Instructions	09/04/18	18	4342–4367
73	Recorder's Partial Transcript of Jury Trial: Closing Arguments	09/04/18	18	4368–4467
74	Amended Jury List	09/05/18	18	4468
75	Jury Instructions	09/05/18	18 19	4469–4500 4501–4512

76	Verdict Form	09/05/18	19	4513–4516
77	Proposed Jury Instructions Not Used at Trial	09/05/18	19	4517–4520
78	Proposed Verdict Form Not Used at Trial	09/05/18	19	4521–4525
79	Judgment on Jury Verdict	10/04/18	19	4526–4532
80	Recorder’s Transcript of Proceedings, Motion for Judgment as a Matter of Law Regarding Breach of Contract and Mistake Claims, The Estate’s Motion for Judgment as a Matter of Law Regarding Construction of Will	10/04/18	19	4533–4554
81	Notice of Entry of Order Denying the Adelson Campus’ Motion to Strike Jury Demand on Order Shortening Time	10/05/18	19	4555–4558
82	Notice of Entry of Order Denying the Adelson Campus’ Motion for Summary Judgment Regarding Breach of Contract	10/05/18	19	4559–4562
83	Notice of Entry of Order Denying the Estate’s Motion for Reconsideration of the Court’s Order Granting Summary Judgment on the Estate’s Claim for Breach of Oral Contract and the Adelson Campus’ Countermotion to Strike the August 14, 2018 Declaration of Jonathan Schwartz an All Attached Exhibits in Support	10/05/18	19	4563–4566
84	Notice of Entry of Judgment on Jury Verdict	10/05/18	19	4567–4575
85	The Dr. Miriam and Sheldon G. Adelson Educational Institute’s Verified Memorandum of Costs	10/11/18	19	4576–4579
86	Appendix of Exhibits to the Dr. Miriam and Sheldon G. Adelson Education Institute’s Verified Memorandum of Costs (Volume 1 of 2)	10/11/18	19 20	4580–4750 4751–4842

87	Appendix of Exhibits to the Dr. Miriam and Sheldon G. Adelson Education Institute's Verified Memorandum of Costs (Volume 2 of 2)	10/11/18	20 21	4843–5000 5001–5123
88	Motion to Retax Costs Pursuant to NRS 18.110(4) and to Defer Award of Costs Until All Claims are Fully Adjudicated	10/16/18	21	5124–5167
89	The Estate's Motion for Post-Trial Relief from Judgment on Jury Verdict Entered October 4, 2018	10/22/18	21 22	5168–5250 5251–5455
90	Adelson Campus' Post-Trial Brief on Outstanding Claims	11/16/18	22 23	5456–5500 5501–5555
91	Post-Trial Brief Regarding the Parties' Equitable Claims and for Entry of Judgment	11/16/18	23	5556–5693
92	The Dr. Miriam and Sheldon G. Adelson Educational Institute's Opposition to the Estate's Motion for Post-Trial Relief from Judgment on Jury Verdict Entered October 4, 2018	11/21/18	23 24	5694–5750 5751–5788
93	The Adelson Campus' Opposition to the Estate's Motion to Retax Costs Pursuant to NRS 18.110(4) and to Defer Award of Costs Until All Claims are Fully Adjudicated	11/21/18	24	5789–5803
94	The Estate's Reply to Adelson Campus's Opposition to Motion for Post-Trial Relief from Judgment on Jury Verdict Entered on October 4, 2018	12/21/18	24	5804–5816
95	The Dr. Miriam and Sheldon G. Adelson Educational Institute's Opposition to the Estate's Post-Trial Brief Regarding the Parties' Equitable Claims and for Entry of Judgment	12/21/18	24	5817–5857

96	The Estate's Response to the Adelson Campus' Post-Trial Brief on Outstanding Claims	12/21/18	24	5858–5923
97	Reply in Support of Motion to Retax Costs Pursuant to NRS 18.110(4) and to Defer Award of Costs Until All Claims are Fully Adjudicated	01/04/19	24	5924–5941
98	Reporter's Transcription of Proceedings	01/10/19	24	5942–5993
99	Judgment on A. Jonathan Schwartz's Petition for Declaratory Relief	02/20/19	24	5994–5995
100	Judgment on the Dr. Miriam and Sheldon G. Adelson Educational Institute's Petition to Compel Distribution, for Accounting and for Attorneys' Fees	02/20/19	24	5996–5997
101	Notice of Entry of Order Denying the Estate's Motion for Post-Trial Relief from Judgment on Jury Verdict Entered on October 4, 2018	02/20/19	24 25	5998–6000 6001
102	Notice of Entry of Judgment on A. Jonathan Schwartz's, Executor of the Estate of Milton I. Schwartz, Claims for Promissory Estoppel and Revocation of Gift and Construction Trust	02/21/19	25	6002–6010
103	Verified Memorandum of Costs of A. Jonathan Schwartz, Executor of the Estate of Milton I. Schwartz	02/27/19	25	6111–6015
104	Appendix of Exhibits to Verified Memorandum of Costs of A. Jonathan Schwartz, Executor of the Estate of Milton I. Schwartz	02/27/19	25 26	6016–6250 6251–6478
105	The Adelson Campus' Motion to Re-Tax and Settle Costs	03/06/19	26	6479–6489
106	Notice of Appeal	03/08/19	26 27	6490–6500 6501–6510
107	Case Appeal Statement	03/08/19	27	6511–6515

108	Notice of Appeal	03/22/19	27	6516–6517
109	Case Appeal Statement	03/22/19	27	6518–6521
110	The Estate’s Opposition to the Adelson Campus’ Motion to Re-Tax and Settle Costs	03/25/19	27	6522–6546
111	The Adelson Campus’ Reply in Support of Motion to Re-Tax and Settle Costs	04/04/19	27	6547–6553
112	Recorder’s Transcript of Pending Motions	04/11/19	27	6554–6584
113	Notice of Entry of Order	07/25/19	27	6585–6595
114	Stipulation and Order Regarding Trial Transcripts	08/05/19	27	6596–6597
115	Notice of Appeal	08/16/19	27	6598–6599
116	Case Appeal Statement	08/16/19	27	6600–6603
117	Notice of Posting Supersedeas Bond on Appeal	08/19/19	27	6604–6606
118	Trial Exhibit 3		27	6607–6609
119	Trial Exhibit 4		27	6610–6611
120	Trial Exhibit 5		27	6612–6620
121	Trial Exhibit 6		27	6621
122	Trial Exhibit 9		27	6622–6625
123	Trial Exhibit 14		27	6626–6628
124	Trial Exhibit 17		27	6629–6638
125	Trial Exhibit 22		27	6639–6645
126	Trial Exhibit 28		27	6646–6647
127	Trial Exhibit 38		27	6648–6649
128	Trial Exhibit 41		27	6650–6675
129	Trial Exhibit 43		27	6676–6679
130	Trial Exhibit 44		27	6680–6682
131	Trial Exhibit 51		27	6683–6684
132	Trial Exhibit 52		27	6685–6686
133	Trial Exhibit 55		27	6687–6713
134	Trial Exhibit 61		27 28	6714–6750 6751–6799
135	Trial Exhibit 62		28	6800–6867
136	Trial Exhibit 111		28	6868–6869

137	Trial Exhibit 112		28	6870
138	Trial Exhibit 113		28	6871
139	Trial Exhibit 114		28	6872
140	Trial Exhibit 115		28	6873
141	Trial Exhibit 118		28	6874–6876
142	Trial Exhibit 128		28	6877
143	Trial Exhibit 130		28	6878–6879
144	Trial Exhibit 134		28	6880–6882
145	Trial Exhibit 139		28	6683–6884
146	Trial Exhibit 149		28	6885–6998
147	Trial Exhibit 158		28	6999
148	Trial Exhibit 159		28	7000
149	Trial Exhibit 162		28	7001
150	Trial Exhibit 165		29	7002
151	Trial Exhibit 384		29	7003–7007
152	Trial Exhibit 1116A		29	7008

ALPHABETICAL TABLE OF CONTENTS TO APPENDIX

Tab	Document	Date	Vol.	Pages
26	Adelson Campus' Motion for Partial Summary Judgment	04/22/14	3 4	697–750 751–772
90	Adelson Campus' Post-Trial Brief on Outstanding Claims	11/16/18	22 23	5456–5500 5501–5555
30	Adelson Campus' Reply in Support of Motion for Partial Summary Judgment	06/24/14	5 6	1182–1250 1251–1273
12	Adelson Campus' Reply in Support of Petition to Compel Distribution, for Accounting and for Attorneys' Fees & Preliminary Objection to Accounting	06/17/13	2	330–356
74	Amended Jury List	09/05/18	18	4468
86	Appendix of Exhibits to the Dr. Miriam and Sheldon G. Adelson Education Institute's Verified Memorandum of Costs (Volume 1 of 2)	10/11/18	19 20	4580–4750 4751–4842
87	Appendix of Exhibits to the Dr. Miriam and Sheldon G. Adelson Education Institute's Verified Memorandum of Costs (Volume 2 of 2)	10/11/18	20 21	4843–5000 5001–5123
104	Appendix of Exhibits to Verified Memorandum of Costs of A. Jonathan Schwartz, Executor of the Estate of Milton I. Schwartz	02/27/19	25 26	6016–6250 6251–6478
107	Case Appeal Statement	03/08/19	27	6511–6515
109	Case Appeal Statement	03/22/19	27	6518–6521
116	Case Appeal Statement	08/16/19	27	6600–6603
18	Demand for Jury Trial	11/27/13	2	480–481
29	Errata to Opposition to Motion for Partial Summary Judgment	06/03/14	5	1166–1181
52	Errata to Opposition to Motion for Partial Summary Judgment Regarding Statute of Limitations	07/10/18	9	2150–2155

38	Errata to Petition for Partial Distribution	06/02/16	6	1395–1410
6	Ex Parte Order for Extension of Inventory	05/23/08	1	72–73
99	Judgment on A. Jonathan Schwartz’s Petition for Declaratory Relief	02/20/19	24	5994–5995
79	Judgment on Jury Verdict	10/04/18	19	4526–4532
100	Judgment on the Dr. Miriam and Sheldon G. Adelson Educational Institute’s Petition to Compel Distribution, for Accounting and for Attorneys’ Fees	02/20/19	24	5996–5997
75	Jury Instructions	09/05/18	18 19	4469–4500 4501–4512
68	Motion for Judgment as a Matter of Law Regarding Breach of Contract and Mistake Claims	08/31/18	12	2869–2902
46	Motion for Partial Summary Judgment Regarding Fraud	06/04/18	6 7	1493–1500 1501–1523
47	Motion for Partial Summary Judgment Regarding Statute of Limitations	06/04/18	7	1524–1541
19	Motion for Reconsideration	12/02/13	2 3	482–500 501–582
48	Motion for Summary Judgment Regarding Breach of Contract	06/04/18	7	1542–1673
11	Motion to Dismiss Executor’s Petition for Declaratory Relief	06/12/13	2	299–329
88	Motion to Retax Costs Pursuant to NRS 18.110(4) and to Defer Award of Costs Until All Claims are Fully Adjudicated	10/16/18	21	5124–5167
106	Notice of Appeal	03/08/19	26 27	6490–6500 6501–6510
108	Notice of Appeal	03/22/19	27	6516–6517
115	Notice of Appeal	08/16/19	27	6598–6599

102	Notice of Entry of Judgment on A. Jonathan Schwartz's, Executor of the Estate of Milton I. Schwartz, Claims for Promissory Estoppel and Revocation of Gift and Construction Trust	02/21/19	25	6002–6010
84	Notice of Entry of Judgment on Jury Verdict	10/05/18	19	4567–4575
4	Notice of Entry of Order	01/04/08	1	61–66
5	Notice of Entry of Order	01/29/08	1	67–71
113	Notice of Entry of Order	07/25/19	27	6585–6595
17	Notice of Entry of Order Denying Adelson Campus' Motion to Dismiss Executor's Petition for Declaratory Relief Without Prejudice & Allowing Limited Discovery	11/13/13	2	476–479
23	Notice of Entry of Order Denying Motion for Reconsideration and Re-Setting Discovery Deadline	02/27/14	3	681–684
82	Notice of Entry of Order Denying the Adelson Campus' Motion for Summary Judgment Regarding Breach of Contract	10/05/18	19	4559–4562
81	Notice of Entry of Order Denying the Adelson Campus' Motion to Strike Jury Demand on Order Shortening Time	10/05/18	19	4555–4558
33	Notice of Entry of Order Denying the Dr. Miriam and Sheldon C. Adelson Educational Institute's Motion for Partial Summary Judgment	09/05/14	6	1323–1326
101	Notice of Entry of Order Denying the Estate's Motion for Post-Trial Relief from Judgment on Jury Verdict Entered on October 4, 2018	02/20/19	24 25	5998–6000 6001
83	Notice of Entry of Order Denying the Estate's Motion for Reconsideration of the Court's Order Granting Summary	10/05/18	19	4563–4566

	Judgment on the Estate's Claim for Breach of Oral Contract and the Adelson Campus' Countermotion to Strike the August 14, 2018 Declaration of Jonathan Schwartz and All Attached Exhibits in Support			
25	Notice of Entry of Order Granting Motion to Modify November 12, 2013 Order and/or Limit Discovery; and Order Denying the Dr. Miriam and Sheldon G. Adelson Educational Institute's Ex Parte Application (with notice) Countermotion to Continue the February 11, 2014 Hearing to Allow Discovery Commissioner to Resolve Discovery Dispute	03/07/14	3	691–696
24	Notice of Entry of Order Regarding Deposit of Funds in Blocked Account at Morgan Stanley	03/07/14	3	685–690
43	Notice of Entry of Order Regarding the Adelson Campus' Motion for Protective Order	05/08/17	6	1483–1486
8	Notice of Entry of Order to Appear and Show Cause	05/14/13	1	160–163
36	Notice of Entry of Stipulation and Order for Protective Order	03/05/15	6	1377–1389
45	Notice of Entry of Stipulation to Stay Matter Pending Petition for Writ of Mandamus or Prohibition	05/24/17	6	1488–1492
44	Notice of Filing Petition for a Writ of Mandamus of Prohibition	05/17/17	6	1487
117	Notice of Posting Supersedeas Bond on Appeal	08/19/19	27	6604–6606
9	Objection to Petition to Compel Distribution, for Accounting, and for Attorneys' Fees and Ex Parte Petition for Order to Issue Citation to Appear and Show Cause	05/28/13	1	164–230

70	Opposition to Motion for Judgment as a Matter of Law Regarding Breach of Contract and Mistake Claims	09/03/18	18	4305–4333
27	Opposition to Motion for Partial Summary Judgment	05/27/17	4 5	773–1000 1001–1158
49	Opposition to Motion for Partial Summary Judgment Regarding Fraud	07/06/18	7 8	1674–1750 1751–1827
50	Opposition to Motion for Partial Summary Judgment Regarding Statute of Limitations	07/06/18	8	1828–1986
51	Opposition to Motion for Summary Judgment Regarding Breach of Contract and Countermotion for Advisory Jury	07/06/18	8 9	1987–2000 2001–2149
14	Opposition to Motion to Dismiss	07/01/13	2	386–398
34	Opposition to the Adelson Campus’ Motion for Reconsideration of Denial of Motion for Partial Summary Judgment	10/06/14	6	1327–1333
20	Opposition to the Executor’s Motion for Reconsideration of the Court’s November 12, 2013, Order Denying Adelson Campus’ Motion to Dismiss Executor’s Petition for Declaratory Relief without Prejudice & Allowing Limited Discovery	12/09/13	3	583–638
2	Order Granting Petition for Probate of Will and Codicils and Issuance of Letters Testamentary	12/10/07	1	27–28
10	Petition for Declaratory Relief	05/28/13	1 2	231–250 251–298
37	Petition for Partial Distribution	05/19/16	6	1390–1394
1	Petition for Probate of Will	10/15/07	1	1–26
7	Petition to Compel Distribution, for Accounting and for Attorneys’ Fees	05/03/13	1	74–159
3	Petitioner’s Response to Objection to Petition to Probate Will and for Issuance of Letter Testamentary and	01/03/08	1	29–60

	Request for All Future Notices to be Properly Served			
91	Post-Trial Brief Regarding the Parties' Equitable Claims and for Entry of Judgment	11/16/18	23	5556–5693
77	Proposed Jury Instructions Not Used at Trial	09/05/18	19	4517–4520
78	Proposed Verdict Form Not Used at Trial	09/05/18	19	4521–4525
73	Recorder's Partial Transcript of Jury Trial: Closing Arguments	09/04/18	18	4368–4467
72	Recorder's Partial Transcript: Jury Instructions	09/04/18	18	4342–4367
13	Recorder's Transcript of All Pending Motions	06/25/13	2	357–385
62	Recorder's Transcript of Hearing on Motions in Limine and Motions for Summary Judgment	08/09/18	10 11	2417–2500 2501–2538
16	Recorder's Transcript of Motions Hearing	10/08/13	2	433–475
112	Recorder's Transcript of Pending Motions	04/11/19	27	6554–6584
39	Recorder's Transcript of Proceeding: All Pending Motions	08/03/16	6	1411–1441
41	Recorder's Transcript of Proceeding: Status Check	09/28/16	6	1455–1464
80	Recorder's Transcript of Proceedings, Motion for Judgment as a Matter of Law Regarding Breach of Contract and Mistake Claims, The Estate's Motion for Judgment as a Matter of Law Regarding Construction of Will	10/04/18	19	4533–4554
67	Recorder's Transcript of Proceedings, Pretrial Conference – Day 2, All Pending Motions	08/16/18	12	2793–2868
65	Recorder's Transcript of Proceedings, Pretrial Conference, All Pending Motions	08/15/18	11 12	2647–2750 2751–2764

40	Recorder's Transcript of Proceedings: Calendar Call	08/18/16	6	1442–1454
56	Reply in Support of Motion for Summary Judgment Regarding Breach of Contract	08/02/18	9	2210–2245
15	Reply in Support of Motion to Dismiss Executor's Petition for Declaratory Relief	10/02/13	2	399–432
97	Reply in Support of Motion to Retax Costs Pursuant to NRS 18.110(4) and to Defer Award of Costs Until All Claims are Fully Adjudicated	01/04/19	24	5924–5941
35	Reporter's Transcript of Proceedings	10/08/14	6	1334–1376
98	Reporter's Transcription of Proceedings	01/10/19	24	5942–5993
114	Stipulation and Order Regarding Trial Transcripts	08/05/19	27	6596–6597
31	Supplement to Opposition to Motion for Partial Summary Judgment	07/02/14	6	1274–1280
61	Supplement to Opposition to Motion for Summary Judgment Regarding Breach of Contract and Countermotion for Advisory Jury	08/08/18	10	2387–2416
28	Supplement to Petition for Declaratory Relief to Include Remedies of Specific Performance and Mandatory Injunction	05/28/17	5	1159–1165
64	Supplement to the Estate's Motion for Reconsideration of: The Court's Order Granting Summary Judgment on the Estate's Claim for Breach of Oral Contract	08/14/18	11	2624–2646
60	Supplement to the Estate's Opposition to Motion for Partial Summary Judgment Regarding Fraud	08/08/18	10	2353–2386
105	The Adelson Campus' Motion to Re- Tax and Settle Costs	03/06/19	26	6479–6489

53	The Adelson Campus' Opposition to the Estate's Countermotion for Advisory Jury	07/23/18	9	2156–2161
66	The Adelson Campus' Opposition to the Estate's Motion for Reconsideration of the Court's Order Granting Summary Judgment on the Estate's Claim for Breach of Contract and Countermotion to Strike the 8/14/18 Declaration of Jonathan Schwartz and All Attached Exhibits in Support	08/16/18	12	2765–2792
93	The Adelson Campus' Opposition to the Estate's Motion to Retax Costs Pursuant to NRS 18.110(4) and to Defer Award of Costs Until All Claims are Fully Adjudicated	11/21/18	24	5789–5803
59	The Adelson Campus' Pre-Trial Memorandum	08/07/18	10	2275–2352
54	The Adelson Campus' Reply in Support of Motion for Partial Summary Judgment Regarding Fraud	08/02/18	9	2162–2177
55	The Adelson Campus' Reply in Support of Motion for Partial Summary Judgment Regarding Statute of Limitations	08/02/18	9	2178–2209
111	The Adelson Campus' Reply in Support of Motion to Re-Tax and Settle Costs	04/04/19	27	6547–6553
92	The Dr. Miriam and Sheldon G. Adelson Educational Institute's Opposition to the Estate's Motion for Post-Trial Relief from Judgment on Jury Verdict Entered October 4, 2018	11/21/18	23 24	5694–5750 5751–5788
95	The Dr. Miriam and Sheldon G. Adelson Educational Institute's Opposition to the Estate's Post-Trial	12/21/18	24	5817–5857

	Brief Regarding the Parties' Equitable Claims and for Entry of Judgment			
85	The Dr. Miriam and Sheldon G. Adelson Educational Institute's Verified Memorandum of Costs	10/11/18	19	4576–4579
71	The Estate's Motion for Judgment as a Matter of Law Regarding Construction of Will	09/03/18	18	4334–4341
89	The Estate's Motion for Post-Trial Relief from Judgment on Jury Verdict Entered October 4, 2018	10/22/18	21 22	5168–5250 5251–5455
63	The Estate's Motion for Reconsideration of: The Court's Order Granting Summary Judgment on the Estate's Claim for Breach of Oral Contract and Ex Parte Application for an Order Shortening Time	08/14/18	11	2539–2623
110	The Estate's Opposition to the Adelson Campus' Motion to Re-Tax and Settle Costs	03/25/19	27	6522–6546
57	The Estate's Pretrial Memorandum	08/06/18	9 10	2246–2250 2251–2263
58	The Estate's Pretrial Memorandum	08/06/18	10	2264–2274
94	The Estate's Reply to Adelson Campus's Opposition to Motion for Post-Trial Relief from Judgment on Jury Verdict Entered on October 4, 2018	12/21/18	24	5804–5816
96	The Estate's Response to the Adelson Campus' Post-Trial Brief on Outstanding Claims	12/21/18	24	5858–5923
32	Transcript for Motion for Summary Judgment	07/09/14	6	1281–1322
21	Transcript of Proceeding: Motion for Reconsideration	12/10/13	3	639–669
42	Transcript of Proceedings: Motion for Protective Order on Order Shortening Time	04/19/17	6	1465–1482

22	Transcription of Discovery Commissioner Hearing Held on January 29, 2014	01/29/14	3	670–680
136	Trial Exhibit 111		28	6868–6869
152	Trial Exhibit 1116A		29	7008
137	Trial Exhibit 112		28	6870
138	Trial Exhibit 113		28	6871
139	Trial Exhibit 114		28	6872
140	Trial Exhibit 115		28	6873
141	Trial Exhibit 118		28	6874–6876
142	Trial Exhibit 128		28	6877
143	Trial Exhibit 130		28	6878–6879
144	Trial Exhibit 134		28	6880–6882
145	Trial Exhibit 139		28	6683–6884
123	Trial Exhibit 14		27	6626–6628
146	Trial Exhibit 149		28	6885–6998
147	Trial Exhibit 158		28	6999
148	Trial Exhibit 159		28	7000
149	Trial Exhibit 162		28	7001
150	Trial Exhibit 165		29	7002
124	Trial Exhibit 17		27	6629–6638
125	Trial Exhibit 22		27	6639–6645
126	Trial Exhibit 28		27	6646–6647
118	Trial Exhibit 3		27	6607–6609
127	Trial Exhibit 38		27	6648–6649
151	Trial Exhibit 384		29	7003–7007
119	Trial Exhibit 4		27	6610–6611
128	Trial Exhibit 41		27	6650–6675
129	Trial Exhibit 43		27	6676–6679
130	Trial Exhibit 44		27	6680–6682
120	Trial Exhibit 5		27	6612–6620
131	Trial Exhibit 51		27	6683–6684
132	Trial Exhibit 52		27	6685–6686
133	Trial Exhibit 55		27	6687–6713
121	Trial Exhibit 6		27	6621
134	Trial Exhibit 61		27 28	6714–6750 6751–6799

135	Trial Exhibit 62		28	6800–6867
122	Trial Exhibit 9		27	6622–6625
69	Trial Transcripts (Rough Drafts)	09/03/18	12 13 14 15 16 17 18	2903–3000 3001–3250 3251–3500 3501–3750 3751–4000 4001–4250 4251–4304
76	Verdict Form	09/05/18	19	4513–4516
103	Verified Memorandum of Costs of A. Jonathan Schwartz, Executor of the Estate of Milton I. Schwartz	02/27/19	25	6111–6015

1 Q. I would like you to confirm that there is
2 no claim in there by your dad for naming rights. If
3 there are, I didn't see them, so I will certainly
4 stand to be corrected.

5 MR. JONES: Apologize to our court
6 recorder. Apparently my pen-clicking is being
7 picked up by the mic. Apologize.

8 THE WITNESS: Okay, I have read it.
9 BY MR. JONES:

10 Q. Did you see anywhere in there a claim
11 against the other board that was a breach of the
12 naming rights agreement?

13 A. I'm confused by the fact that it says the
14 Milton I. Schwartz Hebrew Academy, but no, I don't
15 see any specific claim, but I don't know if this
16 wasn't amended later.

17 Q. That's fair enough by the way.

18 The only copy that we were able to get was
19 actually from your counsel. We went back to try to
20 look. And because it goes so far back, it was the
21 only thing that was ever produced apparently you all
22 had it and we didn't. You make a valid point. This
23 is 1992. And the name didn't come off until 1994
24 based on the document we saw before, off the
25 corporation. So 1992, the corporation was still

1 called the Milton I. Schwartz Hebrew Academy. So
2 that's why I need to ask you. Are you aware after
3 1994 whether or not your father ever brought a claim
4 against the school for breach of the naming rights
5 agreement?

6 A. I don't know.

7 Q. Thank you. One other point I would like to
8 make.

9 I asked you if you are aware of any
10 financial documents that shows whether or not Paul
11 Sogg ever paid the full amount of his pledge or any
12 of the other people paid the full amount of the
13 pledge that your father referred to and I think you
14 said no. And I certainly could be corrected. I
15 have tried to look so there may be other things out
16 there but I want to find out if you were aware of
17 any fore financial documents. I take it from your
18 answer you are not aware of any other financial
19 documents is that true?

20 A. Mr. Jones we have a ton of documents at my
21 office but they are not in evidence here, so I don't
22 know I mean, I have got boxes and boxes of stuff on
23 this issue.

24 Q. I appreciate that.

25 Here is my question. Would you agree with

1 me that if the estate's contention is that your
2 father raised the half million dollars and gave a
3 half million dollars as consideration for the naming
4 rights agreement, it would be important for both
5 sides to know whether or not he was able to actually
6 raise a half million dollars? Would that be
7 something the jury should need to know?

8 A. Would it be important for us to know?

9 Q. Yes.

10 A. It would be nice for us to know.

11 Q. Thank you. Because if he paid it, that
12 would be consistent with at least what you claim to
13 be the consideration that he gave in order to have
14 the naming rights, correct?

15 A. We know he paid it.

16 Q. He paid the 500,000. We don't contest
17 that. But we haven't seen any financial documents
18 that show he raised the 500,000 from other people,
19 have we? I didn't think we had. I know you said
20 you believe it must have happened, but I'm asking
21 for -- about financial documents. You haven't seen
22 that, have you?

23 A. I think it would be a minor miracle for
24 someone to have every record from 30 years ago.

25 Q. I don't disagree with that. I'm just

1 asking have you seen that evidence, financial
2 evidence?

3 A. I haven't seen a ledger.

4 Q. Thank you.

5 A. That says that.

6 Q. So I'm going to switch gears here. Let's
7 move to Exhibit 52. You recall this letter? I
8 think there has been some discussion about it. In
9 fact, Mr. Schiffman was asked about this letter.

10 A. I recall it.

11 Q. This is a letter you wrote to Mr. Schiffman
12 in August of 2008, right?

13 A. Right.

14 Q. And it was after you went out and literally
15 took a tour of the campus in late 2008 -- late
16 August of 2008, right?

17 A. Right.

18 Q. And you say in the third paragraph "In
19 order to (inaudible) the foregoing please have the
20 board of MISHA send the Milton I. Schwartz
21 irrevocable family trust a letter acknowledging that
22 the anticipated Milton I. Schwartz scholarship fund
23 be utilized to fund annual scholarships each year,
24 in perpetuity, at the MISHA for the purpose of
25 educating Jewish children only, paren, letter, end

1 paren, right?

2 A. Yep.

3 Q. And so you -- even though that was spelled
4 out specifically in the will in paragraph 2.3 of the
5 will that the estate was to give \$500,000 for
6 scholarships, assuming there was no mortgage, you
7 still wanted that backed up by a written agreement
8 from the school that they were going to do that,
9 right, a letter acknowledging the anticipated fund?

10 A. Yes.

11 Q. So you asked the school at that point for
12 something in writing to confirm what was already
13 contained in the will, right?

14 A. Right. And the reason -- yes. If you want
15 to know the reason you can ask me.

16 Q. You go on in the last sentence of that
17 letter on the first page, you say, "Thank you again
18 for your graciousness over the year last year. I
19 look forward to watching the progress of the MISHA
20 and the Adelson School with keen interest." Do you
21 see that?

22 A. Yes.

23 Q. We will get into this a little bit later,
24 but I assume you meant that when you said that you
25 were looking forward to watching what was happening

1 in the coming years, right?

2 A. Yes.

3 Q. You in fact did that. You actually kept a
4 look out for things related to events ongoing things
5 at the school, correct?

6 A. I didn't go back to the school for a while
7 after that.

8 Q. Let's talk about that for a moment. Let's
9 look at Exhibit 1124. Came in with Mr. Schiffman
10 yesterday.

11 A. Do you want pee to look in the book.

12 Q. I don't think it's in the book?

13 MR. CARLSON: It's in there.

14 MR. JONES: Is it.

15 BY MR. JONES:

16 Q. Again Mr. Schiffman testified about it.
17 You understand -- you have been certainly up at the
18 Adelson Campus since this whole mess started, right?

19 A. The only times I have been there are the
20 meetings that I referred to and you have heard about
21 in this litigation of the I haven't been there any
22 other times.

23 Q. You did drive up there specifically right
24 before your letter on August 28, 2008, to talk to
25 Mr. Schiffman, right?

1 A. Yes.

2 Q. And you had to go through the main
3 entrance, right, didn't go in the back way?

4 A. Yes.

5 Q. If that monument was there --

6 A. I don't remember it was.

7 Q. Mr. Schiffman testified specifically it was
8 there before you came to the campus?

9 MR. FREER: Misstates prior testimony.

10 THE COURT: Overruled.

11 THE WITNESS: Do you want me to answer?

12 BY MR. JONES:

13 Q. I hadn't finished my question.

14 A. Okay.

15 Q. Let me finish. Certainly I want you to
16 answer it.

17 Mr. Schiffman testified that that was there
18 before the school opened for that year and had been
19 there for some period of time. You have a different
20 recollection?

21 A. Only from his testimony. I recollect
22 Mr. Schiffman testifying that there were two banners
23 at that time. I think this what you have on the
24 screen now appeared much later, I believe.

25 Q. His testimony is what it is and we can all

1 look at that. But he did testify about the two
2 banners. And that photograph that we saw, I will
3 represent to you -- we can pull it up to the jury if
4 there is any question about it -- was during 2007
5 during the construction.

6 So if the facts were, as Mr. Schiffman, as
7 I believe he testified to the jury yesterday -- days
8 are all bleeding together anymore -- that that was
9 the only monument as you drove into the main
10 entrance to the school, you would have had to drive
11 by it, correct, if that was the only one there at
12 the time you went up there in August of 2008, right?

13 A. If it was there in 2008, but I remember
14 having a conversation with Mr. Schiffman about this.

15 Q. Actually, I read your testimony, and you
16 talk about your father's name on the pediment. I
17 looked up the definition of "pediment" and it says
18 the triangular part of the building. And your
19 father's name clearly -- we don't dispute that.
20 Your dad's name was up on the lower school when you
21 made that visit; in fact, I think your testimony has
22 been clear, it stayed up there until at least May
23 of 2013.

24 A. It was up there a long time.

25 Q. So we don't dispute that whatsoever. With

1 respect to the pediment let me and you and
2 Mr. Schiffman's testimony is what it is and maybe we
3 will see that in closing arguments so the jury will
4 be reminded of the dates put it in time frame, but
5 let's just say that my recollection is correct, that
6 that pediment monument -- not pediment. That
7 monument that's Exhibit 1124 was in the main
8 entrance of the school and your father's reference
9 to the Milton I. Schwartz Hebrew Academy was not
10 there, would you agree with me that you would have
11 had to have driven by it?

12 A. I drove by it at some point. I recall
13 seeing this sign at some point.

14 Q. But my hypothetical was if it was there on
15 your trip in August of 2008, you would have had to
16 drive by it if you went in the entrance?

17 A. Yes.

18 Q. You would agree with me, if that was the
19 case when you -- hypothetically, if that was in fact
20 the case in August of 2008, that pediment -- or that
21 monument right there that says the Dr. Miriam and
22 Sheldon G. Adelson Campus, without any reference to
23 your father's school,* would be a blatant violation
24 to what you believed your father's naming rights
25 agreement was?

1 A. No, because of the explanation
2 Mr. Schiffman gave me.

3 Q. Well, let me ask you a different question.
4 Didn't you say in your letter, your so-called
5 settlement letter that you sent to the school in
6 2010, I want you to sign this letter before I give
7 you the \$500,000, didn't you say specifically in
8 your letter that you wanted to have your father's
9 name at the entryway of the school on Hillpointe
10 drive?

11 A. Yes, because it used to be there.

12 Q. So taking it down would have been a blatant
13 breach of your father's naming rights agreement,
14 correct? Isn't that what you are suing for today?

15 A. Yes, yes. Look, there was construction, so
16 not putting it back up was would be a blatant
17 violation. I understand they took it down during
18 construction but they have the obligation to put it
19 back.

20 Q. If they didn't do it, it would have been a
21 breach of the agreement, right?

22 A. Yes.

23 Q. Let's talk a little bit about keeping up on
24 what was going on at the time. First of all, this
25 may sound like a silly question Mr. Schwartz but do

1 you get the newspaper, the Review-Journal?

2 A. Periodically I read it. Don't read it
3 every day.

4 Q. Do you get it even if you don't read it?

5 A. I do get it.

6 Q. I'm in the same frame of mind.

7 A. Sometimes I'm so busy I don't have the time
8 to unfortunately.

9 Q. How long have you been getting the R J?

10 A. Boy, a long time.

11 Q. Certainly since 2008?

12 A. I don't know.

13 Q. How long have you lived at your current
14 residence?

15 A. Since 1999, but I travel a lot, so I don't
16 read it every day.

17 Q. So you have been getting the paper since
18 1999 at that residence?

19 A. We get it at my office and we have been
20 getting it at my office for a long time.

21 Q. Fair enough.

22 A. They would pile up at the house.

23 Q. I can relate, I have to say.

24 Do you recall any newspaper articles
25 talking about the Hebrew Academy in, say, October

1 of 2008?

2 A. I don't.

3 MR. JONES: Your Honor may I approach?

4 THE COURT: You may.

5 BY MR. JONES:

6 Q. Mr. Schwartz, I'm going to show you a
7 document and ask you just take a moment to read it.
8 And ask you if that refreshes your recollection
9 about seeing any articles in October of 2008 in
10 connection with the opening of the --

11 A. This is a really bad copy Mr. Jones or are
12 my eyes this bad now.

13 Q. I think they are all about the same.
14 That's actually better than some copies I have seen,
15 so that's the best I have got.

16 A. I will try.

17 Q. I don't know if this will help. I have
18 readers.

19 A. I'm trying to avoid it, Mr. Jones.

20 Q. Resist as long as you can, sir. Wish I
21 didn't have to wear them.

22 A. I have read it.

23 Q. Does that refresh your memory at all about
24 newspaper articles about the opening of the school?

25 A. I never -- I have never seen this article

1 before you just gave it to me.

2 Q. Fair enough. If there was an article in
3 the newspaper in October of 2008 that referenced the
4 opening of the Adelson Middle School, which offered
5 grades from 5 through 8, would you consider that to
6 be a breach of your father's naming rights
7 agreement?

8 A. Yes.

9 Q. Let me show you what I believe is in
10 evidence as Exhibit 33. If you look at that, so you
11 have heard of a press release before?

12 A. Yes.

13 Q. And you know what a press release is
14 essentially when a business or an institution or
15 something has some event or good news they want to
16 publicize they put out a press release?

17 A. Right.

18 Q. They give that to the newspapers and the
19 radio and different kind of media, right?

20 A. Right.

21 Q. And if this shows it was a reference -- and
22 it doesn't give a date of the document, but it does
23 reference the groundbreaking ceremony in Summerlin
24 in November 2006. So that presumably was sometime
25 before 2006. If it referenced the press release

1 referenced the Dr. Miriam and Sheldon G. Adelson
2 School logo only and did not mention the Hebrew
3 Academy, would that be a violation of what you
4 believe to be your father's naming rights agreement?

5 A. No, because this is referring only to the
6 high school.

7 Q. Okay. Fair enough. I believe this
8 document is in evidence as well. It's Exhibit 64.
9 In fact I think your counsel put it in evidence. If
10 you look at the top, this is one of these things
11 from the Wayback Machine where you can go back and
12 look about what's on a website. And I think that
13 the date of this one is from September 7 of 2008 on
14 the Adelson Campus website. And the website issue
15 is also part of your naming rights agreement, right?
16 You contend that anything on the website need to
17 accurately refer to the Milton I. Schwartz Hebrew
18 Academy, correct?

19 A. In the spirit of complying with the terms
20 of the agreement, yes. But in 1989 there were no
21 websites.

22 Q. Actually I think this is from -- this is
23 from the school's website in 1980 -- I'm sorry.
24 Yeah, I'm feting numbers mixed up. I understand
25 your comment.

1 So as I understand basically your
2 contention is that even though there was no website
3 in 1989 or 1990 the idea is if there was -- whatever
4 media was out there, whatever evolved if you will
5 over time it needed to contain accurate information
6 about your dad's naming rights in connection with
7 the school?

8 A. If it was referring to K through 8 and the
9 over all piece of land, yes.

10 Q. So let's look at this. If you look at
11 about the middle of the page, it says the Adelson
12 education campus consists of three schools, and the
13 middle one there it says the Dr. Miriam and Sheldon
14 G. Adelson Middle School panning grades 5 through 8
15 offers students meaningful and exciting
16 opportunities for scholarly and personal growth?

17 A. I see that.

18 Q. Any reference to the Adelson Middle School
19 would be a breach of your father's naming rights
20 agreement, right?

21 A. Right.

22 Q. If we could look at exhibit -- I think this
23 is in but just to be sure --

24 MR. JONES: Ms. Clerk, is 1012 in? Is that
25 in evidence?

1 MR. CARLSON: It is.

2 MR. JONES: Thank you.

3 BY MR. JONES:

4 Q. This is an e-mail -- I thought it was in
5 evidence -- that you sent. There has been some
6 discussion. I think actually Mr. Schiffman was
7 asked about this. Sending e-mails back and forth
8 with him in early 2010, right?

9 A. Right.

10 Q. And this is in connection with your
11 conversations with him and Mr. Chaltiel about the
12 bequest from your dad's estate did the naming rights
13 issue, right?

14 A. Right.

15 Q. In the first line there of the e-mail from
16 you to Mr. Chaltiel it says Victor it was a pleasure
17 meeting with you and Paul Schiffman on Wednesday of
18 this week. I always enjoy seeing the school.

19 When you went up there to meet them at the
20 school, that's where you met them, correct?

21 A. No early 2010, I had lunch with them once
22 and then I also met them at the school.

23 Q. Right. That was at least my understanding
24 from reading the e-mail. So if you went to the
25 school again you would have driven right past that

1 monument that clearly would have said the Adelson
2 Campus and not reference your father at the very
3 entrance at Hillpointe, right?

4 A. Yeah, but I had a conversation with
5 Mr. Schiffman about it where he explained it to me.

6 Q. In the second paragraph, you talk about the
7 bequest and you talk about this agreement that you
8 drafted up that you would like the school to sign,
9 right?

10 A. Right.

11 Q. To make sure that your dad's intent is
12 respected and followed, right?

13 A. Correct.

14 Q. And you will see down there at the last
15 sentence of that paragraph: This agreement doesn't
16 attempt to, quote, leverage, end quote, anything,
17 right?

18 A. Right.

19 Q. Mr. Chaltiel had a conversation with you
20 where he said he felt Your Honor trying to leverage
21 him?

22 A. Exactly, which I thought it was a
23 pejorative term that he used and wasn't what I was
24 trying to do.

25 Q. But certainly that's what he felt you were

1 trying to do, obviously, because you put it back to
2 him, right?

3 A. Exactly, yeah.

4 Q. Now, we have already established not only
5 are you a lawyer, you are the executor of your
6 father's estate, right?

7 A. Right.

8 Q. And that you have already told the jury
9 about your fiduciary duty to the estate, right?

10 A. Right.

11 Q. And just to be clear, would you explain
12 again to the jury what you understand your fiduciary
13 duty is as the executor of the estate?

14 A. I have to carry out my father's intent and
15 make certain his wishes are executed.

16 Q. As I understand it, you testified that you
17 and understandably you took those duties very
18 seriously, right?

19 A. Still do.

20 Q. And you want to do everything you can to
21 make sure your father's intent is carried out,
22 correct?

23 A. Correct.

24 Q. And would that include making sure as soon
25 as you found out there was some breach of an

1 agreement you believe your father had, that you
2 would take action to rectify that?

3 A. I did.

4 Q. So you would agree with me that you would
5 want to take action as soon as you knew that there
6 was a problem to rectify it, right?

7 A. As soon as I knew, yes.

8 Q. So let's, if we can, look at Exhibit 55.
9 You are welcome -- I think the book is up there if
10 you want to look at the book or you can look at the
11 screen.

12 This is a letter that the jury has seen
13 that you sent in May 2010 and your counsel asked you
14 about, to the school, actually to all of the board
15 members, right?

16 A. Right.

17 Q. And you indicate that you were sending this
18 letter to try to resolve the issue of paying the
19 \$500,000 in scholarship money, and also get the
20 school to sign what you referred to as a settlement
21 agreement, right?

22 A. Correct.

23 Q. And at this point, you had, I believe we
24 can look at this in a moment but is it true in at
25 least May of 2010, you had concluded that the school

1 was violating your father's naming rights agreement?

2 A. As a result of what I learned in 2010.

3 Q. We will get to that.

4 So let's look at the first paragraph of
5 that letter, it says this makes the point, I take my
6 duty to fulfill my dad's wishes extremely seriously.
7 I have done everything within my power over the past
8 two and a half years to make certain my that dad's
9 wishes are carried out as precisely as provided for
10 in his will.

11 Right?

12 A. Right.

13 Q. And this case arises because you contend
14 that it is against your father's wishes in his will
15 to give money to a school that does not have his
16 name on it, right?

17 A. Correct.

18 Q. So you said over the past two and a half
19 years you want to make sure that your dad's wishes
20 are carried out precisely as provided in the will,
21 right? That's two and a half years, then that would
22 have been back, say, December of 2008 -- excuse me,
23 2007, two and a half years from May of 2010 would
24 put it back to, say, December of 2007. Agree? Do
25 the math? Not my forte.

1 A. Mine either. I'm dependent on a
2 calculator.

3 Q. So we go back a year to May of 2009, that's
4 one year. We go back a second year, that's May
5 of 2008. Then you go back half a year from there,
6 it puts you about December 2007. Does that make
7 sense?

8 A. Okay.

9 Q. Okay. So if you look at the second page of
10 your letter, you will see at the second paragraph it
11 says not only do I have a fiduciary duty to make
12 certain that my dad's wishes are respected and
13 carried out I have numerous letters, contracts,
14 bylaws, documents, et cetera, the agreements between
15 the school and my dad which clearly spell out school
16 is to be known as Milton I. Schwartz Hebrew Academy
17 in perpetuity.

18 Do you see that?

19 A. Yes.

20 Q. And so what you are saying in this letter
21 is as of May of 2010, you already have all the
22 documents you contend you need to prove your dad has
23 a naming rights agreement, right?

24 A. I thought I did, yes.

25 Q. Okay.

1 A. Still do.

2 Q. If you look on the bottom of that page, not
3 the last paragraph but the second to the last
4 paragraph going about -- that's not what I'm looking
5 for.

6 So if you look down here it says I regret
7 having to state the following, but given what I have
8 been told by one member of the board. I have no
9 choice; should my dad's memory and its commemoration
10 at MISHA be reduced or compromised in any manner, I
11 will be compelled to take appropriate legal action.

12 Do you see that?

13 A. I do.

14 Q. First of all what member of the board were
15 you talking to?

16 A. Sheldon Adelson who threatened me.

17 Q. Anybody else?

18 A. By the time this letter was written I had a
19 tour of the school and I saw with Victor Chaltiel
20 that the middle school had been named the Adelson
21 Middle School and his explanation to that to me was
22 unacceptable and led me to believe that they would
23 violate any agreement to satisfy the Adelsons.

24 Q. Are you saying that there is a name on the
25 middle school that says the Adelsons middle school

1 inside or outside?

2 A. I was inside the building we were walking
3 through the building and there was a sign that said
4 Adelson Middle School and I and Victor Chaltiel
5 about it.

6 Q. Getting back to this paragraph. You
7 basically said if you --

8 A. Which was the first I had seen it.

9 Q. I'm sorry?

10 A. Which was the first I had seen it.

11 Q. Didn't mean to interrupt you.

12 As I understand this letter, and you
13 correct me if I'm wrong, you basically are saying
14 look if you don't sign this agreement, I'm going to
15 have to take legal action, right?

16 A. No, I didn't say that. I'm saying I want
17 to work it out, throughout.

18 Q. When you say, "I will be compelled to take
19 legal action," doesn't that mean that if they don't
20 sign the letter that you are sending to them --
21 excuse me, the settlement agreement, that you are
22 going to take legal action?

23 A. I'm putting them on notice.

24 Q. Right. That if they don't do what you
25 demand in this letter, you are going to take

1 appropriate legal action, right?

2 A. Right, which in this case meant hiring
3 Mr. Freer.

4 Q. Understood. Let's go to the next page.
5 And you look at the bottom paragraph, it says: I
6 have included a new draft settlement agreement which
7 simply changes the dates for execution and provides
8 two weeks to fund the bequest should the settlement
9 be executed. If the cash settlement agreement is
10 not executed and returned to me by May 31, 2010, my
11 offer to settle this dispute will automatically
12 terminate.

13 Do you see that?

14 A. Yes.

15 Q. Would you degree with me that, in lawyer
16 speak, if you will, language like that means here is
17 the deadline and if you don't comply with that
18 deadline then I'm going to take appropriate legal
19 action?

20 A. Yes, but appropriate legal action could
21 mean a lot of things.

22 Q. In this case, what your legal action was,
23 was to petition the estate in 2013, right -- excuse
24 me, petition on behalf of the estate to force the
25 school to put the name back on?

1 A. No. The only reason we countersued was
2 because the school sued us and we had to do it at
3 that point. I did everything I can to try and
4 resolve it. At that point, it was clear that there
5 was going to be no resolution and we were going to
6 wind up in court, or at least we were going to wind
7 up and sue each other. Sometimes when people file a
8 lawsuit, it winds up resulting in a settlement
9 before you ever get to court. So there is all kinds
10 of things that happen.

11 Q. It looked to me like, you tell me if I'm
12 wrong, you were giving the school a deadline in
13 which to meet your demands to sign the settlement
14 agreement as of May 31 of 2010 or your offer to
15 settle would be automatically terminated?

16 A. The point of saying that was that.

17 THE COURT: That's a yes or no question so
18 answer yes or no.

19 THE WITNESS: Say that again.

20 BY MR. JONES:

21 Q. As I understood this language what you were
22 saying is that if the school didn't sign the
23 settlement agreement by May 31, 2010, you were going
24 to withdraw the offer to settle, right?

25 A. With the terms in that settlement

1 agreement, yes.

2 Q. Did you ever propose a different settlement
3 agreement than that one?

4 A. Sure we had subsequent meetings.

5 Q. Did you ever put another settlement
6 agreement in writing to the school after the one you
7 sent in May 2010?

8 A. No.

9 Q. So that offer automatically terminated, and
10 the only alternative to that, since you took that
11 offer off the table, was to be compelled to take
12 appropriate legal action, right?

13 A. No.

14 Q. Then let me ask it I guess a different way.

15 A. I don't understand what you are trying to
16 get at.

17 Q. Probably my bad questions so I apologize
18 for that. Let me try to get to this a different
19 way.

20 We will talk about some other things in a
21 moment, but in the meantime, if we go up to
22 paragraph -- on that same page, the second
23 paragraph -- I'm sorry third page, second paragraph.
24 The draft settlement agreement basically accepts
25 what the school is already doing despite the fact

1 that some of what the school has done in the last
2 two and a half years breaches the agreement. Do you
3 see that?

4 A. I see that.

5 Q. So again if you use two and a half years
6 that you used in this letter from May of 2010, that
7 takes you back to December of 2007, can we agree on
8 a at least?

9 A. Right, but I didn't learn of these until
10 2010. I suspected that they may have done -- that
11 some of this may have dated back further but I
12 didn't know about it until 2010.

13 Q. So you are saying in this document that the
14 school has been breaching the agreement for the last
15 two and a half years, right?

16 A. I didn't know that for certain. I learned
17 it in 2010.

18 Q. Didn't know it for certain. But you
19 suspected it, didn't you?

20 A. I didn't -- they had been sending me
21 documentation that complied with the terms of my
22 dad's will and had been telling me that they weren't
23 going to take his name off, sending me receipts,
24 sending me correspondence that say Milton I.
25 Schwartz Hebrew Academy, and then in 2010, I see the

1 sign at the school that says Adelson Middle School.
2 So they were sending me all sorts of conflicting
3 data.

4 Q. If the sign in the front gate, the main
5 entrance said the Adelson Campus and didn't mention
6 your father, that would be -- you have already told
7 the jury that would be a breach of the agreement?

8 A. Schiffman said that applied to the high
9 school.

10 Q. Doesn't say anything about the high school
11 on it though, does it? We can look at it again. It
12 says the Adelson --

13 A. I'm just telling you what he told me.

14 Q. I understand. If it doesn't just apply to
15 the campus -- or to the high school, it would be a
16 breach of your dad's agreement, wouldn't it?

17 A. If it doesn't just apply to the high
18 school, it would be a breach, yes.

19 Q. So let's just leave it as of May of 2010,
20 we can debate issues about before then and what you
21 did and didn't know. But as of 2010, May 2010, you
22 say unequivocally in this letter in this paragraph
23 that the school has now breaching its agreements
24 with your father, isn't it?

25 A. In May of 2010, yes.

1 Q. You have already told this jury that you
2 took your father's -- you took your obligations as
3 the executor of the estate very seriously, right?

4 A. Right.

5 Q. And you wanted to take action as quickly as
6 possible whenever you found out about a breach,
7 correct?

8 A. Within the statute of limitations,
9 Mr. Jones.

10 Q. That's not what you said when you said to
11 the jury before now you are adding that as a
12 additional component?

13 A. That's the law, Mr. Jones.

14 Q. I guess the answer to my question is you
15 are adding another component to your answer that you
16 didn't tell the jury about before?

17 A. I didn't waive the law, Mr. Jones.

18 Q. I didn't suggest you did. I'm just asking
19 you a question. Did you tell the jury something
20 different a moment ago, yes or no?

21 A. I don't recall, but everyone has the
22 ability to availing themselves of the law, and the
23 law has a statute of limitations.

24 Q. Didn't you tell this jury that it was so --
25 in fact, I think it's even in this letter how

1 seriously you take your obligations to your father
2 and making sure his wishes are carried out, right?

3 MR. FREER: Objection. Argumentative.

4 (Overlapping dialogue.)

5 THE WITNESS: Do you really think I would
6 burn this amount of time to do this if it wasn't
7 important to me?

8 THE COURT: Stop. Just stop. This is
9 getting argumentative.

10 MR. JONES: I'm certainly not intending to
11 be argumentative. I'm having a hard time getting an
12 answer. I did not know I was getting argumentative.

13 THE COURT: I understand. I would caution
14 the witness to answer the questions asked, only the
15 questions asked, and don't tell this jury what the
16 law is. I get to do that.

17 THE WITNESS: I'm sorry, Your Honor. Hard
18 when you have so many attorneys in the same room.

19 THE COURT: I understand.

20 BY MR. JONES:

21 Q. In May -- you have told this jury as of
22 May of 2010, you clearly knew your father's
23 agreements were being breached, right?

24 A. Yes.

25 Q. And you acknowledged that you didn't file a

1 lawsuit to enforce your father's naming rights until
2 May of 2013, right?

3 A. I don't recall the date off the top of my
4 head, but I will accept your submission that that
5 was the date.

6 Q. I will represent to you, it's my
7 recollection that it was May 28 of 2013; does that
8 sound about right?

9 A. Okay.

10 Q. So that would be actually a little bit more
11 than three years after you have stated in a letter
12 that you knew your father's agreements were being
13 breached, right?

14 A. Right.

15 Q. And in fact, you didn't sue the school
16 until the school made a petition to the court to pay
17 for the scholarships, right?

18 A. Correct.

19 Q. So the school brings a claim against the
20 estate says hey, we believe we are entitled to this
21 money. And that's when you turned around and said
22 I'm going to sue you because you aren't honoring my
23 father's naming rights, correct?

24 A. Correct.

25 Q. And is it safe to say, Mr. Schwartz, that

1 had the school not petitioned the court to get paid
2 that \$500,000, you would have probably never sued
3 them?

4 A. Absolutely categorically false. You beat
5 me to the punch, we were just about to do it.

6 Q. I see. Okay. You were just about to do it
7 at that moment as opposed to any other time during
8 the last three years, is that your testimony?

9 A. Correct, because there were settlement
10 efforts in the middle of that.

11 Q. So let me just ask you a couple follow-up
12 questions here. It's getting late. But I certainly
13 should be done in the not too distant future. I
14 want to get to your deposition here in case I need
15 it.

16 Is it true -- this goes back to this whole
17 issue of timing, Mr. Schwartz. Is it true that you
18 went to the school periodically in 2008 and 2009?

19 A. I know I went there in '08. I don't know
20 if I went there in '09. The school was out of my
21 way going to work back and forth, so I . . .

22 Q. Do you recall having lunch with Sam Ventura
23 at the Mediterranean restaurant on the east side of
24 town where he proceeded to tell you, quote, look,
25 what Sheldon is doing isn't right and I disagree

1 with it and I told them if they tried to do this,
2 you would sue the school, end quote. Did you see
3 that -- do you recall that?

4 A. I recall a lunch where he said that, yes.

5 Q. Do you recall that you testified in your
6 deposition that was sometime in 2008 or 2009?

7 A. I don't think that was correct.

8 Q. Let's look at your deposition. It was the
9 deposition from July 28, 2016, deposition?

10 THE COURT: Do we have that published?

11 MR. JONES: I believe it's been published,
12 Your Honor. I think so.

13 THE COURT: Great thank you. There you go.

14 MR. JONES: May I approach the witness?

15 THE COURT: Yes.

16 BY MR. JONES:

17 Q. Mr. Schwartz let me refer you to Page 51 of
18 your deposition, sir. If you look at -- you can
19 start if you like at Page 51, line 3 and read
20 through to line 18.

21 A. Page 51 you want me to start at what line?

22 Q. You can start at Page 51, starting at line
23 3 there is a question and answer and another
24 question and answer.

25 A. Yeah, I have read it.

1 Q. And in your deposition, there was a
2 question posed to you that said: And you didn't
3 find out until after you had filed a petition on
4 May 28 of 2013? Your answer was: I didn't receive
5 definitive proof of it. Again as these events were
6 occurring in 2007, 2008, 2009, 2010, 2011, 2013,
7 2014, I would hear things from members from the
8 community. I would hear things from parents who
9 sent their kids there, from board members. I mean,
10 I had -- I had lunch with Sam Ventura one day at the
11 Mediterranean restaurant on the east side of town
12 where he proceeded to tell me, quote, Look, what
13 Sheldon is doing isn't right, and I disagree with
14 it. And I told them that if they try to do this,
15 you would sue the school. End quote.

16 Then next question is: Okay. And when did
17 this -- when was this? Answer: Sometime in '8 or
18 '09 -- 2008, 2009. It was a long time ago. May
19 have been off on the impact year.

20 Is that your testimony?

21 A. It may have been off on the exact year.
22 And it was off. I don't believe it was '08 or '09.
23 I remember the substance of the conversation but the
24 date has to be wrong. We are talking several years
25 ago and I say here "I may be off on the exact year."

1 Q. You did say that but when Your Honor under
2 oath and you testified, you said '08 and '09 and
3 then said maybe I was off on the year, right?

4 A. Yeah.

5 Q. And maybe you weren't off on the year,
6 right?

7 MR. FREER: Objection. Argumentative.

8 MR. JONES: I will withdraw the question,
9 Your Honor.

10 BY MR. JONES:

11 Q. We do know specifically that you referenced
12 2008 and 2009 is the time that you said in your
13 deposition that you had this meeting with
14 Mr. Ventura, correct?

15 A. I said I could be off on the year.

16 Q. I acknowledge your answer.

17 Would you agree with me, sir, that if you
18 told Sam Ventura in 2008 or 2009 that you would
19 sue -- excuse me rephrase that.

20 Based on this conversation, it was clear
21 that Mr. Ventura thought you had grounds to sue at
22 whatever time you had that meeting, correct?

23 MR. FREER: Objection. Calls for
24 speculation. Misstates testimony.

25 THE COURT: Overruled.

1 BY MR. JONES:

2 Q. That's what he said to you, right? He said
3 if they continued to do this, you would sue, right?

4 A. Let me read it again.

5 Q. Sure.

6 A. That's what he said, but the year is wrong.
7 And also when he said it, his statement to me is,
8 look, I'm not going to let it happen. And Sheldon
9 is one person. Sheldon can't -- at the time I
10 thought Sheldon couldn't make decisions all by
11 himself. There is a board.

12 Q. So let me ask you. Do you recall saying in
13 your deposition that back in two thousand -- a
14 question came to you that back in 2008 what was
15 Mr. Ventura attempting to settle? What did you
16 understand had happened that needed to be settled?
17 Your answer was that they were changing the name of
18 the school.

19 Do you recall that testimony under oath?

20 A. Where are you looking now.

21 Q. Page 52, line 15 through 19.

22 A. 15 to 19?

23 Q. Yes, sir.

24 A. It's wrong as to the year.

25 Q. You didn't answer my question, but do you

1 recall that that is what your testimony was in
2 response to that question?

3 A. The answer says that they were changing the
4 name of the school.

5 Q. And it was in reference to -- and back in
6 2008 what was Mr. Ventura attempting to settle?
7 What did you understand had happened that needed to
8 be settled and your answer was they were changing
9 the name of the school, right?

10 A. Right, but with the mistaken question as to
11 the year.

12 Q. You didn't say in response to that answer
13 that it could be a different year, did you?

14 A. But I said it in the page before, and it's
15 applying to the same line of questioning.

16 Q. Mr. Schwartz, I would like to refer you to
17 Exhibit 22, which is your father's last will and
18 testament. Before we start asking questions about
19 that, I wanted to ask you one other question. You
20 had this settlement agreement that you sent to the
21 school in 2010, right?

22 A. Right.

23 Q. And let me ask you. If you -- as you
24 contend, had your father had an enforceable naming
25 rights agreement, there was no need for the school

1 to sign another one, was there?

2 A. Not correct.

3 Q. So let's look at the will. I would like to
4 look at the second page of the will. This is the
5 provision we have all been looking at and talking
6 about, 2.3 it says I here by give, devise and
7 bequeath the sum of \$500,000 to the Milton I.
8 Schwartz Hebrew Academy. And I think you have
9 testified, and we have asked you this before, that
10 you contend that is not ambiguous, that is not
11 subject to multiple meanings, right?

12 A. It's not ambiguous to me.

13 Q. It is clear to you what is intended, right?

14 A. Yes.

15 Q. And what you have evidence it to is that
16 the money needed to go to the Milton I. Schwartz
17 Hebrew Academy, right?

18 A. Correct.

19 Q. It does not say in there a corporation,
20 does it?

21 A. It does not say that.

22 Q. And so is it true that when you probated
23 the estate in I think it was October 2007 that the
24 Milton I. Schwartz Hebrew Academy existed?

25 A. On what date?

1 Q. October of 2007.

2 A. I don't know. I would have to look at
3 the -- as to when it was changed.

4 Q. I will represent to you and I think the
5 jury has seen this, but the corporation changed the
6 name in March of 2008, I believe is when that got
7 filed, with the secretary of state's office. So the
8 corporation name changed in 2008. But again, there
9 is nothing referenced in this provision of the will
10 that talks about corporation, correct?

11 A. It doesn't say the word corporation.

12 Q. Would you agree with me, sir, that the name
13 of the elementary school was the Milton I. Schwartz
14 Hebrew Academy until -- based on the testimony and
15 the evidence that's been presented -- after you
16 filed the lawsuit against the school in May of 2013?

17 A. I don't know, Mr. Jones.

18 Q. I'm sorry?

19 A. I don't know.

20 Q. You don't know?

21 A. I don't know.

22 Q. So let me ask a different question.

23 If the name was on the school in 2008, that
24 was still known to everybody in the world that
25 building was known as the Milton I. Schwartz Hebrew

1 Academy, right?

2 A. As far as I knew in 08, yes.

3 Q. And if it stayed on the school in 2009,
4 everybody in the world would have assumed that
5 was -- looked at it and said this looks like the
6 Milton I. Schwartz Hebrew Academy, right?

7 A. Right.

8 Q. Same thing in 2010, right, if it's still
9 there in 2010?

10 A. If it's still there, yes.

11 Q. Still there in 2011, that would still be
12 what everybody would assume that that building is
13 the Milton I. Schwartz Hebrew Academy?

14 A. Yes.

15 Q. And we could go on until whenever it was
16 taken down. I think there has been testimony but we
17 don't need to debate that.

18 So if the building was still the Milton I.
19 Schwartz Hebrew Academy, all that time period, then
20 couldn't the money go to the Milton I. Schwartz
21 Hebrew Academy? Because it still existed as a
22 building, right, assuming my understanding of the
23 facts is correct?

24 A. That's a difficult question to answer. We
25 get into this whole thing can a building cash a

1 check. Does the entity actually exist?

2 Q. I appreciate your answer. So let me ask it
3 a different way.

4 Your father, as you testified and several
5 other people have testified, your father was very
6 interested in education of Jewish kids, correct?

7 A. Yes.

8 Q. And he wanted that to happen, right?

9 A. If the Milton I. Schwartz Hebrew Academy
10 existed, yes.

11 Q. He wanted that to happen any way, didn't
12 he?

13 A. No.

14 Q. He didn't want to promote education or
15 scholarships for Jewish kids in general?

16 A. It depends on the level of the gift and the
17 naming rights.

18 Q. So that's the only time that -- so all
19 right. I think I understand your answer.

20 You testified on direct examination that
21 this money was still going to go to scholarships for
22 Jewish kids, didn't you? I thought that's what you
23 said.

24 A. If this gift lapses in the Milton I.
25 Schwartz Hebrew Academy.

1 Q. Yes.

2 A. We will find another name that will honor
3 his name properly and give it to them.

4 Q. That's what I thought you said. I want to
5 follow up on that a little bit. You are going to
6 try and find another Jewish or Hebrew school that
7 will honor your father's name to give it to?

8 A. Uh-huh. I have already discussed it with
9 my siblings.

10 Q. Great.

11 If you can't find it -- by the way, the
12 only way you want to give this money as I understand
13 it is a Jewish day school puts your fathers name on
14 the building on the corporation on the monuments, on
15 the letterhead on everything in perpetuity then
16 that's what you are saying to this jury is the only
17 way that you are going to give this money up, right?

18 A. No, not necessarily.

19 Q. So if it not necessarily that, you will do
20 it to some other school if they don't do all those
21 other things is that what you are telling this jury?

22 MR. FREER: Objection. Calls for
23 speculation.

24 THE WITNESS: Sustained.

25 MR. JONES: Your Honor, this goes to the

1 heart of this issue and I would ask to be allowed
2 some latitude.

3 THE COURT: Approach.

4 (Off the record.)

5 THE COURT: Ladies and gentlemen since we
6 are talking here if you would like to step out for
7 five minutes for a break just come back really
8 quickly just a very brief recess.

9 During this recess, you are admonished not
10 to talk or converse among yourselves or with anyone
11 else on any subject connected with this trial; or
12 read, watch or listen to any report of or commentary
13 on the trial or any person connected with this trial
14 by any medium of information, including, without
15 limitation, to newspapers, television, the internet
16 and radio; or form or express any opinion on any
17 subject connected with the trial until the case is
18 finally submitted to you.

19 Come back at take a break for five minutes.
20 Mr. Jones told us he was almost done. Just in case
21 we go past five.

22 (Off the record.)

23 THE COURT: The record should reflect we
24 are outside the presence of the jury. The objection
25 being to this latest round of questioning about you

1 will only give this to X charity. My concern and I
2 said it a couple times throughout is that ultimately
3 that's not a question that either the jury or the
4 parties get to answer. That's a question for the
5 court because it a matter of operation of the law.
6 If the jury says this gift lapses then that's an
7 outcome the court determines because some of these
8 causes of action, when I was reading through them,
9 these are jury questions. That's kind of the
10 problem I have had all along is that depending on
11 what the jury tells us about the contract, which
12 that's what they are going to tell us about,
13 different -- you end up with different results. And
14 ultimately I think that all has to be sorted out
15 based on what the jury finds and it may be something
16 that none of the parties anticipate. It's just
17 going to have to be operation of law. You have all
18 sorts of other things that impact that but you know.

19 MR. FREER: Just for the record our
20 position is if the gift lapses it becomes part of
21 the estate for administration purposes and then you
22 have got what is it 143 where all of the
23 beneficiaries can get together and designate another
24 pen fishery because it got to go to charity.

25 THE COURT: Reported as a charitable

1 contribution. They are stuck. They don't get to
2 keep it. I guess that's my point.

3 MR. FREER: Yes, and that's the whole
4 point.

5 THE COURT: I think that's what the
6 question was indicating is that somehow they are
7 going to get to pick. And they don't.

8 MR. JONES: That's why I asked the
9 question, Your Honor because that was the testimony
10 they elicited on direct. I had nothing to do with
11 it. They opened the door and I don't see how it's
12 appropriate that the court slam the door on me when
13 they brought it up. That is the fundamental
14 position.

15 THE COURT: I didn't remember them asking
16 that. I remembered about the tax return and --

17 MR. JONES: The only reason I brought it up
18 is because he mentioned it on direct. I wouldn't
19 have known it otherwise.

20 THE COURT: That's the concern I have so if
21 there is a way to rephrase that because I would have
22 to -- where did that notebook go? I have already
23 filled one complete legal pad. Moving on to number
24 two. So I may not have understood that testimony
25 correct, the direct.

1 MR. JONES: I will point out that
2 Mr. Schwartz acknowledged it when I asked him
3 questions. And I don't think there is any dispute
4 from his counsel that that question was asked or
5 that he at least -- if he didn't get asked the
6 question, he volunteered that. I can't remember
7 which. The question was asked, What's going to
8 happen to the money? And that was the answer.

9 THE COURT: Okay.

10 MR. JONES: Your Honor, I believe I have a
11 right to follow up. And I'm ready to go whenever
12 the court is.

13 THE COURT: Whenever the jurors are back.
14 For the record, I don't have anything that indicates
15 whether he did or didn't say that. The thing that
16 was significant it me was the 706. If you are
17 opening the door and they are not telling me that
18 you didn't have denied it, I will allow some
19 questioning on it but I guess my concern is just
20 we -- kind of how it's phrased. He may have said
21 something that may put the wrong idea in the jury's
22 mind.

23 MR. JONES: That's my concern.

24 THE COURT: My concern from the beginning
25 was just that, that it needed to be --

1 MR. JONES: I will try --

2 THE COURT: We had that discussion about
3 openings that there couldn't be in openings some
4 sort of I forget what we were talking about there
5 because there was one of the slides that seemed to
6 imply just that.

7 MR. JONES: Your Honor I will do my best to
8 try to stay in an area that the court is comfortable
9 with. But I think again, in terms of the
10 appropriateness of it the door was opened and I
11 should be allowed to make inquiry.

12 THE COURT: They are not denying that they
13 didn't.

14 MR. FREER: To my best recollection I think
15 the door that was opening I remember asking and
16 eliciting a response that they were going to charity
17 and it was going for scholarships for Jewish kids I
18 don't remember a naming rights attached to it but
19 that's just me.

20 MR. JONES: Same circumstances.

21 MR. FREER: I thought you were -- the
22 reason I stopped it I thought you were going a step
23 further with naming rights conscious I don't believe
24 we opened the door on that.

25 MR. JONES: I don't think you did, I don't

1 think you got that far.

2 MR. FREER: I stopped short of it.

3 THE COURT: As I said, to the extent and
4 inner not denying some inquiry into this was opened
5 and I have notes to that too so we will have some
6 inquiry.

7 THE MARSHAL: Please be seated.

8 THE COURT: For the record, we are back on
9 the record. The parties are back, our jury is back,
10 and Mr. Jones, you had a few more questions you were
11 going -- I denied the objection. You need to
12 rephrase the question.

13 MR. JONES: Understood, Your Honor.

14 BY MR. JONES:

15 Q. At this point I, know it's late for
16 everybody in the room. I was at the last of my
17 questions I don't know if context is even there.

18 Mr. Schwartz, again, put paragraph 2.3 of
19 the will back on the screen. Mr. Schwartz, I
20 believe you testified that you had a discussion with
21 your siblings about what you were going to do with
22 the money if this didn't turn out the way you would
23 like it to turn out. Do you recall that?

24 A. Yes.

25 Q. And in that discussion, your desire would

1 be to give it to another Jewish day school or Hebrew
2 Academy for scholarships; is that right?

3 A. Yes, in Las Vegas.

4 Q. In Las Vegas. And so the point is you want
5 this money to go to a Jewish day school for
6 scholarships, right?

7 A. Yes.

8 Q. And the Adelson Campus is a Jewish day
9 school, correct?

10 A. But it's not named the Milton I. Schwartz
11 Hebrew Academy anymore.

12 Q. I understand. But that's not a condition
13 you can impose on another school, right?

14 A. Sure we can.

15 Q. You might try, but they don't have to
16 agree, right?

17 A. They don't have to agree, but I'm
18 reasonably certain we can work something out.

19 Q. If they don't agree, are you going to give
20 them the money?

21 A. I think I have to give it to charity,
22 Mr. Jones.

23 Q. So you have to give it to a nonprofit,
24 right?

25 A. I think I do.

1 Q. And you want to follow the intent of your
2 father as closely as possible, right?

3 A. Right.

4 Q. And the kids at the Adelson Campus, you
5 would agree with me -- and I used this phrase with
6 Mr. Schiffman. He said I'm not sure what you mean.
7 You would agree that the kids at the Adelson Campus
8 don't have a dog in this fight? They are just kids?

9 A. Kids. Of course not. I hope they know
10 nothing about this.

11 Q. I would hope so, for all our sakes, and all
12 our sakes they know nothing about it.

13 So the money that your dad was giving in
14 2.3, it doesn't go to the school, does it, it goes
15 to the kids. In fact, it can only be used -- it
16 says right in there, it has to be used for Jewish
17 kids scholarships, right?

18 A. Right.

19 Q. So if you give the money to the Adelson
20 Campus, and they are required by law to make sure
21 that that money is only spent on scholarships for
22 Jewish kids, that's exactly what your dad wanted,
23 isn't it?

24 A. No.

25 Q. Well, he did -- he certainly wanted to give

1 scholarships to Jewish kids, we can all agree with
2 that?

3 A. Yes.

4 Q. And if you can't get another Jewish day
5 school in Las Vegas to agree to all the naming
6 rights conditions that you believe your dad had, you
7 are still going to give it to a Jewish day school,
8 right?

9 A. We will find a school that will honor his
10 name according to his intent.

11 Q. How many -- tell the jury how many Jewish
12 day schools are there in Las Vegas?

13 A. I don't know I would have to research it.

14 Q. Do you know if any of them are named after
15 anybody?

16 A. I would have to research it.

17 Q. So as you sit here today, you don't know if
18 you could ever satisfy the conditions that you
19 believe would be appropriate to give to some other
20 Jewish day school, correct?

21 A. Off the top of my head, I think there is at
22 least two, and I think there is someone else
23 planning one.

24 Q. You have no idea if they would agree to any
25 conditions that you want to impose like that were

1 similar to or the same as the ones you believe your
2 father had with the Hebrew Academy, correct?

3 A. I don't know for certain.

4 Q. Don't know for certain, pure speculation to
5 know that, right?

6 A. Don't know for certain.

7 MR. JONES: Your Honor, I pass the witness.

8 Thank you Mr. Schwartz.

9 EXAMINATION

10 BY MR. FREER:

11 Q. All right. Jonathan, we are going to try
12 to play the legal -- rapid fire this as quick as I
13 can.

14 Do you recall earlier that Mr. Jones asked
15 you to provide any other evidence of payment of
16 pledges, right? He showed that that Exhibit 118 do
17 you remember that?

18 A. Right.

19 Q. Will you turn to Exhibit 176? That's
20 minutes from May 25, 1990, I will call your
21 attention to the second page.

22 A. Okay.

23 Q. Then highlight on the building fund on that
24 second paragraph down can you read that to the jury?

25 A. Milton Schwartz reported under his good

1 solicitation and auspices Paul Sogg has paid another
2 100 thousand of his pledge. Robert Cohen has paid
3 one hundred thousand of his pledge. Oscar Alterwitz
4 estate is forthcoming. MS will call on this issue
5 to the executor of the estate.

6 Q. And the date of those minutes?

7 A. May 25, 1990.

8 Q. So that's after the October 21. Will you
9 turn to Exhibit 134, which is the affidavit that you
10 read.

11 A. Okay.

12 Q. And the date of that affidavit is -- should
13 be on the second page.

14 A. 31st of March 1993.

15 Q. So that post dates what we just saw
16 Exhibit 176. Call your attention to paragraph 8.

17 A. Okay.

18 Q. Let me read that for the benefit of the
19 jury, my eyes are getting tired?

20 A. Do you want me to read it to them.

21 Q. Yes, please.

22 A. That the donation of 500,000 by affiant was
23 condition precedent to the donation of the land by
24 Summerlin; that the affidavit believes that the
25 donation of 400,000 by Mr. Sogg and Mr. Cohen was

1 also a condition precedent to the donation of land
2 in Summerlin.

3 Q. This is the -- if you remember, you were
4 asked a question about paragraph 6, right? That was
5 talking about it was only pledged, right?

6 A. Right.

7 Q. Paragraph 8, though, your dad says it is
8 pledged. So the pledge was donated, correct?

9 A. Correct.

10 Q. So when Mr. Jones asked you whether there
11 was any evidence of it being paid, you do have
12 evidence, correct?

13 A. Apparently, we just found it.

14 Q. In fact, with the video you just saw of
15 your father, do you believe that his testimony in
16 that video of 2007 is consistent with what he said
17 in paragraph 8 there?

18 A. Yes.

19 Q. Let's turn -- we had discussions about the
20 Adelson Campus sign, correct?

21 A. Yes.

22 Q. Do you remember -- we will call up
23 Exhibit 1124, which is a picture of that sign.

24 Do you remember that sign taken in
25 October 2008, correct?

1 A. At the entrance.

2 Q. Yes.

3 A. I remember it.

4 MR. LEVEQUE: 1124 is in the book,
5 Jonathan.

6 BY MR. FREER:

7 Q. I do my impression of a sign, but . . .
8 Imagine if you will a sign from October.

9 THE COURT: We had a picture on the camera.

10 THE WITNESS: 1124?

11 BY MR. FREER:

12 Q. Yes. Do you guys remember the sign. You
13 just want me to hurry. Okay?

14 A. I'm there, I see it.

15 Q. Do you see it?

16 A. Yes.

17 Q. Do you remember seeing that sign when you
18 went to the campus in 2008?

19 A. I do not.

20 Q. When is the first time you remember seeing
21 it?

22 A. Years later.

23 Q. Now you testified earlier that you visited
24 the campus was it three times?

25 A. I think that's right. Could have been

1 four. At least three.

2 Q. Does it refresh your recollection that you
3 may have visited 2010th of March?

4 A. I know I was there in 2010.

5 Q. What did you do when you first recognized
6 the sign?

7 A. I remember having a discussion with Paul
8 Schiffman about it.

9 Q. And what did you ask Mr. Schiffman?

10 A. I asked him about the sign and he said that
11 it referred to the high school.

12 Q. So from your discussion with him, what was
13 your understand -- hang on.

14 Was that understanding that he provided you
15 consistent with what you knew of your father's
16 intentions in 2007?

17 A. My understanding was that -- was if the
18 Adelsons wanted to call their high school the
19 Adelson Educational Campus, then so be it.

20 Q. And that understanding then would be
21 consistent with, like the donation letters that you
22 got like Exhibit 157?

23 A. Right. 157?

24 Q. That's the letter we saw yesterday with
25 Schiffman with both logos on it?

1 A. Right.

2 Q. And then Exhibit 159?

3 A. Here they are calling it the Adelson
4 School. Then it was the Adelson -- first it was the
5 Adelson high school. They keep on changing the
6 name, but the understanding was that it all referred
7 to the same thing, which was the high school.

8 Q. Did you have any reason why you would not
9 accept Mr. Schiffman at his word when he told you
10 that?

11 A. No.

12 Q. You heard testimony from Mr. Adelson on
13 what was it, Tuesday, right, that he does not recall
14 having a discussion with you, correct? Let me
15 rephrase that question.

16 You recall testifying that you had a
17 telephone conversation with Mr. Adelson in 2010
18 where he wanted more money from the estate; is that
19 correct?

20 A. Yes.

21 Q. And do you recall Mr. Adelson's testimony
22 that he did not recall such a conversation; is that
23 correct?

24 A. Correct.

25 Q. Can you tell the jury why you would

1 remember a conversation like that?

2 A. When one of the wealthiest men in the world
3 calls you on the phone, you remember it. It was
4 like the president calling. I got the call. I was
5 in my car. I was on my cell phone. It was his
6 secretary. Said Mr. Adelson is on the line for you.
7 And it was so important, I pulled over. I was
8 around the corner from my house. I even remember
9 what house I stopped in front of. Every time I see
10 that house, I think about it. I remember that
11 conversation very clearly because of who it was and
12 because of the threat that he made.

13 Q. What was the threat he made?

14 A. That if I didn't give the school
15 substantially more money than was in my will -- in
16 my father's will, that he was going to take my
17 dad's name off the school.

18 Q. Now you also heard testimony from
19 Mr. Adelson where he stated that he had what he
20 believed was a verbal agreement with your father
21 regarding naming rights with respect to the Adelsons
22 and Milton I. Schwartz Hebrew Academy, correct?

23 A. I recall him saying that.

24 Q. Based on understanding from your
25 interactions with your father, do you agree with

1 Mr. Adelson's assertion?

2 A. I do not.

3 Q. Why not?

4 A. Because my father told me --

5 MR. JONES: Your Honor again this goes
6 directly to the heart of this alleged contract
7 blatant hearsay. Objection.

8 BY MR. FREER:

9 Q. What is your understanding?

10 A. My understanding is that my father left
11 \$500,000 in his will and that was it and that he
12 told them he was going to leave a gift in his will,
13 and that was it. That's what he told them.

14 Q. Do you know whether your father -- to your
15 knowledge, did your father ever express any kind of
16 enjoyment from the discussions with Mr. Adelson?

17 MR. JONES: Your Honor objection to the
18 form of the question. That calls for pure
19 speculation.

20 THE COURT: Sustained.

21 BY MR. FREER:

22 Q. When Mr. Jones asked about your background
23 you stated that you started the Bank of George
24 branches in Nevada, correct?

25 A. I'm one of the largest shareholders of the

1 bank. I was a founder of the bank, and I was on the
2 board and the loan committee for some years.

3 Q. So are you familiar with loan and banking
4 transactions?

5 A. I am.

6 Q. You have heard Mr. Adelson and
7 Mr. Schiffman testify about your father being a
8 guarantor on the loan for the Milton I. Schwartz
9 Hebrew Academy, correct?

10 A. Correct.

11 Q. What is your understanding of what it means
12 to be a guarantor on a loan?

13 A. Well, there is --

14 MR. JONES: Your Honor I'm going to object
15 as it relates to this case because it lacks
16 foundation as to what the terms were of the loan in
17 question.

18 MR. FREER: I'm getting to that.

19 THE COURT: Again, we are not asking him in
20 his role as an attorney. You are asking him as a
21 member of a loan from a bank.

22 MR. JONES: Your, Honor, may I voir dire
23 the witness?

24 THE COURT: Yes.

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VOIR DIRE

BY MR. JONES:

Q. Mr. Schwartz, did you ever see the loan?

A. I have seen the loan document that's admitted as a document in this case.

Q. Did you see the one that was referred to when your father was still alive, they were talking about that it was coming due in October of 2007? Did you ever see that loan?

A. No.

Q. Did you ever see the guarantee attached to that loan?

A. I have only seen what's in evidence in this case.

Q. So you had no evidence that your father had not in fact the documents that the jury saw that your father had guaranteed the prior loan, correct?

MR. FREER: Objection misstates fact. Facts not in evidence.

THE COURT: Overruled.

THE WITNESS: What's the question again?

BY MR. JONES:

Q. Are you telling this jury that you know whether or not your father guaranteed a loan for the school for approximately \$1.8 million, one way or

1 the other?

2 A. I knew that he had a guarantee on a loan at
3 one point, and it's referred to in his will.

4 Q. Thank you.

5 With that said, you never saw that loan or
6 the guarantee, correct?

7 A. I did not.

8 Q. And is it your testimony that all
9 guarantees from different banks always have
10 identical language in terms and conditions?

11 A. No.

12 Q. So is it possible for you to testify with
13 any accuracy as to what the terms and conditions
14 were of your father's guarantee for the loans to the
15 Hebrew Academy?

16 A. They are generally the same, but there
17 could be some differences.

18 MR. JONES: Thank you, Your Honor. I
19 object to this line of questioning. Calls for
20 speculation.

21 MR. FREER: All right. Let's go direct.

22 EXAMINATION

23 (continued)

24 BY MR. FREER:

25 Q. Has the school ever presented you with a

1 copy of the guarantee that they allege that your
2 father alleged signed?

3 A. No.

4 Q. Has the school ever produced, in this
5 litigation, a copy of the guarantee that your father
6 signed?

7 A. No.

8 Q. So as you sit here, from your position as
9 an executor, has the school ever made a claim to
10 pursue a guarantee that your father allegedly
11 signed?

12 A. No.

13 Q. When your father was drafting his will in
14 2004, you mentioned that he inserted language with
15 respect to the guarantee. Did he discuss his
16 intention of including that provision in the will
17 with you?

18 A. Yes.

19 Q. And what was the intention that he
20 expressed?

21 A. That he was making a gift of \$500,000. If
22 there was a loan existing at the time of his death,
23 that he was a guarantor on, and there was a default
24 of the loan by the borrower, that the \$500,000 would
25 go towards the payment of the loan instead of

1 scholarships. The borrower was the school.

2 Q. I'm going to draw your attention back to
3 Mr. Adelson's testimony on Tuesday. Do you remember
4 testimony when Mr. Adelson testified that it would
5 be ridiculous to consider your father having naming
6 rights because he only donated 500,000?

7 A. Correct.

8 Q. Do you remember that he characterized such
9 amount as being infinitesimal?

10 A. Yes.

11 Q. As the executor of Milton's estate, do you
12 agree those statements?

13 A. No.

14 MR. JONES: I object to relevance.

15 THE COURT: First, it's compound. What are
16 we talking about?

17 MR. FREER: Sheldon Adelson had
18 testified --

19 THE COURT: Which one are you asking if he
20 agrees with?

21 BY MR. FREER:

22 Q. Do you agree with the first statement?

23 THE COURT: Two or three statements. And
24 that is --

25 MR. FREER: That it's ridiculous to even

1 consider Milton having naming rights because he
2 donated \$500,000.

3 THE COURT: I will allow him to answer
4 that.

5 THE WITNESS: I don't agree with that.
6 BY MR. FREER:

7 Q. Why not?

8 MR. JONES: Your Honor, relevance.

9 THE COURT: Overruled.

10 THE WITNESS: Because my father had a
11 15-year plus devotion to the school. In total he
12 donated over a million dollars to the school. He
13 raised millions of dollars for the school. He at
14 times was actively managing the day to day
15 operations of the school. And the school agreed to
16 be named the Milton I. Schwartz Hebrew Academy in
17 1989. Sheldon doesn't know anything about what
18 happened before 2003. And he testified to that.

19 BY MR. FREER:

20 Q. Now, earlier today and on Monday, you
21 recall Mr. Jones asked you whether or not you
22 believed section 2.3 is ambiguous, correct?

23 A. I remember the question.

24 Q. You didn't have a chance to explain to the
25 jury why you believe it's not ambiguous. Can you

1 please do so.

2 A. What's the exhibit number?

3 MR. JONES: I object to the form of that
4 question. That misstates my question, so I would
5 object to his characterization of my question.

6 THE COURT: He said he doesn't think it's
7 ambiguous.

8 MR. FREER: I'm just asking why he doesn't
9 think it's ambiguous.

10 MR. JONES: Fair enough, Your Honor. I
11 have no objection if he wants to ask that question.
12 It's late in the afternoon.

13 THE WITNESS: Can I answer it?

14 THE COURT: Yes.

15 THE WITNESS: Because of the language of
16 the will and my conversations with my father about
17 his intent. To me it's clear. To him it's clear.
18 I think the language is clear. There is either
19 Milton I. Schwartz Hebrew Academy or there isn't.
20 In this case, there isn't.

21 BY MR. FREER:

22 Q. Earlier Mr. Jones asked you whether the
23 Tamar Lubin naming of the elementary school violated
24 the contract. If your father had a naming rights
25 and he voted to allow her to use that for the

1 elementary school, would that violate his naming
2 rights?

3 MR. JONES: Objection, Your Honor. Calls
4 for legal conclusion.

5 THE COURT: I think he has been asked
6 whether he thought other certain actions violate the
7 fathers naming rights. So this again it's not a
8 legal opinion. It's simply whether he would -- he
9 personally considered that.

10 MR. JONES: I understand. If that's the
11 question then I certainly understand it's not
12 calling for legal conclusion.

13 THE WITNESS: I think I'm answering your
14 question. My father could do whatever he wanted to
15 do.

16 BY MR. FREER:

17 Q. And when he voted to allow that elementary
18 school to be used, did your father still have the
19 corporation named Milton I. Schwartz Hebrew Academy
20 at that point?

21 A. Yes, and the whole campus.

22 Q. Do you know whether your father's name went
23 back on the school subsequent to the Sabbath letter?

24 A. It did.

25 Q. While we are on the Sabbath letter, if you

1 remember, you testified that you believed that the
2 name going off in 1994 violated your father's naming
3 rights agreement, correct?

4 A. Correct.

5 Q. Do you believe the Sabbath letter cured
6 that breach?

7 A. Yes, and the pattern and practice of the
8 school.

9 Q. It's my recollection is 52 is the 2008
10 letter that you sent Paul Schiffman.

11 A. Okay.

12 Q. You weren't able to -- you were testifying
13 about it, but you wanted to talk about the reason
14 for requesting the acknowledgment by the MISHA
15 board, and that was in the third paragraph. Let me
16 ask the question.

17 What was your purpose for including that
18 paragraph?

19 A. The one you have highlighted now?

20 Q. Yes.

21 A. Because in the meeting I had with Paul
22 Schiffman immediately before I wrote this letter, he
23 had expressed a concern that they were both Jewish
24 and nonJewish kids in the school and whether legally
25 they could only distribute the money to Jewish kids.

1 So that's the reason I wrote that paragraph. I
2 wanted them to confirm that they were going to do
3 it.

4 Q. So you weren't asking for anything
5 additional?

6 A. No.

7 Q. Now, you also remember on the March 5,
8 2010, e-mail that's Exhibit 1012, Mr. Jones asked
9 you why you didn't take action sooner. What actions
10 did you take as soon as you found out that the
11 naming rights were being violated in March of 2010?

12 MR. JONES: Just object vague as to time.

13 MR. FREER: I think I said March 2010.

14 MR. JONES: Thank you. I wanted to make
15 sure that was the time.

16 THE WITNESS: We had a series of meetings,
17 and I believe I wrote a letter to the board and I
18 continued to have additional settlement discussions
19 with -- at a meeting with Mr. Adelson that went
20 nowhere. I had a meeting with Mrs. Adelson sometime
21 later, which was interesting. And we kept on trying
22 to resolve it, but we were unsuccessful.

23 BY MR. FREER:

24 Q. If you remember, Mr. Jones asked you
25 whether you ever presented a subsequent settlement

1 agreement from that 2010 settlement agreement you
2 presented, correct?

3 A. Right.

4 Q. Did you ever discuss those settlement terms
5 again with Mr. Chaltiel or Schiffman?

6 A. Chaltiel or Schiffman, no.

7 Q. After 2010?

8 A. Oh, in -- I think in 2013 we had more
9 discussions about it and I had discussions with -- I
10 know I had discussions with both Sheldon Adelson and
11 his wife after March of 2010.

12 Q. So even though that agreement terminated
13 on -- what was it -- May 31st, you still tried to
14 negotiate those terms and listed it in your
15 settlement agreement?

16 A. Correct.

17 Q. Mr. Jones asked you after that May 10,
18 2010, letter why you didn't file suit immediately
19 after that. I think you have already explained what
20 was going on with the other members, with your other
21 settlement attempts was there anything going on in
22 the estate that would have prevented you from making
23 a distribution in 2010?

24 A. I think we were still administering the
25 estate. I don't think it was -- I don't think --

1 I'm not certain if the 706 was finalized yet, the
2 estate tax return.

3 Q. Do you recall whether you had clearance
4 from the IRS?

5 A. I don't recall. And that's when I referred
6 to the 706 that's what I'm talking about, clearance
7 from the IRS to do it.

8 Q. You let your estate attorneys handle the
9 IRS work?

10 A. Correct, not my area of expertise.

11 Q. I don't think anybody enjoys dealing with
12 the IRS.

13 Mr. Jones asked you questions about your
14 deposition testimony with respect to Sam Ventura.
15 You said you may have been off by a year. Do you
16 have any type of recollection, as you sit here today
17 when that meeting with Sam Ventura occurred?

18 MR. JONES: Your Honor, asked and answered.

19 THE COURT: Sustained.

20 BY MR. FREER:

21 Q. Since your deposition testimony, has your
22 recollection been refreshed?

23 MR. JONES: Your Honor, again, same
24 objection.

25 THE COURT: Well, that's a different

1 question so I will allow that.

2 THE WITNESS: I don't know sitting here
3 right now.

4 BY MR. FREER:

5 Q. You were asked about the last section of
6 2.3 with respect to the Jewish children do you
7 remember that --

8 A. Yes.

9 Q. -- of the will?

10 If the school brings back the Milton I.
11 Schwartz Hebrew Academy, would you have any problem
12 donating the money to the school?

13 A. Absolutely not. I would love to.

14 MR. FREER: Pass the witness, Your Honor.

15 THE COURT: Thank you.

16 EXAMINATION

17 BY MR. JONES:

18 Q. Looking at Exhibit 176 again, real quick,
19 this is about this pledge issue. If you look, there
20 was the reference to Mr. Sogg paying another hundred
21 thousand dollars, do you remember that. On the next
22 page up towards the top. Milton Schwartz reported
23 under his good solicitation and auspices that Paul
24 Sogg had paid another hundred thousand of his
25 pledge. Robert Cohen only pledged 100,000, right?

1 A. I don't know.

2 Q. That's what your father said in the video
3 that the jury saw. We have evidence from the ledger
4 that he paid his hundred thousand, right? We have
5 evidence that Mr. Sogg paid at least a hundred
6 thousand, right? We talked about that?

7 A. Right.

8 Q. And then this is a statement that your dad
9 is saying that he paid another hundred thousand,
10 right?

11 A. That's what it says.

12 Q. There is no ledger attached to this but
13 your dad does report that Sogg paid another hundred
14 thousand, right?

15 A. Right.

16 Q. So you again, your lawyer wasn't able to
17 point to any financial documents to point you to any
18 financial documents that confirm that Mr. Sogg
19 actually paid that money, right?

20 A. Right, but it's in the minutes.

21 Q. I'm not disputing that. It's right there
22 in front of all of us. Let's just assume that
23 Mr. Sogg paid that. He pledged -- everybody
24 acknowledges he pledged 300, right?

25 A. I think that's right.

1 Q. So assuming that he did pay this other
2 hundred thousand, that's two hundred thousand total,
3 that would be a hundred thousand dollars left,
4 right?

5 A. Right.

6 Q. So you would agree with me, Mr. Schwartz,
7 that a hundred thousand dollars is a lot of money?

8 A. Yes.

9 Q. That's a -- I mean, let's just say that
10 your dad's agreement was to give 500,000 and raise
11 500,000. A hundred thousand dollars would be
12 10 percent of the amount that he said he was going
13 to bring to the school, right?

14 A. Right.

15 Q. 500,000 plus 500,000, a million dollars.
16 10 percent of that is a hundred thousand dollars,
17 right?

18 A. Right.

19 Q. And again, obviously your attorneys were
20 looking for this during my examination, they have
21 been able to come up with another document that
22 showed another hundred thousand dollars. And then
23 an affidavit from your dad that talks about some
24 other things that he said he got the school to give
25 money -- excuse me, the land was donated for your

1 father, but your father never said that he in his
2 video or in his affidavit that the land was
3 connected to his naming rights, did he?

4 A. I don't recall.

5 Q. All right. Do you agree with the
6 proposition Mr. Schwartz, and I assume you do,
7 that's why we are here in court today, that if you
8 make a promise, you have to comply with all of the
9 promise?

10 A. Depends on the context, Mr. Jones.

11 Q. So it depends on the context. Interesting.
12 So you don't agree unequivocally that if you make a
13 promise, you have to live up to your agreement; is
14 that what you are saying to this jury?

15 A. Of course not.

16 Q. So let be clear then.

17 A. I just know where you are going.

18 Q. Pardon me?

19 A. I just know where you are going.

20 THE COURT: Let's wait for the question.

21 MR. JONES: Thank you, Your Honor.

22 BY MR. JONES:

23 Q. By the way, if you know where I'm going,
24 most of the time I don't always. You are probably
25 smarter than I am.

1 I just want to be clear with this jury, you
2 would agree with me if you make a promise you should
3 always live up to the terms of that promise?

4 A. Yes.

5 Q. Let's put that sign up, 1124. It says the
6 Dr. Miriam and Sheldon G. Adelson Educational
7 Campus. You are not telling this jury that you have
8 never said to this jury or your lawyers have never
9 said to this jury that it was a violation -- let me
10 rephrase the question.

11 Is it your testimony that you have never
12 told this jury and your lawyers have never told this
13 jury that it's a violation of your father's naming
14 rights to call the campus the Adelson Educational
15 Campus?

16 MR. FREER: Objection. Asked and answered.

17 THE COURT: I think they talked about the
18 campus.

19 MR. JONES: I don't think so, Judge.

20 THE COURT: I will allow it.

21 BY MR. JONES:

22 Q. Is your testimony that you have never told
23 this jury and your lawyers have never told this jury
24 that it's a violation of your father's naming rights
25 to call the campus the Adelson Educational Campus?

1 A. It depends on what the meaning of it is and
2 what it applies to, when I thought it applied only
3 to the high school, no, but the way we understand
4 the way understand them to mean it today, yes, it is
5 a violation. Today I understand that they mean it
6 to apply to the entire 17 acres. That's a violation
7 if the definition is that it only applies to the
8 high school, then possibly not. That's the
9 distinction.

10 Q. Can you tell the jury, do you see the words
11 high school up there on that sign?

12 A. I don't.

13 Q. That's the main sign in the main entry of
14 the campus, correct?

15 A. Right, but there were two operating schools
16 there.

17 Q. Would you agree with me that if anybody is
18 driving by that campus on Hillpointe, they would be
19 left with the impression that the entire place is
20 called the Adelson Campus?

21 A. Yes.

22 Q. And there would be nothing on that monument
23 that would lead them to believe that that reference
24 to the campus was limited to the high school?

25 A. Correct.

1 Q. Your counsel asked you some questions about
2 the loan and the guarantee but that's not relevant
3 to this inquiry any way is it because there was no
4 loan at the time that you were saying you were going
5 to pay the bequest, right?

6 MR. FREER: Objection. Calls for legal
7 conclusion.

8 THE COURT: Overruled.

9 THE WITNESS: I think it is relevant
10 because your client is trying to use it as an excuse
11 for stripping my father of his naming rights.

12 BY MR. JONES:

13 Q. If he is -- my client is doing that it's
14 unbeknownst to me.

15 As I understood --

16 A. He said it sitting in this chair.

17 THE COURT: Don't interrupt.

18 BY MR. JONES:

19 Q. As I understood the way the will works is
20 the will says that if there is no loan, then the
21 money will go to scholarships, right?

22 A. Correct.

23 Q. You said you also had some meetings a
24 series of meetings with people after your March 10,
25 2010, letter, right?

1 A. Right.

2 Q. You continue to talk about things.

3 Isn't it true Mr. Schwartz that your
4 demands as to what the school had to sign off on
5 never changed?

6 A. No.

7 Q. They haven't. So tell the jury what you
8 put in your letter in May of 2010 in that settlement
9 agreement that you would now be willing to concede
10 and give away in terms of naming rights?

11 MR. LEVEQUE: Objection, Your Honor.
12 Relevance.

13 THE WITNESS: It's a negotiation. I don't
14 know. I was open to being creative to try and come
15 to a resolution and that would have depended on
16 proposal from the Adelsons. Maybe they had some
17 idea that would have been creative that would have
18 made everyone happy.

19 BY MR. JONES:

20 Q. But the fact remains that you never sent a
21 different document than the one you sent in May
22 of 2010 to the school, correct?

23 A. I did not.

24 MR. JONES: Thank you. I have no further
25 questions. Thank you, Mr. Schwartz.

1 THE COURT: Ladies and gentlemen, this is
2 your chance should anyone have a question for
3 Mr. Schwartz before he steps down. He will still be
4 here as a party but before he steps down as a
5 witness.

6 (Off the record.)

7 THE COURT: Mr. Schwartz, as you understand
8 from earlier instructions to other witnesses, I ask
9 you questions of fact. If you know, you can answer;
10 if you don't know, don't answer. I will read them
11 the way they are written.

12 This is from Juror 2. If you can't find an
13 organization charity that will recognize your
14 father's name appropriately, what will happen to the
15 \$500,000.

16 THE WITNESS: Very to give it to charity,
17 we have to find one.

18 THE COURT: This is from juror No. 4,
19 William hall is there a time limit to how long --
20 put pal parts so I will ask you one at the time.

21 Is there a time limit to how long you have
22 to execute your father's will?

23 THE WITNESS: I don't know the answer to
24 that question.

25 THE COURT: Number two: What was the

1 reason you did not at the time -- beg pardon -- that
2 you did not cut the check of \$500,000 check to MISHA
3 please explain the first reason that came to your
4 mind to not execute that check. I will read it
5 again.

6 What was the reason that you did not cut
7 the check, the \$500,000 check to MISHA? Please
8 explain the first reason that came to your mind to
9 not execute that check.

10 THE WITNESS: At the very beginning, there
11 was a pending estate tax return that's the thing we
12 have been referring to as the 706 and until that
13 process is finalized I wasn't able to do it, I
14 wasn't permitted to do it, as I understand it.

15 THE COURT: Paul Schiffman mentioned in his
16 testimony that even though the name of the school
17 changed to the Dr. Miriam and Sheldon G. Adelson
18 school, the school still has a d/b/a doing business
19 as for MISHA. Did you know that.

20 THE WITNESS: I didn't. I wasn't aware of
21 that.

22 THE COURT: And from Juror 5: How long
23 after your father's passing did you have to fulfill
24 the request of the will and what is the procedure to
25 finalize the bequest? You kind of all answered

1 that.

2 THE WITNESS: I think that's the same
3 question. I don't know.

4 THE COURT: Number two: What is more
5 important to you, to have the Milton I. Schwartz
6 Hebrew Academy corporation or the name itself on the
7 building?

8 THE WITNESS: The name itself on the
9 school.

10 THE COURT: As to any other questions,
11 counsel, after consultation, calls for legal
12 conclusion. I can't ask questions about legal
13 conclusion, and I can't rewrite them.

14 So Mr. Freer or Mr. Jones, any follow-up.

15 EXAMINATION

16 BY MR. FREER:

17 Q. I just have one question to clear things
18 up, more for the jury than anything.

19 When you were asked about the timelines and
20 everything to administer the estate or execute the
21 will, who do you rely on in making those
22 determinations?

23 A. My attorneys. It's not an area of the law
24 that I specialize in so Mr. Freer would tell me or
25 another attorney we have whose name is Richard

1 Oceans. They would tell me.

2 MR. FREER: No further questions.

3 THE COURT: Mr. Jones.

4 EXAMINATION

5 BY MR. JONES:

6 Q. One question also. Mr. Schwartz, you
7 indicated that your understanding is a the money
8 would have to go to charity. Kind of going back to
9 the same issue. If you don't find a charity that's
10 willing to take the money under circumstances that
11 you would like with respect to naming rights, then
12 the money still has to go to charity; is that your
13 understanding?

14 A. We will find one, Mr. Jones. I'm confident
15 we will find one.

16 Q. I appreciate that. I'm sure you will try.
17 My question, though, is if you didn't the money
18 would still have to go to a charity, right?

19 A. I think so. I mean, I think it has to go
20 to charity. I think I'm legally required to do it.

21 Q. If you can't find one under the terms that
22 you want it may not go to charity for funding
23 scholarships to Jewish kids, correct?

24 A. It will. It will.

25 Q. You will find a way to make that happen?

1 A. Absolutely.

2 Q. Just not with respect to the Adelson
3 Campus, correct?

4 A. One that honors the name Milton Schwartz,
5 yes.

6 Q. And the same way that your dad -- you
7 believe your dad's rights were in connection with the
8 Hebrew Academy, right?

9 A. In the same way that my family believes
10 would satisfy his intent.

11 THE COURT: Ladies and gentlemen, that's it
12 for today. We have five witnesses we have to rock
13 and roll. It's still light outside and our issue
14 with tomorrow we have to make people are home by
15 sundown. That's our goal right around five so peek
16 have time to get to their homes before the sun goes
17 down. So we will try to close tomorrow as close as
18 we can to five. We may go a little bit over. It is
19 still light and it's a quarter until six but our
20 problem is they have to be home.

21 During this recess, you are admonished not
22 to talk or converse among yourselves or with anyone
23 else on any subject connected with this trial; or
24 read, watch or listen to any report of or commentary
25 on the trial or any person connected with this trial

1 by any medium of information, including, without
2 limitation, to newspapers, television, the internet
3 and radio; or form or express any opinion on any
4 subject connected with the trial until the case is
5 finally submitted to you.

6 We are outside the presence of the jury.
7 I'm going to check and see if we can e-mail Linda
8 over the weekend because there won't be anyone to
9 get an e-mail and send it to me. I think she gets
10 her e-mails on her phone. Most of us don't. Try to
11 get instructions to the extent we can. I have read
12 and I have got -- I have already started working on
13 the draft. Anything else 9 a.m., and we will be
14 ready to go right to work on our five witnesses. Do
15 we have them organized in a way that we know we can
16 get them in? If we can make it work, thank you
17 gentlemen. See you tomorrow.

18
19
20
21
22
23
24
25

EXHIBIT 7

In the Matter Of:
Schwartz vs Adelson Educational Institute

TRIAL TRANSCRIPT

August 31, 2018

004087

004087

ROUGH DRAFT TRANSCRIPT

REALTIME AND INTERACTIVE REALTIME TRANSCRIPT
ROUGH DRAFT DISCLAIMER

IMPORTANT NOTICE: AGREEMENT OF PARTIES

We, the party working with realtime and rough draft transcripts, understand that if we choose to use the realtime rough draft screen or the printout, that we are doing so with the understanding that the rough draft is an uncertified copy.

We further agree not to share, give, copy, scan, fax or in any way distribute this realtime rough draft in any form (written or computerized) to any party. However, our own experts, co-counsel, and staff may have limited internal use of same with the understanding that we agree to destroy our realtime rough draft and/or any computerized form, if any, and replace it with the final transcript upon its completion.

1 REPORTER'S NOTE:

2 Since this deposition has been provided in
3 realtime and is in rough draft form, please be aware
4 that there may be a discrepancy regarding page and
5 line number when comparing the realtime screen, the
6 rough draft, rough draft disk, and the final
7 transcript.

8
9 Also please be aware that the realtime
10 screen and the uncertified rough draft transcript
11 may contain untranslated steno, reporter's notes,
12 asterisks, misspelled proper names, incorrect or
13 missing Q/A symbols or punctuation, and/or
14 nonsensical English word combinations. All such
15 entries will be corrected on the final, certified
16 transcript.

17
18 Court Reporter's Name:

19 Carre Lewis, CCR 497
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

EXAMINATION	PAGE
WITNESS: Samuel Ventura	
By Mr. LeVeque	8
By Mr. Jones	36
By Mr. LeVeque	56
By Mr. Jones	71
By Mr. LeVeque	78
WITNESS: Tamar Lubin Saposhnik	
Vior Dire By Mr. Freer	87
By Mr. Jones	89
By Mr. Freer	117
By Mr. Jones	144
WITNESS: Neville Pokroy	148
By Mr. Jones	148
By Mr. LeVeque	159
WITNESS: Phillip Kantor	160
By Mr. Jones	160
By Mr. LeVeque	180
By Mr. Jones	207

1 THE MARSHAL: All rise. The Honorable
2 Judge Sturman presiding.

3 THE COURT: We are going to go on the
4 record outside the presence of the jury. We are
5 missing one juror. As soon as they are all here, he
6 will let us know.

7 P-61300. I think we have got a plan in
8 place.

9 MR. JONES: We do, I think.

10 MR. LEVEQUE: Here is our --

11 THE COURT: Dr. Lubin is not first.

12 MR. LEVEQUE: No. It would be Mr. Ventura
13 who is here.

14 THE COURT: Wonderful. I will explain to
15 the jury that because of this effort to get in these
16 witnesses who have something very specific to
17 testify about, we are going to be switching back and
18 forth.

19 MR. JONES: I don't know that we are now.
20 There were some developments last night.

21 MR. LEVEQUE: We are finishing our case
22 with Mr. Ventura, and then the school puts on their
23 case starting with Dr. Lubin, and then Dr. Pokroy,
24 and Mr. Kantor. Is that right?

25 MR. JONES: That's right.

1 THE COURT: So just three?

2 MR. JONES: Four.

3 MR. LEVEQUE: Four.

4 THE COURT: Okay.

5 MR. LEVEQUE: So Ventura, Lubin, Pokroy,
6 Kantor.

7 THE COURT: That's great. So we should
8 definitely be okay with bringing in lunch. We will
9 be --

10 MR. JONES: The only issue Your Honor is
11 I'm waiting for the motion. It should be here
12 before Mr. Ventura is finished. As soon as -- they
13 are supposed to bring it to me and I have copies for
14 the court ask counsel. I guess my question is does
15 it make sense to do that before Dr. Lubin or is it
16 appropriate and if it's acceptable to opposing
17 counsel to put Dr. Lubin on and then do it during
18 the lunch hour.

19 THE COURT: We have a half hour so we are
20 not going have -- I don't know how much difference
21 it's going to make.

22 MR. JONES: I want to make sure I don't
23 mess up my client's right to do the Rule 50.

24 THE COURT: If she is here and available to
25 just reserve your right, and we will put that

1 witness on and then --

2 MR. JONES: If we finish, which I think
3 there is a good possibility to finish early today,
4 we could do it at the end of the day so long as
5 counsel doesn't object to that. Otherwise it may
6 cause some delay in the ability to put the witnesses
7 on.

8 THE COURT: Right. Give it some thought.
9 By the time we finish Mr. Ventura. We can decide if
10 we are going to just do it or --

11 MR. JONES: Fair enough Your Honor.

12 THE COURT: Whatever is efficient as far as
13 I'm concerned we just want to be efficient. They
14 will probably be happy to get out. Although they
15 are going to have to be back on Tuesday. They are
16 going to be okay if we finish a little early and we
17 have to, like I said, I'm going to a birthday party.

18 MR. LEVEQUE: I guess we will see what
19 develops with the motion.

20 THE COURT: It may go smoothly so it may
21 not be an issue.

22 MR. LEVEQUE: So we are just waiting on
23 jurors now?

24 MR. JONES: One juror.

25 THE COURT: One. He said one was missing.

1 Went out and checked. Because there is going to be
2 nobody available over the weekend to work e-mail I
3 put my e-mail on here. I want to give this to
4 whoever is going to be e-mailing me. They don't
5 publish our e-mail addresses you could figure it out
6 it's not that hard. I don't know why they don't
7 publish them it's stupid.

8 MR. JONES: Maybe it's better if they don't
9 Your Honor.

10 THE COURT: Who knows.

11 Off the record.

12 (Off the record.)

13 THE COURT: Back on the record we are
14 advised the jury is present and we will bring them
15 in and start our first witness of the day.
16 Mr. Ventura.

17 We are going to go on the record. The
18 jurors are all present and accounted for. Counsel
19 are here with their respective clients.

20 Counsel stipulate to the presence of the
21 jury.

22 MR. LEVEQUE: So stipulated.

23 MR. JONES: Yes, Your Honor.

24 THE COURT: We start with the next witness
25 in order. Mr. LeVeque.

1 MR. LEVEQUE: The estate calls Mr. Ventura.
2 Whereupon --

3 SAMUEL VENTURA,
4 having been first duly sworn to testify to the
5 truth, was examined and testified as follows:

6 THE WITNESS: I do.

7 THE CLERK: Please be seated. And if you
8 will state and spell your name for the record,
9 please.

10 THE WITNESS: Samuel Ventura, last name is
11 V-E-N-T-U-R-A.

12 THE CLERK: Spell your first name, please.

13 THE WITNESS: S-H-A -- S-H-A-L -- sorry.
14 I'm excited now. Samuel.

15 THE CLERK: Thank you, sir.

16 THE WITNESS: Sorry.

17 EXAMINATION

18 BY MR. LEVEQUE:

19 Q. Good morning, Mr. Ventura.

20 A. Good morning.

21 Q. Mr. Ventura, where were you born?

22 A. I'm sorry?

23 Q. Where were you born?

24 A. I was born in Israel.

25 Q. When did you move to the United States?

1 A. 1972.

2 Q. Was that straight to Las Vegas?

3 A. No. It was New York. Five years in New
4 York, ten years in LA, and 31 years in Las Vegas.

5 Q. So do you remember what year you moved to
6 Las Vegas?

7 A. 1986.

8 Q. Mr. Ventura, what's your current
9 occupation?

10 A. Commercial developer, real estate.

11 Q. How long have you been in commercial
12 development?

13 A. 30 years.

14 Q. Do you have any children?

15 A. I have four children.

16 Q. Did they grow up in Las Vegas?

17 A. All did, yeah. They all did.

18 Q. Where did they go to school?

19 A. When I moved in, I have the children. I
20 was looking for a Jewish day school, and I placed
21 three of my children at the Hebrew Academy then.

22 Q. When you say "Hebrew Academy," are you
23 talking about the school that used to be called the
24 Hebrew Academy, then called the Milton I. Schwartz
25 Hebrew Academy, and now called the Adelson

1 Educational Campus?

2 A. That's correct.

3 Q. Do you know my client Jonathan Schwartz?

4 A. Yes, I do, very well.

5 Q. Did you know his father?

6 A. Long-time friend.

7 Q. Can you describe for us your relationship
8 with Milton Schwartz?

9 A. Yes. When I joined the Hebrew Academy -- I
10 don't know exactly if it was immediately or after
11 that I met with Mr. Schwartz. And we spent a lot of
12 years on the board for Jewish day school. And we
13 continued that until he passed away. We then
14 founded another school later on when he had to leave
15 the Hebrew Academy.

16 Q. And describe your relationship with his son
17 Jonathan Schwartz for me, please.

18 A. Jonathan, I know. I don't know. It's been
19 a long time, used to come with his father to the
20 meetings for many years. I used to meet his father
21 on business meetings, tried to do some business,
22 advise each other in different businesses. We had
23 quite a few meetings.

24 Q. Would you characterize your relationship
25 with Milton Schwartz as a good relationship?

1 A. Yes.

2 Q. What about your relationship with Jonathan
3 Schwartz?

4 A. Yes.

5 Q. Do you also have a relationship with
6 Sheldon Adelson?

7 A. Yes, I do. For many years since he moved
8 in town.

9 Q. Do you remember when he moved in town?

10 A. 1989. Close to that.

11 Q. Would you describe your relationship as a
12 friendship or a business relationship?

13 A. As a friendship.

14 Q. Do you remember being asked to serve on the
15 board of the Milton I. Schwartz Hebrew Academy?

16 A. Yes, I do. When I placed my three children
17 at the school, I met Dr. Lubin. She was then the
18 director of the school. And she asked me to join
19 the board.

20 Q. Do you remember when that was?

21 A. Must be '89, '90. 89 probably.

22 Q. If I represented to you that you were
23 elected to the board May 17, 1989, does that seem
24 correct?

25 A. Yes.

1 Q. My understanding is you have been on the
2 board more than once; is that correct?

3 A. Yes.

4 Q. So when did your first stint on the board
5 end? Do you recall the first time you were on the
6 board? When did you get off the board?

7 A. Like around 20 years ago. So it's probably
8 '98, '99. I'm guessing it's close to that.

9 Q. Let me ask you this to put it in time
10 frame. Were you on the board at the time Dr. Lubin
11 was terminated, or were you off the board by then?

12 A. I wasn't.

13 Q. You were not?

14 A. No, I wasn't when she was terminated.

15 Q. So it would have been before that date?

16 A. Yes.

17 Q. Do you recall being on the board at the
18 time the Hebrew Academy changed its name to the
19 Milton I. Schwartz Hebrew Academy?

20 A. Yes.

21 Q. Can you explain to us how that happened?

22 A. Started for the Howard Hughes donated the
23 property in Summerlin. And we were talking on the
24 board about building a new school. And I was not at
25 the executive committee but I was in many meetings

1 about -- on the board about building the school.
2 And through the meetings, Mr. Schwartz pledge to
3 have his name on the school. And they agreed to it,
4 and that's pretty much what it was.

5 Q. See if I can break that down a little bit.

6 A. Yeah.

7 Q. Do you remember how much money Mr. Schwartz
8 donated in exchange to have the name on the school?

9 A. I recall it was a half million dollars. A
10 half million dollars he pledged to start. And also
11 he pledged to arrange a mortgage for one and a half
12 million dollars, note to be able to do the school.

13 Q. Do you know if he was able to obtain the
14 mortgage for the building of the school?

15 A. I do know that. He did not pay the
16 mortgage in full.

17 Q. That wasn't my question. My question was:
18 Was he able to get the financing?

19 A. Yes.

20 Q. So the school could be built?

21 A. Yes, yes, yes, definitely.

22 Q. My understanding is that you played a part
23 in the construction of the school; is that right?

24 A. Well, since I was the building -- the only
25 builder on the board, they asked me to oversee the

1 builder at the time was I think Schulman
2 construction to see if there was any issues,
3 problems, to advise the board. I was the
4 construction guy.

5 Q. Now, with respect to what the school
6 promised Mr. Schwartz with respect to naming rights
7 what's your understanding as to what that promise
8 was?

9 A. As I recall -- are you asking me about the
10 promise of the pledge or the promise of --

11 Q. The school. Mr. Schwartz, correct me if
12 I'm wrong, but he gave the school a half million
13 dollars and then he orchestrated the financing of
14 the \$1.5 million. What did he get in return from
15 the school?

16 A. He got to have his name on the school.

17 Q. Would that be for in perpetuity?

18 A. Yeah.

19 Q. I'm just going to show you a document here,
20 Mr. Ventura, if my technology is working today. I
21 think we went over this in your deposition. This
22 has within been admitted into evidence as
23 Exhibit 118 it's a document that was produced by the
24 school that showed building fund pledges. Do you
25 recognize it as such?

1 A. Yes.

2 Q. And do you see the amount pledged and the
3 amount paid by Milton Schwartz?

4 A. Yes, I do.

5 Q. Is that amount reported on the pledge memo
6 consistent with your recollection of what he
7 promised to pay?

8 A. Yes.

9 Q. So you testified that you knew Milton
10 because you were on the board of two schools. What
11 was the other school that you were on the board of?

12 A. Oh, it was big issues with the Hebrew
13 Academy. The director then, Dr. Lubin, she managed
14 to control the board. I was a board member then.
15 And pretty much it was -- the school was running in
16 Dr. Lubin's way, not really by the board. There was
17 many issues.

18 In order to get to what it was, I decided I
19 no longer want part of the school, and I pull my
20 children out. And I think I was the first one to
21 resign. And as I resigned, I don't know exactly how
22 much time later, I heard Mr. Schwartz was removed
23 from the board too, with argument with Dr. Lubin. I
24 think they were. And as that happened, we got
25 together, a few friends, including Mr. Schwartz, and

1 we decide to fund and start another school called
2 Jewish Community Day School on the east side. And
3 it was like five us . I don't know if you need the
4 names.

5 Q. No.

6 A. And I was a board member then, and Milton
7 Schwartz was the president for a short time. And we
8 started the school. It was located on the east side
9 in synagogue Ner Tamid. And the reason for starting
10 the school was was -- to start with, was problems
11 with the Hebrew Academy. And we really thought we
12 needed one east side because we used to drive the
13 kids from the east all the way to Summerlin. Long
14 drive. That was the reason.

15 Q. Thank you.

16 Now, at some point did that school shut
17 down?

18 A. You are talking about the Jewish Day
19 School?

20 Q. Yes.

21 A. Six years later, it was a very successful
22 school. We had problems with the financing, like
23 most schools do. I happened to be the president at
24 that time, the last two years of that school. Very
25 successful. We had over a hundred children. And

1 all my supporters, including Schwartz --
2 Mr. Schwartz, Mr. Adelson, and many others to
3 support the school, they decide maybe we should have
4 one school strong financially, and focus on only one
5 school. So they talked to me about it because they
6 pulled their support. And I couldn't survive
7 without that support at that school. So we did not
8 file bankruptcy. The Jewish Federation and all of
9 the people who supported paid all of the bills. And
10 we moved the children, most of them, to the Hebrew
11 Academy then -- Mr. Schwartz's Hebrew Academy. And
12 most of them and some of them were to chabad school.

13 Q. Do you remember having a conversation with
14 Mr. Adelson about wanting to shut down the school?

15 A. Yes, I do. I do. One of the conversations
16 was, Sam, I think we should have one strong school
17 in town and have all the effort and financing
18 support one school. And I agreed with that
19 because -- I really didn't want to shut it down, but
20 I had no choice. I couldn't stay in business with
21 all of the support I had is gone to the Summerlin
22 Hebrew school with the Schwartz Hebrew Academy.

23 Q. Was Mr. Adelson giving you financial
24 support at the Jewish Day School?

25 A. Yes. I remember -- I can add something to

1 it. The last day I called him and I said, Sheldon,
2 I have -- I need \$26,000 to pay off all my teachers.
3 I have money owes and everything we promise, you
4 know, vacations. And he had a runner in a couple
5 hours with \$26,000 to pay everybody off, and I shut
6 everything down.

7 Q. At some point you came back to the Milton
8 I. Schwartz Hebrew Academy board; is that right?

9 A. If you -- I don't know exactly if it was a
10 few months, six months or a year. I remember after
11 a while, rest in peace, Victor Chaltiel, who was
12 with the Hebrew Academy then, he came to talk to me.
13 And he said, Sam, we need you on the board, would
14 you join us? And I did.

15 Q. Mr. Ventura, do you recall when you
16 rejoined the board if Mr. Schwartz was alive at that
17 time?

18 A. Yes.

19 Q. He was?

20 A. (No audible answer.)

21 Q. Do you remember when Mr. Schwartz passed
22 away, what year that was?

23 A. I'm guessing around six, seven years. I
24 don't know exactly.

25 Q. In the interest of time, if you accept my

1 representation, that it was August 9, 2007; would
2 you accept my representation?

3 A. August 2007?

4 Q. Yes.

5 A. Yes.

6 Q. Do you recall the school undergoing an
7 expansion?

8 A. Yes. Is your question you are talking
9 about expansion of the Hebrew Academy or expansion
10 of the high school?

11 Q. Well, I guess let's go back.

12 A. Yeah.

13 Q. Do you recall at some point the Adelsons
14 pledging a large sum of money to the school?

15 A. Yes, I do. I do.

16 Q. Do you remember what that was for?

17 A. Yes. Mr. Adelson wanted to build a high
18 school to have, and he pledged a large amount to
19 expand and build a high school.

20 Q. And why did he want to build a high school,
21 do you know?

22 A. Yes. We needed a high school in town.
23 There was no high school, a Jewish high school,
24 Jewish school -- high school, we needed one. He
25 wanted to also have his name on the school. And I

1 think that was a great thing for the community.

2 Q. Did he have children at the school at that
3 time?

4 A. Yes, I did.

5 Q. I'm sorry. Did Mr. Adelson?

6 A. Oh, Mr. Adelson. I think he had young
7 kids, first grade maybe. I don't remember. They
8 were three, four, five years old, he had a couple
9 kids. I can't remember exactly how old they were
10 but they were young. Yeah, they were at the school.

11 Q. Thank you. I'm just going to show you some
12 documents here first one -- did I think we went over
13 these in your deposition. Not that one. Let's
14 start there.

15 For the record this is joint Exhibit 42.

16 Mr. Ventura, these are board meetings
17 minutes from December 13, 2007, of the school board.
18 Do you recognize it as such?

19 A. I don't recall this. It's a long time ago.

20 Q. Do you see that your name is in the -- you
21 are present?

22 A. Yes.

23 Q. This was about four months after
24 Mr. Schwartz passed away, correct? Is that correct?

25 A. I don't recall. I can't remember the

1 document.

2 Q. Well, if I represent that he died in
3 August, this would be four months after he died.

4 A. Okay.

5 Q. I called out a portion of these minutes
6 that talks about making a motion to approve a grant
7 from the Adelson Family Charitable Foundation. And
8 it appears that this was a motion made by you. Do
9 you see that?

10 A. Yes.

11 Q. Do you remember making this motion in the
12 board meeting?

13 A. Yes.

14 Q. All right. Why did you make the motion?

15 A. For the reason I just told you. The
16 community needed that school in town.

17 Q. I will represent to you that the next
18 exhibit is Exhibit 43. This is the resolution that
19 was passed. Do you see it's the same date,
20 December 13, 2007. And I'm just going to scroll
21 down here to see if you can see your signature.

22 A. I do.

23 Q. You do. Okay.

24 And I'm going to call out the first portion
25 of this resolution, which we have all seen probably

1 30 times now, but do you recall this resolution?

2 A. Yes.

3 Q. So you recall that this resolution gave the
4 board authority to change the corporate name of the
5 school to the Dr. Miriam and Sheldon G. Adelson
6 Educational Institute in perpetuity?

7 A. Yes.

8 Q. And then the second resolution you see here
9 is that the corporation's elementary school shall be
10 named in honor of Milton I. Schwartz in perpetuity.
11 Do you see that?

12 A. Yes.

13 Q. Do you remember voting for that?

14 A. Yes.

15 Q. Why did you vote for that?

16 A. Mr. Schwartz is the gentleman who was the
17 gentleman who was from day one, and arranged the
18 funds to build the Hebrew Academy, the Milton I.
19 Schwartz Hebrew Academy. He had the right to have
20 his name on it.

21 Q. When it's saying "elementary school," do
22 you know what grades that's talking about?

23 A. I thought it was to the 5th grade or 6th
24 grade. 5th or 6th grade at that time.

25 Q. Okay. Then the second to the last

1 resolution, do you see it's authorizing Mr. Chaltiel
2 to execute and deliver the grant agreement between
3 the school and the Adelson Family Charitable
4 Foundation?

5 A. Yes.

6 Q. This is the grant agreement that's also
7 dated December 13, 2007. Do you remember this
8 document?

9 THE COURT: For the record it is?

10 MR. LEVEQUE: For the record, Your Honor,
11 it's 44.

12 THE COURT: Thank you.

13 BY MR. LEVEQUE:

14 Q. Do you remember it?

15 A. Yes.

16 Q. Do you see that the amount of money that
17 the Adelson family was going to make a grant of was
18 \$3 million?

19 A. Yes.

20 Q. And here it's all in yellow, paragraph 3
21 talks about the naming rights. So it states: The
22 corporation agrees that the corporation, the campus,
23 the high school, the middle school, and the
24 classroom buildings themselves will be named in
25 perpetuity of Dr. Miriam Adelson and Sheldon

1 Adelson. Do you see where I read that?

2 A. Yes.

3 Q. It didn't say anything about the elementary
4 school, did it?

5 A. Right.

6 Q. And why is that?

7 MR. JONES: Object to the form of the
8 question. Lacks foundation.

9 MR. LEVEQUE: It's in the resolution.

10 THE COURT: I think you might -- he drafted
11 it, so maybe his understanding of what it is.

12 THE WITNESS: I do not know why it doesn't
13 say. I don't remember why it was.

14 BY MR. LEVEQUE:

15 Q. Okay. Well, maybe this will help you out.
16 If you go down to -- there is romanettes. There is
17 romanette (i), (ii), and (iii). And (iii) says:
18 The corporation's high school shall be named the
19 Dr. and Sheldon G. Adelson Upper School; (iv) says,
20 the corporation's middle school shall be named the
21 Dr. Miriam and Sheldon G. Adelson Middle School, and
22 then the sentence ends. Do you see that?

23 A. Uh-huh.

24 Q. Did they not -- did you not include -- did
25 the board not include "elementary school" because of

1 the resolution that said that it was going to honor
2 the Milton I. Schwartz name in perpetuity for the
3 elementary school?

4 MR. JONES: Objection. Lacks foundation.

5 THE COURT: Again, if he knows.

6 THE WITNESS: I cannot answer that because
7 I don't recall. I'm sorry.

8 BY MR. LEVEQUE:

9 Q. But in any case, the board did resolve to
10 name the elementary school portion of the school in
11 honor of Milton Schwartz in perpetuity; is that
12 correct?

13 A. Yes.

14 Q. Mr. Ventura, when the school named itself
15 after Mr. Schwartz in 1989 when you were on the
16 board, how many grades were in the school?

17 A. I think we went all the way to 5th grade.

18 Q. Are you sure?

19 A. I'm not sure. It's been 30 years.

20 Q. I know.

21 At some point, Mr. Ventura, did the school
22 take Mr. Schwartz's name off the elementary school?

23 A. When issues came to the board about the
24 pledge Mr. Schwartz left in his will, and the board
25 decided to move his name and -- from outside of the

1 building. But we agreed to leave his name inside
2 the building and his picture in memory of
3 Mr. Schwartz. A decision was made on the board, I
4 don't remember who vote for it, but I remember a
5 decision was made to move the name from the
6 school -- from the building.

7 Q. And also the elementary school grades
8 themselves, correct?

9 A. Yeah.

10 Q. Okay.

11 A. But I do remember the picture and the name
12 and everything would remain in the lobby of the
13 school.

14 Q. You weren't here for the benefit of
15 Mr. Schiffman's testimony if he told you that he
16 said the portrait was also taken out of the
17 building, would you have a reason to disagree with
18 that?

19 MR. JONES: Object as to time.

20 THE COURT: Can we get a little bit of a
21 timeline here?

22 MR. LEVEQUE: Sure.

23 BY MR. LEVEQUE:

24 Q. Did the school remove Mr. Schwartz's name
25 from the building and from the elementary school

1 grades before or after the lawsuit was filed by the
2 school?

3 A. I don't remember dates. I remember the
4 discussion. I don't remember if it was before or
5 after. I cannot be sure about that. I remember the
6 discussion, yes, to his name. But also remember to
7 leave his name in the lobby and his picture in
8 memory of Mr. Schwartz. I see the picture there all
9 the time. I don't remember removing it
10 completely -- removing it completely.

11 Q. Correct me if I'm wrong, but you said that
12 the reason why you took the name off the building in
13 the elementary school grades is because he didn't
14 pay the gift in his will?

15 A. I think that was the reason.

16 Q. Were there any other reasons?

17 A. No.

18 Q. Do you recall having any meetings with my
19 client, Jonathan Schwartz, and members of the school
20 board to try resolving this dispute concerning the
21 will and the naming rights?

22 A. I volunteered to try to resolve this in a
23 very good way, let's call it. I did call Jonathan
24 and ask him to join us in a meeting at the school.
25 And he was very happy to do that. And in the

1 meeting was president then of Adelson came,
2 Mr. Chaltiel, Mr. Schiffman, the director, I, and
3 Jonathan. There was four of us at the office of the
4 director. And we tried to solve the issue.

5 Q. Do you remember if my client presented an
6 offer of settlement or anything at that meeting?

7 A. Yes, I do. Jonathan -- actually, I
8 remember Jonathan said, Sam, you know, I have the
9 check with me and we solve everything today, I just
10 write you the check. I remember he said that, I
11 have it in my briefcase. And that was exciting to
12 hear that. And the meeting started, and Jonathan
13 pulled a file from his briefcase. And he said if
14 you guys agree on these terms -- it was a few pages,
15 quite a few pages, had to read it, because the
16 meeting didn't last long. He pulled it out and he
17 give it to Mr. Chaltiel. And Mr. Chaltiel look at
18 that and he says never going to happen all these
19 changes subject to conditions to give your pledge of
20 the million dollars that was promised in the will.
21 So that's how it started. And as soon as he said
22 that, then things didn't go well. A lot of them
23 lost temper. They really did. It was terrible.
24 They lost temper, and things were said not nice.
25 And Jonathan walked away from the meeting. That was

1 the end of that meeting.

2 Q. Do you remember the gist of what Jonathan
3 was asking that the school do?

4 A. A few things maybe. But I actually didn't
5 read all of the pages. It was quite a few pages
6 there. I couldn't read it. I know, Victor did.
7 But the meeting didn't last long. We didn't go
8 through page by page. And we just start talking
9 about it. And Victor just got up and said, no, it's
10 not going to happen. That was the end of that
11 review of these terms of giving the pledge.

12 There was a few items. I remember the
13 first page maybe we just started. And I didn't
14 follow through because that was the end of the
15 meeting and Victor decided it's not going to happen.
16 And they threat each other to sue each other and all
17 that stuff.

18 Q. Do you remember if Mr. Chaltiel tried to
19 come up with a counter proposal, like a response to
20 what Mr. Schwartz wanted, any attempt to compromise?

21 A. No, I do not, and I was not involved.

22 Q. Do you remember when that meeting was?

23 A. I don't remember the date, I'm sorry.

24 Q. Okay.

25 A. So many things.

1 Q. So then as far as timing goes in the
2 general sense after that meeting, at some point the
3 school sued the estate; is that right?

4 A. Yes.

5 Q. And then after that is when the school took
6 Mr. Schwartz's name off the old building of the
7 elementary school; is that right?

8 A. I think it was after that. I'm not sure.

9 Q. Mr. Ventura, do you believe that the
10 December 2007 resolution that we looked at that
11 changed the corporate name to the Adelson School and
12 the name of that whole campus to the Adelson Campus
13 and the name of the middle school the Adelson Middle
14 School, do you think that violated, in any way, the
15 agreement that the school had with Mr. Schwartz back
16 in 1989 that you voted for?

17 MR. JONES: Just to the extent it calls for
18 legal conclusion. But if Mr. Ventura has an answer,
19 that's fine.

20 THE COURT: Sustained.

21 THE WITNESS: I do not know if he did
22 violate it. No, I do not know that. At that time
23 I'm sure we discussed that, but we vote for it so I
24 guess we felt comfortable.

25 BY MR. LEVEQUE:

1 Q. Okay.

2 A. Felt comfortable it wasn't violated, I
3 guess.

4 Q. Let me ask you this, Mr. Ventura. You are
5 in the unique position in this case where you were
6 on the board in 1989 when Mr. Schwartz got his
7 naming rights, and you were also on the board when
8 the school resolved to take away the naming rights.
9 So my question for you, Mr. Ventura, is that did you
10 inform the board prior to that meeting in
11 December 2007 that, hey, I was on the board in 1989
12 and we told Milton that he was going to have the
13 naming rights of the school in perpetuity?

14 A. I don't remember that discussion, no, I
15 don't. I don't remember the discussion.

16 Q. We are going to look at a couple more
17 exhibits, and I think we will be done.

18 Showing you what's been admitted as joint
19 Exhibit 51 in this case, Mr. Ventura, an amendment
20 to the articles of incorporation for the school. I
21 will call this out. These were filed on March 21,
22 2008. Do you see that?

23 A. Yes.

24 Q. You were on the board at this time; is that
25 right?

1 A. This is in 2008. 2008 when I wasn't.
2 2008?

3 Q. 2008.

4 A. 2008. No, I wasn't.

5 Q. Okay. Let's do this. Let's look at 49.

6 These are board meeting minutes March 11, 2008. Do
7 you see your name as one of those present?

8 A. Yeah, I do.

9 Q. So any reason to dispute the minutes there?

10 A. No. Yeah, my name is there. Yes.

11 Q. While we are on these, I just want to look
12 at one thing here from March 11, 2008. It states
13 the resolution of the articles of incorporation were
14 signed by all BOT members in attendance, and the
15 motion passed. Do you see that?

16 A. Yes.

17 Q. And then keep that date in mind, March 11,
18 2008. And also keep in mind the next board meeting
19 was going to be April 10. Okay? We will go back to
20 the articles of incorporation that were amended,
21 March 21, 2008. Now, I think we have established
22 that you were on the board at that time; is that
23 correct?

24 A. Yes.

25 Q. All right. And here we have the that the

1 Milton I. Schwartz Hebrew Academy the corporate name
2 is going to be changed to now reflect that it is now
3 in perpetuity as the Dr. Miriam and Sheldon G.
4 Adelson Educational Institute. Do you see that?

5 A. Yes.

6 Q. So the next board meeting that was
7 scheduled for April 10, 2008, we have got minutes
8 for. Do you see that for April 10, 2006? Actually
9 says "2006." I represent it's a typo, because if
10 you go down at the bottom, it says April 10, 2008.
11 Do you see that?

12 A. Yes.

13 Q. Do you see yourself being present there?

14 A. Yes.

15 Q. Now, the board apparently made a motion to
16 confirm that each and every trustee will be held
17 harmless and indemnified for all liabilities related
18 to their functions as trustees of the school,
19 including all costs incurred. Do you see where I
20 read that?

21 A. Yes, I do.

22 Q. Do you see that the motion passed?

23 A. Yes.

24 Q. Were you seeking to indemnify and hold
25 harmless the board members for changing the name of

1 the school about two weeks before?

2 A. Yes.

3 Q. Why were you concerned?

4 A. Why I was concerned? Well, it's a very
5 difficult question for me at that time what I was
6 thinking. But if we went to this, maybe we didn't
7 have enough legal advice or information. In this
8 case, it's just easy.

9 Q. Okay.

10 A. It's just easy to get this signed that way,
11 so we don't have to worry about it.

12 Q. You would agree with me, though, this
13 motion to indemnify and hold each other harmless for
14 acts of the board occurred just the meeting right
15 after the board resolved to change the corporate
16 name of the school from the Milton I. Schwartz
17 Hebrew Academy to the Dr. Miriam and Sheldon G.
18 Adelson Educational Institute?

19 A. I said we just felt comfortable as board
20 members to get this document signed this way. And
21 this way we don't have to worry about the legality
22 what happened 10, 15 years earlier.

23 Q. Were you concerned at all about being sued
24 by the school for breaching the naming rights
25 agreement with Mr. Schwartz?

1 A. At that time we were not.

2 Q. Mr. Ventura, did the school, to your
3 knowledge, the board, have any intent to change the
4 name of the school before Mr. Schwartz died?

5 MR. JONES: I object to the extent that it
6 calls for speculation as to Mr. Ventura. I have no
7 objection to his mind-set.

8 THE COURT: Sustained.

9 With that understanding.

10 MR. JONES: Okay.

11 THE WITNESS: Could you repeat the
12 question, please?

13 BY MR. LEVEQUE:

14 Q. To your knowledge, did you, as a board
15 member at that time have any intent to change the
16 name of the school before Mr. Schwartz passed away?

17 A. No.

18 Q. So that didn't occur until after
19 Mr. Schwartz passed away?

20 A. That occurred after Mr. Adelson pledged his
21 pledge, and that's when that happened.

22 MR. LEVEQUE: Court's indulgence.

23 I pass the witness. Thank you,
24 Mr. Ventura.

25 THE COURT: Thank you.

1 EXAMINATION

2 BY MR. JONES:

3 Q. Good morning, Mr. Ventura. It's nice to
4 meet you. I wish it was under different
5 circumstances. But we have not met before, have we?

6 A. No.

7 Q. I have gotten to know you a little bit
8 because I have seen your name on lots of documents.
9 As you pointed out, some of these documents go back
10 30 years.

11 A. That's correct.

12 Q. Everybody struggles in this case. We
13 understand it's kind of hard to remember some of
14 these things?

15 THE COURT: Mr. Jones has a squeaky pen.
16 And it's magnified by the audio equipment.

17 MR. JONES: Terrible habit.

18 THE COURT: Mr. Jones, I have just been
19 informed the jurors have raised their hands
20 requesting a brief recess. We will take a 5-minute
21 recess. We will take another break later.

22 During this recess, you are admonished not
23 to talk or converse among yourselves or with anyone
24 else on any subject connected with this trial; or
25 read, watch or listen to any report of or commentary

1 on the trial or any person connected with this trial
2 by any medium of information, including, without
3 limitation, to newspapers, television, the internet
4 and radio; or form or express any opinion on any
5 subject connected with the trial until the case is
6 finally submitted to you.

7 We will be in recess for ten minutes.
8 Let's take a short break here, Mr. Ventura. We will
9 be back with Mr. Jones questions.

10 (Off the record.)

11 THE COURT: Back on the record. Mr. Jones
12 you were going to begin your questioning of
13 Mr. Ventura.

14 MR. JONES: Stipulate to the presence of
15 the jury. I would note for the record, I have put
16 my pen down.

17 THE COURT: By the way, our colleague next
18 door, Judge Togliatti, has apologized. It's mental
19 health day. It's all under control. Thank you.

20 BY MR. JONES:

21 Q. Again, good morning.

22 A. Good morning.

23 Q. I'm going to try to move through this. We
24 are trying to get done today to get everybody out of
25 here for the weekend. If I talk too fast, just tell

1 me and I will slow down.

2 I want to go back to the beginning about
3 things when you talked about when you were first
4 involved with the school way back in the late 1980,
5 right? So it's true that, as far as you know,
6 Mr. Schwartz had nothing to do with acquiring that
7 property from Howard Hughes, right?

8 A. That's correct. Let me correct a little
9 bit. I mean, Mr. Schwartz was -- I think he was the
10 president then. And Howard Hughes pledged to give
11 us donation. I mean, definitely everybody was
12 involved.

13 Q. Sure. Was it your understanding though
14 that Dr. Lubin was the one that really approached
15 Howard Hughes about getting that property and
16 setting that up?

17 A. I don't remember that.

18 Q. Fair enough.

19 Now, you I think testified that you recall
20 a half a million dollars from Mr. Schwartz was what
21 he gave the school, right?

22 A. Yes.

23 Q. But in terms of what the agreement was as
24 to how much he was going to give would you agree
25 with me sir Dr. Lubin would know more about that

1 than you?

2 A. Yes.

3 Q. You were not at the actual meetings with
4 the board and Mr. Schwartz when they were talking to
5 him about the money he was going to give; is that
6 right?

7 A. No, I wasn't.

8 Q. You were not?

9 A. I was not.

10 Q. Okay. Let's look at Exhibit 112, if we
11 could. So if you look at the top there, it says
12 August 14, 1989. You will see present at the
13 meeting and it looks like you are not listed there,
14 right?

15 A. Yes.

16 Q. And so would it be right to say that as far
17 as you know, there was never any kind of written
18 contract with Mr. Schwartz on any kind of naming
19 rights is that true?

20 MR. LEVEQUE: Objection to the extent it
21 calls for legal conclusion.

22 THE WITNESS: I was not involved.

23 THE COURT: You need to wait. So to the
24 extent you are not asking him when -- you said
25 agreement.

1 MR. LEVEQUE: Said contract.

2 MR. JONES: Written contract.

3 THE COURT: For any kind of a legal
4 opinion.

5 MR. JONES: Of course not.

6 THE COURT: Simply in his personal
7 experience as a developer. So to his personal
8 knowledge. Okay, great.

9 BY MR. JONES:

10 Q. You don't recall any kind of written
11 contract between Mr. Schwartz and the school about
12 naming rights; is that true?

13 A. I didn't see any.

14 Q. And by the way, Judge brings up a good
15 point. You have been a developer involved in real
16 estate for 30-plus years?

17 A. Yes.

18 Q. So you have been involved in negotiating
19 lots of contracts, I assume?

20 A. Many.

21 Q. So you would have some familiarity with
22 that process?

23 A. Yes.

24 Q. With respect to this agreement that we
25 talked about, if it wasn't in writing, then it must

1 have been some kind of a verbal agreement; would
2 that be your understanding?

3 A. Yes.

4 Q. And as you sit here today, you don't
5 remember exactly what the agreement was, whether it
6 would be the corporation or the building or any
7 particulars, right?

8 A. I don't.

9 Q. Mr. Ventura, interesting question here. I
10 have got the benefit -- I was not at your
11 deposition, but I have the transcript. It's my
12 understanding that you said that you believe that
13 Mr. Schwartz would have given that money even if his
14 name wasn't even put on that building, that he was
15 committed to giving the money.

16 A. I said that?

17 Q. That's my understanding. Do you believe he
18 would have given the money even if he --

19 A. I can tell you Mr. Schwartz was very
20 committed to the school. He stood behind everything
21 he said he was going to do. And if he would give
22 the money without his name, I cannot -- I don't
23 know. You don't know those things. But he was very
24 committed, that I can tell you.

25 Q. Fair enough.

1 Along those same lines, you don't know if
2 there was an agreement to name the campus after
3 Milton Schwartz as opposed to a building or
4 something else, right?

5 A. No, I don't know.

6 Q. Let's look at Exhibit 384. This is meeting
7 minutes from November 29, 1990. And you were on the
8 board at that time, right?

9 A. Yes.

10 Q. If you go down, let's see who was there. I
11 think it's on the next page. You will see your name
12 is the last on the list of the people present,
13 right?

14 A. Yes.

15 Q. So let's look now at the -- I think it's
16 the last page. You will see there is a motion made
17 by Roberta Sabbath and seconded by George Rudiak
18 that Dr. Lubin should be honored naming the Tamar
19 Lubin Saposhnik Elementary School. The motion
20 passed unanimously. Do you see that?

21 A. I remember that.

22 Q. And do you remember that if -- you never
23 thought at that time, did you, that by putting
24 Dr. Lubin Saposhnik's name on the elementary school
25 it would be a violation of any agreement with

1 Mr. Schwartz?

2 A. No, I never thought it was.

3 Q. In fact, Mr. Schwartz, we can go back to
4 the first page -- Mr. Schwartz was at that meeting?

5 A. Yes.

6 Q. You will see he was the first one listed
7 there. If it was voted on unanimously to do that,
8 he must have agreed to it too, right?

9 A. Yes.

10 Q. So would that be an indication to you that
11 there was never an agreement originally with
12 Mr. Schwartz to put his name on the school if he
13 voted in 1990 to put her name on it?

14 MR. LEVEQUE: Object to the form. Calls
15 for speculation.

16 THE WITNESS: No.

17 BY MR. JONES:

18 Q. Would you agree that he must not have
19 thought it was a violation if he voted to put her
20 name on it? Does that make sense to you?

21 A. Makes sense.

22 Q. And kind of in connection with that last
23 point, Mr. Schwartz never mentioned to you that he
24 felt the school had somehow breached any naming
25 rights agreement with him at any time, right?

1 A. No, we never actually discussed that.

2 Q. Fair enough.

3 You already told the jury that at one point
4 you were on the board and then another point you
5 were off the board for a period of time, and then
6 you came back on.

7 Is it true that you came back on the board
8 after the Adelsons got more involved with the school
9 in the 2000s?

10 A. That's correct.

11 Q. And Milton Schwartz was still alive at that
12 time?

13 A. Yes.

14 Q. Now, if -- there has been some testimony
15 from a number of people that there was kind of an
16 evolving process about what the Adelsons' name was
17 going to be on before there was a final decision.
18 Do you remember that? In other words, exactly what
19 they were going to call the Adelson part versus what
20 was going to stay Milton Schwartz Hebrew Academy; do
21 you remember anything like that?

22 A. Yes. Yes, there was discussion about
23 keeping Mr. Schwartz's name on the elementary and
24 Mr. Adelson's name would be on the Adelson
25 Educational Campus.

1 Q. On the campus?

2 A. Yes.

3 Q. And did the campus include the middle
4 school, the new buildings include the middle school?

5 A. Definitely.

6 Q. Was that discussed, that the campus would
7 include the middle school when Mr. Schwartz was
8 still alive?

9 A. I don't remember that discussion.

10 Q. I know it's try to pick things out of
11 particular years. It's hard to do.

12 A. It is.

13 Q. Let me put it a different way. Before the
14 building was actually built, did the board members
15 ever look at plans?

16 A. Yes.

17 Q. For -- plans for the new buildings?

18 A. Yes.

19 Q. And you are a developer?

20 A. Yes.

21 Q. So that's something you are familiar with,
22 right?

23 A. Yes.

24 Q. So in looking at those plans, if
25 Mr. Schiffman testified -- consistent with your

1 memory, Mr. Schiffman testified that before they
2 broke ground, and I think even Mr. Adelson
3 testified, they had pretty much the plans figured
4 out for what they were going to build before you
5 broke ground. Does that make sense?

6 A. Yes.

7 Q. And if that groundbreaking occurred in
8 November of 2006, those plans would have had to
9 indicate pretty much what you were building, right?

10 A. Yes.

11 Q. And if those plans indicated that the
12 middle school was going to be in the new building,
13 and it was 2006, and Mr. Schwartz didn't die until
14 2007, then you would agree with me that Mr. Schwartz
15 would have been aware that the middle school was
16 going to be in the new building?

17 A. That's correct.

18 Q. There has also been some discussion about
19 the lower school and the elementary school. Do you
20 recall when this whole project was being done,
21 starting in, say, 2006 started the actual
22 construction process, was any of the Adelson money
23 used to renovate the elementary school?

24 A. Not in the beginning. I don't remember
25 this in the beginning, but it was -- his money was

1 used later on to renovate the building, yes. I
2 remember I was involved with that.

3 Q. Mr. Schiffman told the jury that he
4 recalled -- was Mr. Schiffman involved in the
5 construction process for the school -- let me
6 clarify. I didn't mean to interrupt you.

7 As the head of the school, was he involved
8 in overseeing the project? He was not obviously a
9 contractor, but as head of the school, was he
10 involved in what was going on with the construction?

11 A. I don't know that because I wasn't there
12 daily. The gentleman was there every day. How much
13 he was involved, I have no idea. I just knew we
14 discussed about spending sum of money to renovate
15 the hallways and stuff like that. And it was done.

16 Q. Does around \$3.8 million sound in the
17 ballpark of what you recall?

18 A. I don't know that amount but I know it was
19 a lot.

20 Q. By the way, Mr. Ventura, based on what you
21 said, and even reading your deposition and what you
22 said to the jury today, I get the impression that
23 you saw your role in this unfortunate situation as
24 kind of the peacemaker?

25 A. Right.

1 Q. Would that be true?

2 A. Yeah.

3 Q. You were friends with both sides, the
4 Adelson side and the Schwartz side?

5 A. Yes, I am.

6 Q. And you were friendly both with Mr. Milton
7 Schwartz and his son?

8 A. That's correct.

9 Q. And the Adelsons?

10 A. That's correct.

11 Q. So you are here today really to just try to
12 not favor one side or the other, just tell what you
13 know about what happened?

14 A. That's correct.

15 Q. Let's go to this situation about what
16 happened. You told the jury already there was a
17 decision made to remove the name -- Mr. Milton
18 Schwartz's name from the building, right?

19 A. (No audible answer.)

20 Q. And that was because of commitments that
21 Mr. Milton Schwartz made that were not fulfilled;
22 isn't that true?

23 MR. FREER: Objection. Misstates prior
24 testimony.

25 THE COURT: To the extent that I think he

1 can answer if he believes it's true or not.

2 BY MR. JONES:

3 Q. Isn't that true?

4 A. Can you repeat the question?

5 Q. I certainly can. The reason the board
6 removed Mr. Schwartz's name from building was
7 because the commitments he made were not fulfilled?

8 MR. FREER: Objection. Lacks foundation.

9 THE COURT: Overruled.

10 THE WITNESS: Are you asking me the reason
11 or the timing?

12 BY MR. JONES:

13 Q. I'm just asking you in general.

14 A. That was the reason.

15 Q. In general.

16 A. Yes, that was the reason.

17 Q. That was the reason.

18 After he passed away there was a donation
19 made for the half million dollars, and that Jonathan
20 Schwartz didn't pay it, that was when the decision
21 was made to take the name down?

22 A. That's correct.

23 Q. Mr. Schwartz, Jonathan Schwartz --

24 Mr. Jonathan Schwartz presented to the school -- you
25 have already told the jury about this -- with an

1 agreement. You said he took it out of his
2 briefcase. And you were trying to be the peacemaker
3 and get the parties together. You said he was happy
4 to come to the meeting, right?

5 A. Yes.

6 Q. As far as you know, the school was happy to
7 have a meeting too, correct?

8 A. That's correct.

9 Q. Mr. Chaltiel wanted to get this worked out
10 too, didn't he?

11 A. That's true.

12 Q. So as far as you know, Mr. Chaltiel came
13 into that meeting with Mr. Schwartz in good faith,
14 didn't he?

15 A. That's correct.

16 Q. He had no animosity, that you were aware
17 of, with Mr. Schwartz at that time?

18 A. No.

19 Q. Now, at that meeting, though, Mr. Schwartz
20 pulled out a document, a long, long document, didn't
21 he?

22 A. I don't know how many pages. It was a few
23 pages.

24 Q. A few pages. And it had lots of demands in
25 it too, didn't it?

1 A. Yes.

2 Q. And those were demands that you were never
3 aware of that Milton Schwartz was entitled to before
4 he died; isn't that true?

5 A. Well, I cannot answer that because I can't
6 recall.

7 Q. So, actually, I think that does sort of
8 answer my question. As far as you know, the list of
9 things that Jonathan showed you had never been
10 agreed to with Mr. Milton Schwartz in the past, had
11 they?

12 A. In details, I don't know what they were
13 agreeing to so many years ago. I just know the
14 response was responded by Mr. Chaltiel who actually
15 was in charge of that, looking back at the records
16 and everything and looking at the changes he want,
17 just blow up and said it's never going to happen
18 because it was never agreed before. It was no
19 instructions or written contracts, agreements before
20 that all those things should be at the school.

21 And I look at a few of them. They were
22 very reasonable, as far as I'm concerned. But a few
23 items maybe were not, but could be negotiated. But
24 they didn't get to an agreement. And that that's
25 why.

1 Q. So Mr. Chaltiel wouldn't sign the agreement
2 that Mr. Schwartz presented him with, right?

3 A. No, he would not.

4 Q. And Mr. Schwartz never showed you an
5 agreement from the past, from years ago, that
6 contained all of those terms that he wanted
7 Mr. Chaltiel to sign, did he?

8 A. No, he didn't show me. No.

9 Q. You already testified Mr. Chaltiel said no
10 that's not going to happen?

11 A. That's correct.

12 Q. Isn't it true at that point, Mr. Schwartz
13 lost his temper?

14 A. He lost his temper, yes, he did. So
15 Mr. Chaltiel was not -- he also lost his temper.

16 Q. Did Mr. Schwartz tell Mr. Chaltiel in that
17 meeting that you attended, quote, I'm not going to
18 give you the money, I will give you the money if you
19 sign the agreement now, end quote? Isn't that what
20 he said?

21 A. He said this is what I like to change on
22 the terms, restrictions. If you agree to that, I
23 will write you a check right now.

24 Q. And Mr. Chaltiel said we cannot sign the
25 agreement because you are saying you want to be

1 equal with the Adelsons who had given at that point
2 some \$50 million or maybe 75 million?

3 A. I don't remember hearing the words, but I
4 do remember there was some items in there were not
5 make sense of -- of equal. But those things could
6 be negotiated in a different way. But I don't think
7 it ever got that far.

8 Q. And the reason it got that far is because,
9 at that point, Mr. Jonathan Schwartz lost his
10 temper. And he got up and he was screaming, and he
11 walked out and said -- and you said, "Jonathan, cool
12 down," isn't that true?

13 A. I did say that, but Jonathan just walked
14 out of the room. He walked away.

15 MR. JONES: Can we publish the deposition
16 of Mr. Ventura, please, July 11, 2016.

17 THE COURT: This is a process where your
18 original deposition transcript is in a sealed
19 envelope it just takes a minute for the clerk to get
20 that out of the vault over there.

21 MR. JONES: May I approach, Your Honor.

22 THE COURT: You may.

23 BY MR. JONES:

24 Q. By the way, this deposition was from July
25 of 2016, so that's a little over two years ago. I

1 know -- I don't know about you, but as things go,
2 every year probably gets harder for me to remember
3 what happened last year.

4 A. Me too.

5 Q. This would be a couple years ago, so your
6 memory was probably better back then; is that true?

7 A. Yes.

8 Q. I would like to refer you to page 31 of
9 your deposition.

10 A. Which page?

11 Q. 31.

12 A. Yes.

13 Q. When you get there, take a look starting at
14 line 4, and read down to about line 6, just to
15 yourself. When you are done reading, let me know.
16 Actually, why don't you start at line 1, just at the
17 top of the page.

18 A. Okay.

19 Q. Do you follow me?

20 A. Yes, I am.

21 Q. Does that refresh your recollection that
22 you testified that, "So as I said, he lost his
23 temper. He got up. The meeting was 10, 15 minutes.
24 He got up and he was screaming."

25 MR. LEVEQUE: Objection, Your Honor. It's

1 improper use of the deposition. There is no
2 question pending.

3 THE COURT: Yes, there is.

4 MR. JONES: Thank you, Your Honor.

5 BY MR. JONES:

6 Q. "And he was screaming. And he was walking
7 out. And I said, Jonathan, cool down and be nice."

8 Do you see that?

9 A. Yes, I do.

10 Q. So does that refresh your memory that he
11 actually was screaming at the time?

12 A. Yes.

13 Q. And do you recall that Mr. Schiffman went
14 after him and tried to get him to cool down too?

15 A. Yes, I remember that.

16 Q. And do you remember that he said to you and
17 Mr. Schiffman, "I will sue your ass"?

18 A. Yes, I do.

19 Q. And he lost his temper. Do you remember
20 Mr. Chaltiel saying, "You are going to sue me? You
21 are going to sue us?"

22 A. They talked about lawsuits, both sides,
23 yes.

24 Q. And then do you recall Mr. Schwartz saying,
25 "If you were ten years younger, I told Victor, I

1 will kick your ass right now"?

2 A. Yes, it's true.

3 Q. It was almost a fistfight at that point?

4 A. I wouldn't call it a fistfight. Lost
5 temper, and he told him what he told him and he walk
6 away, but I don't know about a fistfight.

7 Q. If you look at your testimony, at some
8 point you said, it was "Almost a fistfight," did you
9 not?

10 A. I said that? Where?

11 Q. At line 15.

12 A. Oh, really. "Almost a fistfight." Well,
13 it was very hot, let me tell you. But I don't know
14 if . . .

15 Q. So that's how it that meeting ended, right?

16 A. Yes.

17 MR. JONES: Mr. Ventura, I have no further
18 questions. Thank you, sir.

19 THE WITNESS: Thank you.

20 THE COURT: Mr. LeVeque.

21 EXAMINATION

22 BY MR. LEVEQUE:

23 Q. We will start where Mr. Jones left off.
24 Mr. Ventura, this altercation, this verbal argument
25 that occurred between Mr. Chaltiel and Mr. Schwartz,

1 they both were upset; is that right?

2 A. Yes.

3 Q. And this comment where you testified in
4 your deposition that Jonathan said if he was ten
5 years younger, he would kick Mr. Chaltiel's ass, was
6 that something he told you in the lobby outside of
7 the presence of Mr. Chaltiel?

8 A. No. He told this in the room to Chaltiel.
9 This is after he got up and was walking away.

10 Q. So --

11 A. There was a lot of many other words said
12 I'm not going to talk about it.

13 Q. Fair enough. I don't think we need it. On
14 page 31 of your deposition, could you read to
15 yourself --

16 A. 31?

17 Q. Do you still have that in front of you?

18 A. 31?

19 Q. Yes.

20 A. Yes.

21 Q. You were asked questions about page 31. If
22 you could just read to yourself page 31, lines 15
23 through 24.

24 A. Okay.

25 Q. So Mr. Schwartz got up, you went after him.

1 You and Paul tried to calm him down and bring him
2 back because of the way they lost their temper, both
3 of them. And then he said, "I will kick your ass"
4 and this and that. So it was after he had already
5 left the meeting; is that right?

6 MR. JONES: Objection, Your Honor. That
7 misstates --

8 THE WITNESS: I said he wasn't in the room
9 when he was walking away. When he was walking away
10 because Mr. Chaltiel, I mean, he was screaming
11 unbelievable. He was really also lost his temper.

12 BY MR. LEVEQUE:

13 Q. Okay.

14 A. And Jonathan just responded, I guess. They
15 both lost their temper. It was not a pleasant
16 moment.

17 Q. Unpleasant day for everybody, I imagine.

18 A. Yeah.

19 Q. Do you believe that Jonathan loved his
20 father?

21 A. I do.

22 MR. JONES: Your Honor, I'm going to have
23 to object to the relevance of that. I will
24 stipulate that Jonathan Schwartz probably loved his
25 father. I don't have any dispute about that. How

1 that's an issue in this case?

2 THE COURT: Mr. LeVeque.

3 MR. LEVEQUE: I'm trying to establish
4 foundation for another line of questioning.

5 THE COURT: Thank you.

6 BY MR. LEVEQUE:

7 Q. Do you have a belief or understanding as to
8 why Jonathan was upset that day?

9 MR. JONES: Objection, Your Honor. Calls
10 for speculation.

11 THE COURT: Well, again, to the extent that
12 he formed some sort of belief.

13 THE WITNESS: Very simple. Jonathan didn't
14 get what he wanted. He got upset.

15 BY MR. LEVEQUE:

16 Q. Sure. And isn't it true, though, that he
17 was trying to preserve his father's name on the
18 school?

19 A. I believe so. I mean, I believe so. He
20 showed up at the meeting, didn't he?

21 Q. He?

22 A. He showed up at the meeting. He wanted to
23 settle this. But it just didn't work out his way,
24 so . . .

25 Q. Let me ask you about that. During this

1 meeting did Mr. Chaltiel, to your knowledge, call
2 Mr. Adelson when you guys were having these
3 discussions?

4 A. No, he did not.

5 Q. So do you know if Mr. Adelson -- strike
6 that.

7 Do you know if Mr. Chaltiel was given any
8 input by Mr. Adelson on Jonathan's proposal?

9 A. I cannot answer that. I was not at that
10 meeting.

11 Q. Let me ask you a question about a document
12 that has been admitted into evidence. There we go.

13 Mr. Ventura, have you seen this letter
14 before from Roberta Sabbath to Milton Schwartz dated
15 May 23, 1996?

16 MR. JONES: For the record, Counsel,
17 number?

18 MR. LEVEQUE: 139.

19 THE WITNESS: No, I didn't see those. That
20 was before I was a board member.

21 BY MR. LEVEQUE:

22 Q. I think it was after.

23 A. '96?

24 Q. '96.

25 A. Oh, '96.

1 Q. I believe you testified that you were off
2 the board before Dr. Lubin was terminated; is that
3 right?

4 A. Can you repeat that, please? I was reading
5 this.

6 Q. When I was first asking you questions this
7 morning, I think you testified that you were off the
8 board before Dr. Lubin was terminated, right?

9 A. I was.

10 Q. So I will represent to you that this was
11 about two weeks after she was terminated. All
12 right?

13 A. All right.

14 Q. I just want to go through some things in
15 this letter. This is a letter that was sent by the
16 board to Mr. Schwartz shortly after Dr. Lubin was
17 terminated. It states, "On behalf of myself,
18 president, and Geri Rentchler, and the entire board
19 of the Milton I. Schwartz Hebrew Academy, I'm
20 pleased to inform you, that we will immediately
21 commence action, as soon as practical, the
22 following." It goes through a bullet point list of
23 things the school has promised they are going to do.
24 The first one is to restore the name of the academy
25 to the Milton I. Schwartz Hebrew Academy. Do you

1 see where he said that?

2 A. Okay.

3 Q. The second is to amend the Hebrew Academy
4 articles to restore the former name of the Milton I.
5 Schwartz Hebrew Academy. The third says to restore
6 the marker in front of Hebrew Academy identifying it
7 as the Milton I. Schwartz Hebrew Academy. The
8 fourth says to change the Hebrew Academy's formal
9 stationery to include his full name, the Milton I.
10 Schwartz Hebrew Academy in a form consistent with
11 this letterhead, and include our full name on future
12 brochures. The fifth, I'm not going to read the
13 whole thing, but, where practicable, display the
14 full name of the school in print advertising, where
15 practicable, to utilize the name in voice media, in
16 formal correspondence, and answering the telephone.
17 It goes on and on.

18 You haven't seen this document before, have
19 you?

20 A. No.

21 Q. Do you recall my client, Mr. Ventura,
22 sending this document along with others to the board
23 in 2010?

24 A. No, I don't.

25 Q. If you had this document, would it have

1 been important when you were discussing with the
2 board changing the name of the school in 2007?

3 MR. JONES: Object to the form of the
4 question, Your Honor. Calls for speculation.

5 THE COURT: Overruled.

6 THE WITNESS: Can I have that question
7 please?

8 BY MR. LEVEQUE:

9 Q. Sure. Having knowledge of this letter,
10 would that have been important in trying to make a
11 determination with respect to whether Mr. Adelson
12 had a right to change the name of the school in the
13 first place?

14 MR. JONES: Same objection.

15 THE COURT: Overruled.

16 THE WITNESS: I don't know the legality of
17 that. I can't answer that. I just don't know.

18 BY MR. LEVEQUE:

19 Q. Do you think it would have been helpful to
20 have that?

21 A. Probably would.

22 Q. Would you be surprised if I told you that
23 Mr. Schiffman testified that he didn't discover this
24 letter until after the school name had been changed?

25 A. Am I surprised? I can't answer that. I

1 don't know.

2 Q. You have been a developer for quite a
3 while, Mr. Ventura. Do you understand the concept
4 of "seed money"?

5 A. Yes.

6 Q. Would you agree with me that Mr. Schwartz,
7 in 1989, provided the seed money for the new
8 building on Hillpointe?

9 A. Yes.

10 Q. Can you explain to the jury what seed money
11 is?

12 A. Seed money, it's called startup money.
13 When you start a project, you need the seed money to
14 start the project.

15 Q. Thank you.

16 I will ask you a question about this
17 document, Mr. Ventura. Do you see your signature in
18 there?

19 A. Yes, I do.

20 Q. Do you see the date of this document?

21 A. 1990. Yes, 19/1990.

22 Q. Okay. This is Exhibit 5, and these are
23 bylaws of the school that were enacted in 1990. And
24 the first article of the bylaws state the name of
25 the corporation is the Milton I. Schwartz Hebrew

1 Academy and shall remain so in perpetuity. Do you
2 see where I said that?

3 A. Yes.

4 Q. So you signed bylaws enacting an amendment
5 of bylaw, one which says the school will be named
6 the Milton I. Schwartz Hebrew Academy in perpetuity.
7 Do you see that?

8 A. Yes.

9 Q. Did you take this document into
10 consideration when you and the board were making a
11 determination whether naming any portion of the
12 Adelson School would be a violation of this?

13 A. I didn't think at that time when we agreed
14 to -- let me recall this back a little bit. When I
15 came to the board, as I remember, I think those
16 things were done already when I joined the board.
17 Do you have the dates? Because when this happened
18 and agreed to name Adelson on the school and build
19 the school, I was not on the board. I joined after.
20 So I don't -- if you look at the dates -- I remember
21 I joined the board when -- actually, when the school
22 is already rolling and all those things were done.
23 That was the gap between the two schools.

24 Q. I guess that leads me to somewhat of an
25 important question.

1 Just to finish up this exhibit, you agree
2 you signed these bylaws in 1990?

3 A. Yes.

4 Q. When you went back on the board sometime
5 later in, I think it was 2007, you testified today
6 that the name change discussion did not occur until
7 after Milton Schwartz died; is that right?

8 A. Yes.

9 Q. So you were on the board when the name
10 change occurred? Because we looked at those
11 documents where you were at the board meeting in
12 December and you signed the resolution changing the
13 name of the school from the Milton I. Schwartz
14 Hebrew Academy to the Adelson School. Do you
15 remember me going through that?

16 A. Yes.

17 Q. And my understanding is that -- well,
18 strike that.

19 My understanding is that, based on your
20 deposition testimony, whatever deal that was made
21 between Mr. Schwartz and Mr. Adelson was a deal that
22 was made before you got involved; is that right?

23 A. That's what I recall.

24 Q. And it was apparently some discussion that
25 they had that was later reported back to the board

1 after Mr. Schwartz died?

2 A. Yes.

3 Q. If you could go to Exhibit 55, that's a
4 joint exhibit. This is a letter that Mr. Schwartz
5 sent to all of the board members in 2010. By the
6 way, were you a board member in 2010?

7 A. 2010? Yes, I was.

8 THE COURT: Exhibit?

9 MR. LEVEQUE: 55.

10 BY MR. LEVEQUE:

11 Q. Attached to this letter, you will see a
12 bunch of documents. One of them is the Dr. Sabbath
13 letter. Do you see this is the same letter I showed
14 you a few minutes ago?

15 A. Uh-huh.

16 THE COURT: That would be a yes?

17 THE WITNESS: Yes.

18 THE COURT: Thank you, sir.

19 BY MR. LEVEQUE:

20 Q. Would you agree with me that the letter
21 that Mr. Schwartz and all of the board members,
22 including you, included not only the Sabbath letter
23 but also some correspondence he got from the school.
24 We went over that. We don't need to go over that
25 again.

1 But he also sent some board meeting minutes
2 that Mr. Jones went over where the discussion of
3 naming the school after Mr. Schwartz occurred. He
4 provided, again, the Sabbath letter. He provided
5 the bylaws that we just looked at, and additional
6 documents. Do you see that?

7 A. Yes, I do.

8 Q. I want to take you back to an exhibit that
9 Mr. Jones was asking you about, and that's
10 Exhibit 384. I don't remember if he showed you the
11 final version or the draft, but these were board
12 meeting minutes from November 29, 1990. And you see
13 your name is one of those present?

14 A. Yes.

15 Q. All right. He asked you a question about a
16 motion being made to name the elementary portion of
17 the school in honor of Dr. Lubin. Do you see that?

18 A. Yes.

19 Q. But in the same meeting -- Mr. Jones didn't
20 ask you about this -- is that the board also
21 resolved to correct the draft of the bylaws to
22 reflect the name of the corporation after Milton
23 Schwartz in perpetuity. Do you see that?

24 A. Yes.

25 Q. So you would agree with me that the entire

1 school at that time was named the Milton I. Schwartz
2 Hebrew Academy; is that right?

3 MR. JONES: Your Honor, this whole line of
4 questioning, every one is a leading question. I'm
5 trying to move it along, but it's inappropriate and
6 so I would object to continuing asking leading
7 questions of his own witness.

8 THE COURT: Okay. Sustained.

9 MR. LEVEQUE: Thank you, Your Honor.

10 BY MR. LEVEQUE:

11 Q. At the time the new building was built on
12 Hillpointe, what else was there?

13 A. Onsite where the school is?

14 Q. Yes.

15 A. It was just raw land.

16 Q. But then was a building built?

17 A. A building was under construction in 1990,
18 yeah.

19 Q. Did it eventually get built?

20 A. Yes.

21 Q. So based upon your understanding, as a
22 board member at the time, what portion of the school
23 was going to be named the Milton I. Schwartz Hebrew
24 Academy?

25 A. At that time in 1990?

1 Q. Yeah.

2 A. My understanding was the whole school.

3 Q. And if Mr. Schwartz had the rights to the
4 whole school, do you believe if he had a right to
5 delegate a portion of it to someone else?

6 MR. JONES: Objection. Calls for
7 speculation and a legal conclusion.

8 THE COURT: I think it does. If you could
9 rephrase it.

10 BY MR. LEVEQUE:

11 Q. Let me try to redoing this in a different
12 perspective.

13 Did you see that Mr. Schwartz was also
14 present at this meeting?

15 A. Yes.

16 Q. Do you see anything in the minutes about
17 Mr. Schwartz objecting or complaining to a portion
18 of the school being named in honor of Dr. Lubin?

19 A. No.

20 Q. Knowing Mr. Schwartz as well as you did, do
21 you believe that if he had an issue with that, he
22 would have complained about it?

23 A. He would.

24 Q. And the first paragraph we looked at where
25 it said the school corporation name would be named

1 after, in perpetuity, do you see where I read that?

2 A. Yes.

3 Q. Do you see any language about perpetuity in
4 the motion made to name the elementary portion of
5 the school in honor of Dr. Lubin?

6 A. No, I don't.

7 MR. LEVEQUE: Thank you.

8 THE COURT: Thank you. Mr. Jones will have
9 you an opportunity to ask you a few more questions.
10 And in Nevada, jurors have an opportunity to ask you
11 some questions. So give us a few minutes after.

12 EXAMINATION

13 BY MR. JONES:

14 Q. One more time. Won't be too long. I'm
15 just going to go back to that letter from
16 Dr. Sabbath that Mr. LeVeque talked about. It was
17 written in 1996. So you don't know anything about
18 that letter, right?

19 A. No, I don't.

20 Q. You don't know if that letter constitutes a
21 contract or is enforceable in any way, do you?

22 A. I don't.

23 Q. And certainly Mr. Milton Schwartz never
24 brought that letter to your attention and said here
25 is an enforceable contract I have?

1 A. Never did.

2 Q. By the way, 1996, the resolutions we looked
3 at earlier, I think it's Exhibit 112, but you don't
4 need to bring it up. It takes too long. That's one
5 where they were voting to name the school after
6 Mr. Schwartz in 1989. I think you said you weren't
7 at that particular meeting?

8 A. I wasn't.

9 Q. But that's, what, seven years later that
10 the Sabbath letter is written if it's 1996, right?

11 A. Yeah. I was not on the board when Sabbath
12 was there.

13 Q. I do remember that.

14 By the way, you are not aware of
15 Mr. Schwartz agreeing to, seven years later, give
16 any more money to the Hebrew Academy for the letter
17 that he got from Dr. Sabbath, are you?

18 A. No, I don't.

19 Q. You are familiar, even though you are not a
20 lawyer, you are a contractor and developer, you are
21 familiar with a term called "consideration"?

22 A. Yes.

23 Q. Tell the jury what you believe
24 "consideration" is.

25 MR. LEVEQUE: Object.

1 THE COURT: Legal term.

2 MR. JONES: His understanding.

3 THE COURT: His understanding.

4 MR. JONES: His dealings with contracts,
5 Your Honor, which we have established.

6 BY MR. JONES:

7 Q. Could you tell the jury what you understand
8 consideration is in connection with a contract?

9 A. Consideration is just the word, consider,
10 to -- if an investment or pledge or in the future of
11 whatever the contract reads for, after the words --
12 the word "consideration," it's actually considered
13 to do something.

14 Q. So, in other words, it's either money or a
15 promise to pay?

16 A. Whatever is written after the word
17 "consideration."

18 Q. That's what you do at the time you make the
19 contract. You don't say I'm going to give this much
20 money now or pledge this much money now and then
21 say, well, I want something more in the future
22 without having to get something else?

23 A. Right.

24 Q. So let's look at those 1990 bylaws real
25 quick, Exhibit 5. You have formed lots of

1 corporations over your career?

2 A. I did.

3 Q. And you are familiar with bylaws of a
4 corporation?

5 A. Yes, I do [as said].

6 Q. And this bylaw, which Mr. LeVeque showed
7 you, said that -- the first paragraph, that the name
8 would be the Milton I. Schwartz Hebrew Academy in
9 perpetuity, right?

10 A. Yes.

11 Q. But you have never ever considered or
12 understood that bylaws are a contract with a third
13 party, have you?

14 A. No.

15 Q. Let's look at article 8 of those bylaws on
16 the second to the last page. And if you look under
17 article 8, it says "Amendments." It says, "The
18 board of trustees shall be have the power make,
19 alter, amend, and repeal the bylaws of the
20 corporation by a affirmative vote of a majority of
21 the full board at a meeting duly noticed therefore."
22 Do you see that?

23 A. Yes, I don.

24 Q. Is it your understanding that even if a
25 board passes bylaws, the board has a right to change

1 the bylaws in the future?

2 A. Especially if there's amendments.

3 Q. Right. It doesn't bind the board to do
4 something in the future with a third party, does it?

5 A. Right.

6 Q. And there is nothing in there that
7 limits -- do you see anything in there that you
8 would understand -- I'm sorry, I'm looking for the
9 jury to see that.

10 A. I thought you were pointing to me.

11 Q. That's my confusion.

12 A. Okay.

13 Q. You don't see anything in there that, as
14 you read it, would limit the power of the board to
15 amend, alter, or repeal the bylaws, do you?

16 A. No, I don't.

17 Q. Thank you.

18 A. But it has to be a full board.

19 Q. Sure. It has to be a majority of the full
20 board, right --

21 A. Yes.

22 Q. -- in order to do this?

23 MR. JONES: Mr. Ventura, thank you very
24 much for your patience.

25 THE COURT: Thank you, ladies and gentlemen

1 this is your opportunity to ask Mr. Ventura. I will
2 consult with counsel and be right back.

3 (Bench conference.)

4 THE COURT: Mr. Ventura, these are
5 questions the jurors write. I read them to you just
6 as they have written them. The first one is from
7 Juror 2, Cheryl Samlaska. She has two questions. I
8 will read them separate.

9 Her first question is: I want to be clear.
10 The meeting between you, Jonathan Schwartz, Victor
11 Chaltiel, and Mr. Schiffman which ended in an
12 argument, you stated that Jonathan Schwartz came
13 with a check but did not give the \$500,000 check,
14 correct?

15 THE WITNESS: That's correct.

16 THE COURT: Question number two: At the
17 time of the above meeting, was Milton Schwartz's
18 name still on the elementary school building?

19 THE WITNESS: Yes.

20 THE COURT: We have questions from Juror 9,
21 Sarah Langlois, in seat Number 9: Mr. Milton
22 Schwartz passed away in August 2007 and the
23 corporation's name was changed to Adelson in March
24 of 2008. At that time, what was your understanding
25 about the name of the elementary school?

1 THE WITNESS: It was understanding of
2 Mr. Schwartz elementary school.

3 THE COURT: "You said the school's name was
4 removed because Mr. Schwartz didn't leave the money
5 in his will. Are we still talking about the
6 \$500,000 towards MISHA? If so, if Jonathan had just
7 paid that money, is it your understanding that the
8 elementary school's name would have stayed as Milton
9 I. Schwartz Hebrew Academy?"

10 THE WITNESS: Yes, I am.

11 THE COURT: Now I have questions for you
12 from the juror seat Number 7, Jake Pettitt: Back
13 when the arrangements for the land from Howard
14 Hughes Corporation were being made, did we hear
15 correctly that you stated there was a mortgage on
16 the land that was not paid for in full?

17 THE WITNESS: Yes, there was. This is
18 after -- you are talking about when we already
19 started, we had to get a mortgage to build the
20 facilities? That mortgage was arranged by
21 Mr. Schwartz, and he actually was responsible for it
22 because his name was on it. Responsible for it. As
23 I recall, that mortgage was paid by Mr. Adelson.

24 THE COURT: I think that's his second
25 question here. The second question was: If so, do

1 you know how much was left unpaid at the time?

2 THE WITNESS: It was one and a half
3 million.

4 THE COURT: Any follow-up, Mr. LeVeque?
5 Any follow-up on those issues?

6 MR. LEVEQUE: Yes.

7 THE COURT: Okay.

8 EXAMINATION

9 BY MR. LEVEQUE:

10 Q. With respect to the question concerning the
11 mortgage on the property, who was the borrower on
12 that mortgage?

13 A. On the million and a half you are talking
14 about?

15 Q. Yes.

16 A. I do know Mr. Schwartz arranged it.

17 Q. Yes.

18 A. I didn't see any documents who was the
19 borrower. If he arranged, he put his name on it.
20 But I know conversations we had, and he was
21 responsible for it.

22 Q. Sure. Do you understand the difference
23 between being a borrower and a guarantor?

24 A. Definitely.

25 Q. I imagine you have done that many, many

1 times in your career?

2 A. Many times.

3 Q. So the school was borrowing money to build
4 a building --

5 A. Yes.

6 Q. -- right?

7 So wouldn't the school have been the
8 borrower on that loan?

9 A. Well, in that case, it's about how you --
10 the loan documents. I didn't -- I was not involved
11 in doing this loan and documents, so I cannot answer
12 that. I do know Mr. Schwartz arranged it. If it
13 was his name, if he was the guarantor or the school
14 was the guarantor, I can't answer that. I haven't
15 seen those documents. I was not involved in the
16 original money, so I don't know.

17 Q. Do you know if the idea of paying off that
18 loan was a condition to allow Mr. Schwartz to keep
19 his name on the elementary school?

20 A. I remember it was a meeting. But I was not
21 in that meeting where there was conversations on the
22 board. I don't know if it's in the minutes, where
23 after Mr. Adelson was in that meeting and
24 Mr. Schwartz talking about the one and a half
25 million dollars the school was a mortgage. Because

1 they had to pay it off. I think it was due. And I
2 just know in the bank -- the money was paid by
3 Mr. Adelson. That's as far as I knew. And this is
4 through conversations just talking to each other
5 what we are going to do and this and that, and I
6 heard it was paid by Mr. Adelson.

7 Q. Sorry, Mr. Ventura, I'm just trying to find
8 something here. Do you remember testifying in your
9 deposition that you remember a discussion with
10 Mr. Schwartz agreed to pay one and a half million,
11 but you do not remember any conditions regarding the
12 naming rights of the school attached to that
13 payment?

14 A. That's correct.

15 Q. Thank you.

16 During the meeting with Mr. Chaltiel,
17 Mr. Schiffman, you, and Jonathan, do you have any
18 recollection of Jonathan saying that he wanted to
19 preserve the name of the school to make sure it
20 wouldn't be removed?

21 A. Of his father's name on the school?

22 Q. Yes.

23 A. Yes.

24 Q. Do you believe that's why he was there, to
25 make sure that happened?

1 A. Definitely.

2 MR. LEVEQUE: Thank you.

3 THE COURT: Mr. Jones?

4 MR. JONES: I have no need to follow-up,
5 Mr. Ventura. Thank you, sir.

6 THE COURT: Thanks. Take a brief break
7 until quarter after, and then bring in Dr. Lubin.

8 MR. JONES: Yes. Took a little longer than
9 I think we anticipated. I want to make sure we have
10 a chance to get our case.

11 THE COURT: Absolutely. Do we need more
12 than ten minutes?

13 MR. JONES: Ten minutes is fine.

14 THE COURT: Ten minutes.

15 During this recess, you are admonished not
16 to talk or converse among yourselves or with anyone
17 else on any subject connected with this trial; or
18 read, watch or listen to any report of or commentary
19 on the trial or any person connected with this trial
20 by any medium of information, including, without
21 limitation, to newspapers, television, the internet
22 and radio; or form or express any opinion on any
23 subject connected with the trial until the case is
24 finally submitted to you.

25 We will be in recess until 20 after.

1 (Off the record.)

2 THE COURT: Counsel, do you need any other
3 depositions?

4 MR. JONES: Dr. Lubin, Dr. Pokroy, and Phil
5 Kantor.

6 THE COURT: Off the record.

7 (Off the record.)

8 THE COURT: We will bring in the jury and
9 call Dr. Lubin.

10 MR. JONES: My Rule 50. Well, have they
11 rested.

12 MR. LEVEQUE: Yes.

13 THE COURT: Counsel, we are ready to call
14 our next witness. Does the petitioner, estate, have
15 anymore witnesses?

16 MR. LEVEQUE: No, Your Honor. The estate
17 rests.

18 THE COURT: Estate rests.

19 Mr. Jones, on behalf of the petitioner
20 school, do you wish to call your first witness?

21 MR. JONES: I do. I have the issue of a
22 Rule 50 motion that I would like to file in open
23 court. Had it brought over to me this morning
24 during the trial. I have got a copy for the court.
25 I gave two copies to counsel.

1 THE COURT: We don't typically file in open
2 court, anymore.

3 MR. JONES: Can I give a courtesy copy to
4 the court.

5 THE COURT: Yes, thank you very much. And
6 this will be filed in the ordinary course.

7 MR. JONES: Your Honor we will make sure it
8 gets filed post haste. I -- this is confusing to me
9 this makes sense * now I know for sure.

10 THE COURT: With respect to the motion, do
11 you wish to argue that now, or do you wish to just
12 make a record that you are going to be arguing this
13 motion and proceed with the witness? She is rather
14 an elderly lady.

15 MR. JONES: She is, and she has been here
16 an hour and a half. I would like to proceed, but I
17 don't want to waive any rights of my client. If
18 counsel does not object, then I would argue this
19 immediately after the witness es are finished today.

20 THE COURT: Okay.

21 MR. FREER: Here is the concern. He has to
22 file the motion that if Your Honor reads it we don't
23 have a chance to respond in writing so it's going to
24 present it I would like to present it orally as
25 opposed to allowing you the opportunity to read it.

1 THE COURT: Right so at this point in time
2 I don't have to read it because we have a witness
3 who is waiting. For the record we will note that
4 Mr. Jones has made his request to make a Rule 50
5 motion. It's noted. However, as we do have an
6 elderly lady waiting, my preference would be not to
7 proceed with the motion now but rather to see how
8 much of Dr. Lubin we can complete before we are
9 notified that the juror lunch boxes are here. So we
10 can take a break for the jurors to have their lunch.
11 So for my purposes all I'm asking is if we can
12 consider the record noted. We will take a break to
13 argue it when we can, either after all the witnesses
14 are finished or if there is an opportunity in
15 between. Jurors are going to take a very brief
16 lunch break though so we may just need to proceed to
17 get our witnesses on the record and -- because I
18 don't know -- you can take a look at it. Like I
19 said, I don't have time to read it right now but we
20 will proceed to argue that at our first opportunity
21 to do so because I naturally want to accommodate a
22 witness who is here and who has been sitting outside
23 on a rather uncomfortable bench for an hour and a
24 half.

25 MR. JONES: Sure. That's fine with me,

1 Your Honor, just so long as it's clear I have not
2 waived my client's rights.

3 THE COURT: Understood. We can see if we
4 can argue in between. We may have to just keep
5 going because our first one hour long witness took
6 two.

7 MR. JONES: Yes.

8 MR. FREER: Yes. Then prior to calling or
9 bringing the jury back in, we do have a concern with
10 Dr. Lubin with respect to exclusionary rule.
11 Obviously her son has been here the whole time. I
12 understand there was an admonishment that Mr. Jones
13 made.

14 THE COURT: You can certainly ask her.

15 MR. FREER: My concern -- I would like to
16 be able to ask her that before the jury comes in
17 briefly in terms of what she has talked to her son
18 about.

19 THE COURT: Do you want to conduct some
20 voir dire outside the presence of the jury?

21 MR. FREER: Yes, because it would be
22 prejudicial if she starts talking about information
23 that's been discussed and passed along from her son
24 in front of the jury.

25 THE COURT: I will accommodate that. We

1 will bring in Dr. Lubin first. We have some
2 questions for her outside the presence of the jury.

3 Dr. Lubin, we would like to ask you to come
4 up, take the stand. We are going to swear you in.
5 We have just a few questions before we bring the
6 jury in.

7 THE CLERK: Stand, please, and raise your
8 right hand.
9 Whereupon --

10 TAMAR LUBIN SAPOSHNIK,
11 having been first duly sworn to testify to the
12 truth, was examined and testified as follows:

13 THE WITNESS: Yes.

14 THE CLERK: Please be seated. And if you
15 will state and spell your name for the record,
16 please.

17 THE WITNESS: Tamar Lubin Saposhnik.

18 THE CLERK: Could you spell that for us,
19 please.

20 THE WITNESS: T-A-M-A-R, L-U-B-I-N,
21 S-A-P-O-S-H-N-I-K.

22 THE CLERK: Thank you, Doctor.

23 THE COURT: We wanted to inquire of you
24 before we bring in the jury. Counsel for the estate
25 has a few questions for you prior to bringing the

1 jury in, and then perhaps Mr. Jones.

2 VOIR DIRE

3 BY MR. FREER:

4 Q. Hi, Dr. Lubin. Is Dr. Lubin okay or do you
5 want Dr. Lubin Saposhnik?

6 A. Whatever you please.

7 Q. You are aware we have been doing this trial
8 for about ten days, correct, we started about a week
9 ago last Wednesday?

10 A. Yes.

11 Q. One of the concerns we have raised is
12 whether or not you have spoken with any of the
13 witnesses that have been called in this? Have you
14 spoken to anybody?

15 A. (No audible answer.)

16 Q. And then another concern that we have is,
17 obviously, your son has been here watching the
18 trial. Have you had any discussions with your son
19 about what's going on in the trial?

20 A. No.

21 Q. So he has just been coming and observing;
22 he has not been reporting to you what has been
23 occurring?

24 A. No.

25 Q. Do you know who has testified so far in

1 this trial?

2 A. Not really.

3 Q. Don't know anybody that has testified at
4 all? Are you stuck on the --

5 A. I'm okay.

6 Q. And you haven't received any information
7 from anybody about what has been going on in this
8 trial?

9 A. No. No.

10 MR. FREER: Your Honor, I think that's it
11 for now.

12 THE COURT: Do you wish to follow up,
13 Mr. Jones?

14 MR. JONES: I'm sorry?

15 THE COURT: Do you wish to follow up?

16 MR. JONES: No.

17 THE COURT: So if we are ready to bring in
18 the jury. We are going to bring the jury in. You
19 can remain seated.

20 Thank you, ladies and gentlemen. You may
21 be seated. We are back on the record in P061300.
22 The parties are present with their respective
23 clients, and counsel will stipulate to the presence
24 of the jury?

25 MR. LEVEQUE: Yes, Your Honor.

1 MR. JONES: Yes, Your Honor.

2 THE COURT: We have on the stand Dr. Lubin.
3 Do you wish to have her resworn?

4 MR. JONES: I don't, Your Honor. No, I
5 don't need to.

6 MR. FREER: No, Your Honor.

7 THE COURT: Just for the record, Dr. Lubin
8 was sworn prior to you coming in the room. We will
9 begin. Your witness.

10 MR. JONES: Thank you, Your Honor.

11 EXAMINATION

12 BY MR. JONES:

13 Q. Good morning, Doctor. My name is Randall
14 Jones, and I represent the Adelson School. I don't
15 know if you remember, but on the first day of trial
16 we had opening statements, and I saw that you were
17 here with your son, and I came up and said hello. I
18 don't even know if you remember that. But you and I
19 have never met before that day; is that true?

20 A. Correct.

21 Q. So, Dr. Lubin, I want to ask you some
22 questions about some things that happened a long,
23 long time ago. I lived here all my life so I
24 actually remember you when you were running the
25 Hebrew Academy. So I want to start way back kind of

1 in the old days. I know a lot of witnesses have had
2 issues with that happened 30 years ago I will give
3 you my best recollection. So that's what we want
4 out of you, understanding that we are talking about
5 30 years ago so the best you can remember is is what
6 we would like to know.

7 I want to make sure that I address you
8 properly. Do you have a preference over Dr. Lubin
9 or Dr. Lubin Saposhnik?

10 A. Anything that's easy for you.

11 Q. I'm sorry?

12 A. Anything that's easy, make is short.

13 Q. Dr. Lubin is a little bit shorter so if
14 that's okay.

15 A. Fine.

16 Q. Doctor, here is what I want to do first so
17 the jury can have a sense who you are. Can you tell
18 them, just very briefly, your history with the
19 Hebrew Academy going back to when you first got
20 involved?

21 A. I may sit?

22 Q. You can sit, please sit. You would get too
23 tired if you had to stand. The lawyers have to
24 stand but the witnesses don't.

25 A. Thank you.

1 Q. Go ahead please explain to the jury, just
2 kind of give them a history so they know what the
3 background is.

4 A. I lived in Rochester, New York near
5 Buffalo. It's a very cold country most of the year.
6 And I put an ad in the paper looking for a position
7 as a principal of a school in a state where it's
8 warm. And lo and behold, I got a notice from a
9 fellow named Lenard Rosen that there is a position
10 at a Hebrew academy, Temple Beth Sholom in
11 Las Vegas. They were looking for a principal. And
12 I was very happy to hear that. And I applied for
13 the position, and I was very lucky. I got the
14 position to be the principal of the school, the
15 Hebrew school Temple Beth Sholom on Bracken Avenue.
16 And that was in 1979.

17 Q. Great. I was going to ask you some time
18 frame. Let's jump ahead -- before we get there,
19 could you tell the jury a little bit about your
20 educational background and why it was that you would
21 be an appropriate candidate to become a principal of
22 the school?

23 A. I got my bachelor's degree, my master's
24 degree, and ultimately finally I got my doctorate
25 degree in educational administration from the

1 University of Rochester.

2 Q. In New York?

3 A. In New York state.

4 Q. So let's jump ahead a little bit to 19 --
5 again, we are going to talk about history pretty
6 quickly because I want to be able to get you out of
7 here, but also the jury has been here a long time
8 too. So if I talk too fast or rush, please stop
9 me --

10 A. That's fine.

11 Q. -- and I will try to go a little slower.
12 Let me take you back to 1988 you were Temple Beth
13 Sholom on Oakey -- Oakey and Bracken?

14 A. Yes.

15 Q. I know this is hard to believe, but I have
16 pictures of myself in the preschool there in the
17 '50s. So I know right where it is. And that
18 probably gives too much information to the jury
19 about my age, but that's the truth.

20 So what was going on there? Was there an
21 issue with staying there at that time in 1988?

22 A. Well, we had a very small area that the
23 temple had offered us. And we grew. We had more
24 and more students. And it seemed like we wouldn't
25 be able to stay there if we wanted to grow. We

1 would have to look for a larger place to build a
2 school.

3 Q. So tell the jury what happened. What did
4 you do to try to find a new home for the school?

5 A. I tried to find Jewish people who would be
6 interested in building a brand-new school for Jewish
7 children, and ultimately also for other children.
8 It was a school that would accept all kinds of
9 children, but it would be a Jewish day school.

10 Q. Okay.

11 A. And I went to several people in the
12 community that were recommended to me. And one of
13 them was Paul Sogg, the other was Milton Schwartz.

14 Q. What about Mr. Schulman, did you ever talk
15 to a man named Mr. Schulman?

16 A. I did.

17 Q. And what was -- what did Mr. Schulman have
18 to do, if anything, with respect to the new school
19 and the land?

20 A. He didn't offer us any funds.

21 Q. Okay.

22 A. And in terms of the land, he didn't offer
23 the land either.

24 Q. So let me go back and maybe -- we got your
25 deposition. I was not at your deposition, but I

1 have read it so maybe I was a little confused.

2 Did you ultimately find some land that you
3 thought you could use for the school?

4 A. Yes, we got 22 acres of land.

5 Q. Tell the jury I think they have heard this
6 but so it comes from you, where was that land?

7 A. In Summerlin.

8 Q. Who owned the land at the time you started
9 talking to them?

10 A. I went downtown to the government that
11 provides the land, and I requested land like Carolyn
12 Goodman. She got 48 acres of land for the Meadows,
13 and they gave me 22 acres of land for the Hebrew
14 Academy.

15 Q. And Caroline Goodman is currently the mayor
16 of Las Vegas?

17 A. Yes.

18 Q. So the -- was that land coming from the
19 Howard Hughes Corporation?

20 A. Yes.

21 Q. So who was responsible for talking to the
22 Howard Hughes Corporation about getting that land,
23 you?

24 A. Yes.

25 MR. FREER: Objection. Leading.

1 MR. JONES: I was. I shouldn't have added
2 that last part actually I wasn't quite finished
3 which wouldn't have made it leading but I concede to
4 the objection.

5 BY MR. JONES:

6 Q. Let me ask you a little different way. Was
7 Milton Schwartz involved in securing that land? Was
8 he instrumental in the person that got that land or
9 was it somebody else?

10 A. It wasn't Milton I. Schwartz, no.

11 Q. Who was it?

12 A. I went downtown to get the land.

13 Q. So if Milton Schwartz -- would it be true
14 if Milton Schwartz got the land, would that be a
15 true statement?

16 A. No.

17 Q. Now you talked about getting the land from
18 the Howard Hughes Corporation. Did you have to pay
19 anything for the land?

20 A. No. We had to promise that we would get
21 funding to build a school.

22 Q. All right.

23 A. And I started looking for funds at the
24 time.

25 Q. So was there a time limit too, about how

1 long you had to get the money to build the school?

2 A. I didn't get a timeline, no.

3 Q. Don't remember that?

4 A. I right away went to look for the funds.

5 Q. And could you tell the jury who it was you
6 went to talk to to try to get the money?

7 A. Well, I went to Paul Sogg was one fellow.

8 Q. Okay.

9 A. And I also went to the bank.

10 Q. Okay.

11 A. And it was the head of the bank at the
12 time, it was Branham, if I remember correctly. And
13 ultimately I looked for donors. So along with Paul
14 Sogg, I went to Milton I. Schwartz.

15 Q. Now, Mr. Sogg was a businessman in
16 Las Vegas?

17 A. Yes.

18 Q. Would it be true to say that Milton I.
19 Schwartz was responsible for Paul Sogg donating
20 money to the Hebrew Academy?

21 A. No. I went directly to Paul Sogg.

22 Q. Yourself?

23 A. Yes.

24 Q. If Milton said -- Milton Schwartz said he
25 was the one that got Paul Sogg to donate money would

1 that be a true statement?

2 MR. FREER: Objection. Leading.

3 THE COURT: Sustained.

4 THE WITNESS: Milton I. Schwartz.

5 THE COURT: Sustained.

6 THE WITNESS: I don't know if Milton
7 Schwartz knew Paul Sogg I have no idea about that.

8 BY MR. JONES:

9 Q. If Milton Schwartz did say that Paul Sogg
10 was the -- Milton Schwartz was the reason that Paul
11 Sogg donated money, would you believe that would be
12 correct?

13 A. No.

14 MR. FREER: Objection. Leading.

15 THE COURT: Dr. Lubin you need to wait in
16 between question and answer. Counsel have the right
17 to make objections. I have to rule on them.

18 BY MR. JONES:

19 Q. Let me ask you. When you went to see
20 Mr. Schwartz, how much money did you ask him for?

21 A. A million dollars.

22 Q. And did he give you a million dollars?

23 A. No.

24 Q. Did he -- well, you asked him for a million
25 dollars. Did he promise to give you a million

1 dollars?

2 A. Yes.

3 Q. And you are very clear about that?

4 A. Oh, yes, because we needed the money.

5 Q. Was it important in that process -- well,
6 let me put it a different way. Were you counting on
7 that money, the full million?

8 A. Yes.

9 Q. By the way, do you recall where you went to
10 get that money?

11 A. I went to Milton Schwartz's home.

12 Q. Now, you told the jury that Mr. Schwartz
13 promised a million dollars?

14 A. Correct.

15 Q. How quickly after he promised the million
16 dollars did he give you the half million dollars?

17 A. It was several months. We needed the money
18 to build the school.

19 Q. So several months. But he did give you
20 that half million dollars within several months?

21 A. He did.

22 Q. Did you continue to ask him for the balance
23 of the money?

24 MR. FREER: Objection. Leading.

25 THE COURT: Overruled.

1 BY MR. JONES:

2 Q. Did you continue to ask him for the other
3 half of the money?

4 A. Yes.

5 Q. How did you ask him? Did you do that in
6 person, over the phone, did you visit him? What
7 happened?

8 A. I knew his home. I knew his house. I
9 would -- we were friendly. I would call him on the
10 phone. We would meet at his house. Yes, and I
11 asked for the funds that he promised.

12 Q. Over what period of time did you continue
13 to ask him for the funds?

14 A. For a long time. For a very long time
15 because we needed the funds.

16 Q. Were you counting on those funds?

17 A. Yes.

18 Q. What did Mr. Schwartz say to you when you
19 kept asking for the funds?

20 A. He promised that it would be forthcoming
21 but we never -- we never did, to this day, receive
22 the funds.

23 Q. Was there a time period that even though
24 you said it was a number of months before you got
25 the first half of it, the 500,000?

1 A. Correct.

2 Q. Was there a time period over which you --
3 well, did you ever put a set time limit on it, say
4 we have to have the money by X date?

5 A. No.

6 Q. Okay. So without having done that, was
7 there at least an expectation on your part as to
8 when the other half of the money would come?

9 A. Oh, yeah because we were building the
10 school we needed the money and I kept asking him for
11 it because he made a promise. He said he would give
12 us a million dollars. We never did get the ladder
13 500.

14 Q. Was there any agreement that you made with
15 him that he could pay the money years and years
16 later?

17 A. No.

18 Q. It's a good thing I'm turning pages so less
19 questions if I can get through this.

20 A. That's okay.

21 Q. Do you recall whether or not George Rudiak
22 and his wife gave any money for the school when you
23 were building it?

24 A. Yes.

25 Q. And did you know the Rudiaks?

1 A. Of course. I was very friendly with their
2 daughter.

3 Q. I'm sorry?

4 A. I was very friendly with their daughter.

5 Q. I see. Thank you. It's probably not your
6 fault, my hearing is terrible.

7 A. It's okay.

8 Q. How was it -- what is your understanding as
9 to why the Rudiaks gave money to the school?

10 A. I asked them for it. I needed every penny
11 I could get in order to build the school. And they
12 were friendly.

13 Q. Do you have an understanding as to whether
14 or not -- well, let me put it this way.

15 As between you and Mr. Milton Schwartz, do
16 you believe you were responsible for the Rudiak's
17 giving money to the school or do you believe Milton
18 Schwartz was responsible for the Rudiaks giving
19 money to the school?

20 A. I don't think Milton Schwartz knew the
21 Rudiaks. No, I knew the daughter. He was very
22 friendly with her and I went to ask them for the
23 funds.

24 Q. What about Geri Rentchler do you know Geri
25 Rentchler?

1 A. That's the daughter. She was a good friend
2 of mine.

3 Q. That's what I thought but I wanted to make
4 sure to make sure the names. I have seen different
5 things in the documents.

6 Do you recall anyone that you can tell the
7 jury about -- well, let me rephrase that.

8 Did you know a man named Mr. Cohen who gave
9 some money to the school?

10 A. I remember a Mr. Cohen, yes.

11 Q. Did you ever talk to Mr. Cohen about giving
12 money to the school?

13 A. Yes.

14 Q. Do you know if Milton Schwartz ever talked
15 to Mr. Cohen about giving money to the school?

16 A. No.

17 Q. You don't know if he did or not?

18 A. No.

19 Q. Do you have a belief as to why Mr. Cohen
20 gave money to the school?

21 A. Because I asked him. I went all over. I
22 wanted to build the school, and wherever I could
23 find a donor, a Jewish donor to build a Jewish
24 school, I was there. I was very aggressive about it
25 because I didn't want to lose the land and not build

1 the school.

2 Q. Sure. Of course. Let me ask a similar
3 question about Mr. Cohen.

4 As between you and Milton Schwartz, who do
5 you believe was responsible for Mr. Cohen giving
6 money to the school?

7 A. I was very aggressive. I don't know about
8 Milton Schwartz knowing Mr. Cohen at all. It was
9 me. I went to him.

10 Q. Thank you.

11 Doctor, I'm going to show you -- well, let
12 me go back for a minute. Do you recall a time when
13 Mr. Schwartz gave the 500,000 and pledged a million
14 and gave half of it?

15 A. Yes.

16 Q. Even though he didn't give the other half,
17 was there ever any process or any board minute
18 meetings where there was a vote to name the school
19 or some parts of the school after Mr. Schwartz?

20 A. There was a definite response from the
21 board to put the Milton I. Schwartz name on the
22 school when he would give us the next \$500,000 that
23 he promised. And unless he does that, it's not
24 going to happen.

25 Q. All right. So let me go, if I can, I want

1 to show you some exhibits. Exhibit -- I think
2 it's -- is it 5? The board minutes. I'm sorry,
3 it's got to be, then, 3.

4 So Doctor, these are documents that have
5 been admitted into evidence. And this is a
6 certificate of amendments of the articles of
7 incorporation if you look down below it's 1990 this
8 is not long after you started the building project.
9 You will see there is a resolution. It was advised
10 in the best interest of this corporation that the
11 articles of incorporation be amended by changing the
12 language of the article 1 of said corporation to
13 read as follows: The corporation shall be known as
14 the Milton I. Schwartz Hebrew Academy.

15 Do you remember that?

16 A. Well, it depends on the date.

17 Q. This is 1990. It doesn't say -- it says
18 the corporation do you see that?

19 A. Yes, I see.

20 Q. So then I would like to show you
21 Exhibit 384. Now these are board minutes from
22 November of 1990. Show Dr. Lubin who is attending.
23 You will see present Mr. Schwartz is present?

24 A. Yes.

25 Q. You were present, Dr. Tamar Lubin is there?

1 A. Yes.

2 Q. Then if we go down further, next page, look
3 almost to the bottom, it says a motion was made by
4 Roberta Sabbath and seconded by George Rudiak that
5 Dr. Lubin should be honored by naming the Tamar
6 Lubin Saposhnik Elementary School, and the motion
7 was passed unanimously. Do you remember that?

8 A. Yes.

9 Q. What was your understanding of that
10 decision by the board? Well, first of all, let me
11 back up for a minute.

12 A. Sure.

13 Q. Are you familiar with or have you heard the
14 words "in perpetuity"?

15 A. Yes.

16 Q. Could you tell the jury what you understand
17 those words to mean?

18 A. Forever.

19 Q. So what was your understanding of when the
20 school including Milton Schwartz -- you can look at
21 the screen -- when the school passed that
22 resolution, including Mr. Schwartz, what was your
23 understanding of whether that was in perpetuity or
24 not in perpetuity?

25 A. Didn't use the word.

1 Q. They didn't use the words. Did you have an
2 understanding about it, though?

3 A. I guess I didn't give it any thought. I
4 just knew the Milton I. Schwartz Hebrew Academy.

5 Q. And then what about with you, naming the
6 elementary school, same thing?

7 A. Same thing.

8 Q. All right. Fair enough. And I would like
9 to show you -- before I get there, could we get
10 Exhibit 217.

11 MR. JONES: Your Honor, can I -- I would
12 like to actually replace Exhibit 217 with the actual
13 book. We have just provided to the court and clerk
14 with a paper copy.

15 THE COURT: I don't know whose.

16 MR. FREER: We are going to object hearsay
17 it's an out of court statement and it's not
18 reliable.

19 MR. JONES: I haven't offered it yet Your
20 Honor I just want to mark it.

21 THE COURT: You can mark it as a proposed
22 exhibit.

23 MR. JONES: That's all I was trying to do.
24 Thank you. If there is no objection, I would like
25 to just be able to replace Exhibit 217 that's

1 previously been marked as a proposed exhibit with
2 the actual book itself, Your Honor.

3 THE COURT: So the proposed exhibit Xerox
4 copy will be replaced by the bound actual book.

5 MR. JONES: That's right.

6 May I approached, Your Honor.

7 THE COURT: You may.

8 BY MR. JONES:

9 Q. Dr. Lubin, did you ever write a book about
10 your experiences with the school?

11 A. Yes.

12 Q. What is that book called?

13 A. From Chaos to Order.

14 Q. Showing you what's been marked as proposed
15 Exhibit 217. What is that book?

16 A. Well, it gives you a history.

17 Q. Is that the book you wrote?

18 A. Yes.

19 Q. By the way, can you tell the jury when you
20 wrote that book, approximately?

21 A. Well, it would be 1979, 1980 or a little
22 later.

23 Q. So when you wrote that book, these events
24 were much even more fresh in your mind because it
25 was closer in time?

1 A. Yes, because it was closer to the actual
2 day.

3 Q. Now we have been talking about that
4 resolution we just showed on the screen where they
5 named the school after you in 1990. I would like to
6 show you Exhibit 217A and then 217 B. Can you tell
7 me what that is a picture of?

8 A. That's the entry to the school. That's the
9 front entry to the school. And on --

10 Q. I'm sorry. I didn't mean to interrupt you?

11 A. At the entrance, it says the Tamar Lubin
12 Saposhnik Elementary School.

13 Q. We have another document in evidence that
14 we can show hopefully side by side. Can we show
15 that side by side?

16 Because it's hard to see, the jury can see
17 it in the jury room but we expanded the name so it
18 clear. That's right. If we look back at that
19 picture, is that the original building? Do you know
20 if that's the original building that you were
21 instrumental in --

22 A. Yes.

23 Q. Do you know if that building is still there
24 today, as far as you know?

25 A. As far as I know. I haven't been there

1 lately.

2 Q. Did you by the way, you said and
3 Mr. Carlson pointed this out I think you said you
4 wrote the book in 1979, 1980 and that was before you
5 were even -- these events happened. So -- maybe
6 1999?

7 A. It must have been a lot later than that
8 having written the book. What happened was in '79,
9 '80, but the book was written much later.

10 Q. If you look in the front of the book see if
11 that refreshes your memory as to when it was
12 published in the inside pages where it says when it
13 was published, if you can tell.

14 A. 2014 first originally published in 2014.

15 Q. Thank you. So now did --

16 A. I had written it long before that but it
17 was published in 2014.

18 Q. Fair enough. So Doctor, with respect to
19 that building, did your name stay on that building
20 for a period of time?

21 A. I an I'm not sure about that.

22 Q. Was there a point in time where you left
23 the school?

24 A. Uh-huh.

25 Q. Could you describe for the jury, was that a

1 difficult time for you?

2 A. Of course.

3 Q. Do you remember about the year that that
4 happened that?

5 A. What happened?

6 Q. That you left the school?

7 A. Oh, 1979, '80.

8 Q. In 1979 or '80 is Wednesday you left the
9 school?

10 A. The end of 1979 -- no. I think that was
11 the time, yeah.

12 Q. If there has been some documents that show
13 that you were -- the school was built in 1990 and
14 then there is some other documents the jury has seen
15 that showed it was in 1996 that you left the school,
16 does that sound about right?

17 A. Yeah, '79 I built the school; 1986, I left.

18 Q. Are you aware of what happened -- well, did
19 the -- do you have any recollection of taking
20 Mr. Schwartz's name off of the corporation after --
21 well, let me rephrase that.

22 Was there a time were you and Mr. Schwartz
23 left the Hebrew Academy, he left the board?

24 A. I didn't leave with Mr. Schwartz. I left,
25 he left.

1 Q. I understand that. Was there a time before
2 you left that Mr. Schwartz left the board, that he
3 left the school?

4 A. I don't understand what you mean by "he
5 left the school." He was never at the school. I
6 mean, he didn't work at the school.

7 Q. Bad form. Bad question on my part.
8 Was there a time that you recall that he
9 was no longer on the board of trustees for the
10 school?

11 A. No.

12 Q. Don't recall that?

13 MR. LEVEQUE: Can we sidebar, Your Honor?

14 THE COURT: Yes.

15 (Bench conference.)

16 THE COURT: Thank you.

17 BY MR. JONES:

18 Q. Doctor, I would like to show you what's
19 been put into evidence as Exhibit 130. We will put
20 it up on the screen for you. You will see this is
21 from 1992. And so I wanted to refer you
22 specifically to -- it says Hebrew Academy executive
23 board. I want to refer you to a page in that
24 document.

25 THE COURT: He will increase the size,

1 don't worry, when he gets to the page he wants you
2 to look at.

3 THE WITNESS: Okay.

4 BY MR. JONES:

5 Q. You will see that at the bottom of Page 9,
6 last paragraph -- sorry, bottom of the first page,
7 last paragraph, says Ira Sternberg brought up the
8 removing of all board members' pictures from the
9 wall and the Milton Schwartz name from the school.
10 Mr. Schwartz is in the news again with regard to the
11 cabs. The discussion centered on letting the
12 letterhead run out and then just having new printed
13 without Milton I. Schwartz name on it. And then it
14 goes on and talks about shrinking the name Milton I.
15 Schwartz.

16 Do you remember that at all?

17 A. Yeah.

18 Q. I'm sorry, you do or don't?

19 A. Yes.

20 Q. Do you remember why Mr. Sternberg talked
21 about removing -- they are laughing because I have a
22 nervous habit of doing this with my pen.

23 A. Oh, I wasn't sure.

24 Q. It's me, it's not you. I keep forgetting
25 and I keep picking up my pen. So I caught myself

1 before somebody had to remind me.

2 Dr. Lubin, do you recall being asked about
3 this in your deposition? It was a while ago so
4 maybe you don't.

5 A. Probably not.

6 Q. Why do you think it was that you removed
7 his name from the school? Do you have a
8 recollection as to what would have caused you to
9 remove his name from the school?

10 A. No.

11 MR. JONES: So what I would like to do is I
12 would like to publish Dr. Lubin's --

13 THE WITNESS: You mean removing Milton
14 Schwartz's name from the school?

15 BY MR. JONES:

16 Q. Yes.

17 A. Because he didn't pay the other \$500,000.
18 I thought you meant Mr. Sternberg.

19 Q. Thank you. I'm sorry, my question probably
20 wasn't clear. I meant why they were removing Milton
21 Schwartz's name.

22 A. Okay.

23 Q. All right. So that's why they removed it
24 is --

25 A. Yes.

1 Q. -- because he didn't pay the rest of the
2 money?

3 A. Correct.

4 Q. The last sentence says, "Robert Sabbath
5 suggested that we speak to our attorney Scott Kantor
6 and get his opinion with regard to the name of the
7 school."

8 Do you recall if you were relying on legal
9 advice in making sure it was okay to remove
10 Mr. Schwartz's name from the school, if you
11 remember? I know it's been a long time.

12 A. Yeah. Vaguely, yes.

13 Q. That would have been a prudent thing to do
14 to ask the lawyer before you did that?

15 MR. FREER: Objection. Leading.

16 THE WITNESS: Yes.

17 THE COURT: Overruled.

18 MR. JONES: Your Honor, I need to get a
19 binder because this is an exhibit that's not in
20 evidence. I will get it.

21 BY MR. JONES:

22 Q. It's kind of hard to read. Before you say
23 anything about it, let me just ask you some
24 questions.

25 THE COURT: What are you looking at?

1 MR. JONES: Exhibit 123, Your Honor.

2 THE COURT: Thank you.

3 BY MR. JONES:

4 Q. When you were -- well, do you recall
5 anything happening after the school decided to name
6 the elementary school after you that there was any
7 pub publicity or celebrations or anything?

8 A. A celebration?

9 Q. Or --

10 A. Well, there was a little gathering, yeah.
11 We offered coffee.

12 Q. Do you remember it being put in the
13 newspaper announcement about your name being put on
14 the school?

15 A. Yes, I think there was a newspaper article
16 about it.

17 Q. All right. Would you take a look at
18 Exhibit 123. Let me know if that refreshes your
19 memory about any article. I know it's hard to read.

20 A. Yeah, but that's what it says.

21 Q. Do you have a recollection of that article
22 as you sit here today? If you don't I understand.
23 It's been a long time.

24 A. Yes. I remember that.

25 Q. Does it -- looking at it now, does it

1 accurately reflect what you recalled happen at the
2 time?

3 A. Yes.

4 MR. JONES: Your Honor I would move its
5 admission.

6 THE COURT: Counsel?

7 MR. FREER: Which exhibit number, Randall?

8 MR. JONES: 123.

9 THE COURT: 123.

10 MR. FREER: No objection.

11 THE COURT: It will be admitted.

12 BY MR. JONES:

13 Q. So let's put that up on the screen there.
14 Let's blow up the very top picture and caption right
15 underneath it.

16 A. Yes.

17 Q. It says, "Milton Schwartz commends
18 Dr. Tamar Lubin Saposhnik for her devotion to
19 educational excellence at a dedication ceremony at
20 the Milton I. Schwartz Hebrew Academy. The
21 elementary school portion was renamed in honor of
22 Dr. Tamar Lubin Saposhnik."

23 A. Yes.

24 Q. Do you recall ever having any arguments or
25 disputes with Mr. Milton Schwartz about your name

1 being on the elementary school?

2 A. No.

3 Q. Do you recall a time when -- did you ever
4 know of at any time that there was -- that your name
5 was removed from the school?

6 A. Sure. It wasn't there. Yeah. There was a
7 time. I don't recall the exact time.

8 Q. Do you know, as you sit here today can you
9 tell the jury, do you know who decided to remove
10 your name from the school?

11 A. No.

12 Q. Okay.

13 MR. JONES: Dr. Lubin, I have no further
14 questions, thank you very much, ma'am.

15 THE COURT: Now we are going to have
16 questions for counsel for the estate, Mr. Freer.
17 And then, in Nevada, jurors can also ask questions.
18 So just give us a moment and we will switch our
19 technology for Mr. Freer.

20 EXAMINATION

21 BY MR. FREER:

22 Q. Hi, Dr. Lubin. My name is Alan Freer.

23 A. Hi.

24 Q. I will be asking you some questions. I
25 appreciate you taking the time. It's hard to

1 remember facts this far back, isn't it? I just
2 wanted to run through a few things with you. You
3 were talking about getting the property from the
4 Howard Hughes Corporation. The building -- you
5 needed to raise at least a million dollars to get
6 the land for the property?

7 A. Correct.

8 Q. And the building was going to be
9 approximately 1.8 million but you needed the million
10 dollars to leverage or to start?

11 A. Close to two million you are right.

12 Q. But you were able to finance the other
13 portion once you got the million dollars raised?

14 A. Right.

15 Q. And had you been working on that project
16 since about 1987 with Howard Hughes Corporation?

17 A. Yes.

18 Q. And for that first nine months to a year,
19 you had problems raising money with the school?

20 A. Yes, I tried very hard. Yeah. I went all
21 over.

22 Q. And do you remember at some point you had
23 Lenny Schwartzer looking into possible ways of
24 getting bonds for the property, et cetera?

25 A. Yes.

1 Q. But you still couldn't do that?

2 A. Yeah I didn't get that.

3 Q. It got to a point where you needed large
4 donors to get the project pushed forward, correct?

5 A. Yes.

6 Q. In fact I think like maybe a year after you
7 started, you had been able to raise only about
8 \$125,000. Does that ring a bell?

9 A. Probably, yeah.

10 Q. And you had talked to Paul Sogg at some
11 point and you were hoping to get him to donate but
12 he said he couldn't donate the money timely; is that
13 correct? This is before Milton.

14 A. Ultimately he donated \$300,000.

15 Q. But at the beginning, you couldn't rely on
16 Paul to get the project started; is that correct?

17 A. Well, I went to many donors to get funds.

18 Q. Maybe you are misunderstanding. I
19 recognize that you played -- you were -- in fact, I
20 think Milton Schwartz called you the quarterback of
21 getting this property together. I'm not questioning
22 your ability. What I'm asking is once you first
23 approached Paul, he had an issue of not being able
24 to donate because he had to sell property first and
25 you couldn't rely on that promise to get the deal.

1 Does that ring a bell?

2 A. Well, he promised to give us a contribution
3 of \$300,000 and ultimately we did get it.

4 Q. Do you remember speaking to Milton for the
5 first time in August of 1989?

6 A. I remember speaking to Milton Schwartz many
7 times.

8 Q. Okay.

9 A. This date, that date, or the other.

10 Q. Do you remember him coming on to the board
11 on August 4, 1989?

12 A. Yes, he did come on to the board, yeah.

13 Q. And you obtained -- you were instrumental
14 in getting Milton's donation, correct?

15 A. Yes.

16 Q. And you went to his house with Roberta
17 Sabbath to get that?

18 A. Yes, I went to his house.

19 Q. And as a result of that, Milton donated?

20 A. He promised a million dollars, yes, and we
21 were very happy with that promise of his and
22 ultimately we got \$500,000 and never got the other
23 five.

24 Q. We will get to that in a minute. Why don't
25 we pull up Exhibit 115?

1 MR. FREER: Is it proposed.

2 MR. LEVEQUE: Proposed.

3 THE COURT: So 115 is in the book?

4 MR. LEVEQUE: Yes.

5 MR. FREER: I'm sorry, Your Honor. May I
6 approach.

7 THE COURT: Yes.

8 MR. FREER: I get so excited sometimes.

9 BY MR. FREER:

10 Q. Dr. Lubin, I'm showing you an old newspaper
11 article from around the time that you solicited the
12 donation from Milton Schwartz. Do you recall seeing
13 that article?

14 A. Yes.

15 Q. Okay. And does that article reflect
16 accurately what happened?

17 A. Yes.

18 MR. FREER: I move to admit Exhibit 115.

19 THE COURT: Any objection, Mr. Jones.

20 MR. JONES: No, Your Honor.

21 THE COURT: Admitted.

22 BY MR. FREER:

23 Q. So that was a newspaper article where
24 Milton had given you the \$500,000, correct?

25 A. Correct.

1 Q. And there he is handing you the three
2 checks for the \$500,000.

3 Now, the donation was all that Milton was
4 required to give for his naming rights, correct?

5 MR. JONES: Objection, Your Honor.

6 THE WITNESS: No.

7 MR. JONES: That misstates the testimony.

8 THE WITNESS: No.

9 THE COURT: Overruled.

10 BY MR. FREER:

11 Q. Why don't we take a look at exhibit --
12 proposed Exhibit 133.

13 MR. FREER: If I may approach again, Your
14 Honor?

15 BY MR. FREER:

16 Q. I opened up Exhibit 133 for you, Dr. Lubin.
17 If you will take a look at -- let's turn to
18 paragraph 19. I will help you. Go ahead and flag
19 that. I will do a little foundation on this. So
20 turn to that yellow flag when I tell you to go
21 ahead.

22 A. Oh.

23 Q. Ms. Lubin do you recognize this document if
24 you take a look at the first page? Take a look at
25 the first page of Exhibit 133. Then if you turn to

1 the back page, do you recognize your signature?

2 What is the name of that document?

3 A. So what's the question?

4 Q. Turn to the first page.

5 A. I'm on the first page.

6 Q. What is the name of that document?

7 A. The board of directors of the Milton I.
8 Schwartz Hebrew Academy, plaintiff, versus second
9 board of directors of the Milton I. Schwartz Hebrew
10 Academy Ira Sternberg, Geri Rentchler --

11 Q. If you go down the line a little bit what's
12 the title?

13 A. Affidavit of Tamar Lubin, also known as
14 Tamar Lubin Saposhnik.

15 Q. Do you recall submitting an affidavit in
16 that matter?

17 A. If I look at it now, I recall.

18 Q. And will you turn to the very last page of
19 that document past the yellow --

20 A. All the way.

21 MR. FREER: Let me approach. Let me
22 assist.

23 THE WITNESS: That's the last page.

24 BY MR. FREER:

25 Q. Do you recognize the signature on that

1 page?

2 A. Yes.

3 Q. Whose signature is that?

4 A. Mine.

5 MR. FREER: Move to admit Exhibit 133.

6 MR. JONES: Your Honor it's an out of court
7 statement. It's hearsay.

8 MR. FREER: We are going to look at
9 paragraph 19.

10 THE COURT: She can refresh her
11 recollection if she doesn't recall it.

12 MR. JONES: I have no objection to that.

13 BY MR. FREER:

14 Q. Dr. Lubin will you turn to paragraph 19,
15 which is the yellow flag?

16 A. This says 141A.

17 Q. Back here. You turned past it.

18 If you would read paragraph 19 to yourself.

19 A. What's the question?

20 Q. My question is that Milton was only
21 required to give a donation for his naming rights,
22 correct?

23 A. You talk softly but I understand. He
24 promised to give a million dollars in order to get
25 his name on the school.

1 Q. When was the date of that affidavit?

2 A. I don't see it.

3 Q. If you turn to the last page.

4 THE COURT: Perhaps you could be of
5 assistance, Mr. Freer.

6 THE WITNESS: This one?

7 BY MR. FREER:

8 Q. No. What is the date that that affidavit
9 is dated?

10 A. 1993.

11 Q. So do you recall in 1993 testifying that
12 Milton got his name for the contributions that he
13 made on the school?

14 A. What's the question?

15 Q. I said do you recall testifying in 1993
16 that Milton Schwartz received his name on the school
17 for his donation?

18 A. What does it mean "received his name"?

19 Q. The school was named after Milton?

20 A. Okay.

21 Q. Do you recall testifying to that in 1993?

22 A. Yes.

23 Q. Do you recall in your testimony in 1993, it
24 was only for a donation and not for raising any
25 money, correct?

1 MR. JONES: Object to the form of the
2 question.

3 THE WITNESS: Not sure I understand the
4 question.

5 MR. JONES: Vague and ambiguous. I agree.

6 THE COURT: So it is her recollection
7 refreshed that in 93 she said -- was not required to
8 raise any money.

9 MR. FREER: Yes.

10 THE COURT: Just make a donation?

11 BY MR. FREER:

12 Q. Do you understand the question as rephrased
13 by the judge?

14 A. No.

15 Q. By reading that testimony from 1993?

16 A. Yes.

17 Q. Is your recollection refreshed that
18 Milton's name on the school was only as a result of
19 his contribution and not raising any money?

20 MR. JONES: Object to the form of the
21 question.

22 THE WITNESS: That question is interesting,
23 but it wasn't his raising funds but rather
24 contributing the other \$500,000 in order to get his
25 name on the school.

1 BY MR. FREER:

2 Q. Pull up exhibit 118. I'm sorry we have so
3 many different documents in different places. Pull
4 up Exhibit 118, please.

5 MR. JONES: 118?

6 MR. FREER: Yes.

7 MR. JONES: Thank you.

8 BY MR. FREER:

9 Q. We will just draw your attention to the
10 screen.

11 A. Okay.

12 Q. Now, I will represent to you that this
13 exhibit is meeting minutes from the board of
14 trustees dated January 18, 1990.

15 A. Yes.

16 Q. Do you see that you were present there?

17 A. Yes.

18 Q. And then if you go down to the bottom of
19 the page, as we pull that up, you will see that in
20 that meeting the status of building fund pledges was
21 discussed?

22 A. That's what it says, yes.

23 Q. Do you recall discussing building pledges
24 in 1990?

25 A. We always discussed pledges.

1 Q. All right. And then we will turn the page
2 to that and get to the building fund pledges. You
3 will see that's attached to the minutes. Do you see
4 Milton Schwartz pledged 500,000?

5 A. Yes.

6 Q. And he paid 500,000. And unpaid is none,
7 correct?

8 A. That's what it says.

9 Q. All right. It doesn't say that he pledged
10 a million dollars, does it?

11 A. He sure pledged a million dollars.

12 Q. But that's not reflected in the --

13 A. It doesn't say so here, but that's --

14 Q. And you approved those minutes, do you
15 recall?

16 A. I don't see anything here, but . . .

17 Q. Do you recall passing the bylaws for the
18 school back in 1991?

19 A. Most likely.

20 Q. Let me rephrase the question. I'm sorry.
21 Do you recall passing bylaws in October 18, 1990,
22 that changed the name to Milton I. Schwartz Hebrew
23 Academy in perpetuity?

24 A. I don't remember the word in perpetuity.
25 If you showed it to me.

1 Q. Why don't we pull up Exhibit 4, which is
2 the meeting minutes. So we will blow that up a
3 little bit. And you will see in October 18, 1990,
4 you were in attendance at that meeting?

5 A. Yeah, it doesn't have the date on this one.

6 Q. Go up to the top.

7 A. November 29, 1990, yes.

8 Q. And then you will see that the highlighted
9 portion says the board corrected the draft of the
10 bylaws and naming the corporation Milton I. Schwartz
11 in perpetuity?

12 A. Yeah, I see -- I read that.

13 Q. And you voted for that?

14 THE COURT: I don't think we established
15 she was a voting member.

16 BY MR. FREER:

17 Q. Were you a voting member of the board?

18 A. Yes.

19 Q. So you voted for that correction?

20 A. Yes. That's what it says.

21 Q. Then we will turn to Exhibit 5, the bylaws.
22 And that's are the bylaws that were voted on. If
23 you take a look at that first paragraph -- actually
24 let's take a look at your signature first. Do you
25 see your signature down at the bottom?

1 A. Yes.

2 Q. So you signed these bylaws, correct?

3 A. Yes.

4 Q. And those are dated December 18, 1990?

5 A. Correct.

6 Q. And let's turn to the first page. And the
7 first paragraph. And you voted -- you signed the
8 bylaws saying that the name of the corporation will
9 be the Milton I. Schwartz Hebrew Academy in
10 perpetuity, correct?

11 A. That's what is it says, yes.

12 Q. And then if you turn to Exhibit 6.

13 A. Can I ask a question?

14 THE COURT: No.

15 BY MR. FREER:

16 Q. Unfortunately I get to ask questions?

17 A. This says corporation and we were the
18 school. I don't know. I see a difference, but
19 anyway.

20 Q. Let's take a look at Exhibit 6. This is a
21 deed of the property that transfers is to the Milton
22 I. Schwartz Hebrew Academy?

23 A. Can you enlarge it?

24 Q. Yes. We are trying. My technology skills
25 are very lacking. Do you see that highlighted spot

1 the Milton I. Schwartz Hebrew Academy?

2 A. It says the Hebrew Academy.

3 Q. And the Hebrew Academy academy is the one
4 that's transferring the property to the Milton I.
5 Schwartz Hebrew Academy?

6 A. Nonprofit corporation in consideration
7 (sotto voce).

8 Q. You recognize that the Hebrew Academy
9 transferred the property to the Milton I. Schwartz
10 Hebrew Academy, correct?

11 A. It's not very clear, but that's what . . .

12 Q. And the date of that transfer was 1991,
13 April?

14 A. Yes.

15 Q. Then lastly we will take a look at
16 Exhibit 3. This is the articles of incorporation.
17 If you will take a look at the highlighted portion,
18 we will blow that up for you. It says the
19 corporation shall be known as the Milton I. Schwartz
20 Hebrew Academy. Do you see that?

21 A. Yes, uh-huh.

22 Q. So my question after showing you this,
23 showing you --

24 A. I'm just a little bit confused between
25 corporation and school.

1 Q. Okay. My question is your statement is
2 that Milton I. Schwartz promised to pay a million
3 dollars, correct?

4 A. Yes.

5 Q. But we see in the corporate minutes that
6 the pledge was only \$500,000, correct?

7 MR. JONES: Objection. Object to the form
8 of the question.

9 THE COURT: Okay. She can answer it if she
10 can.

11 BY MR. FREER:

12 Q. Do you recall that we just --

13 A. The promise was one million dollars. We
14 got \$500,000. And I recall that that's why we did
15 not put the name on the school.

16 Q. But you -- we just went through all of this
17 stuff.

18 A. Yeah, I know.

19 Q. He paid the \$500,000 and you named the
20 corporation after him in perpetuity, correct
21 gentleman object to the form of the question, Your
22 Honor. That calls for a legal conclusion?

23 THE COURT: Overruled. She can answer if
24 she can.

25 THE WITNESS: We did not name the school

1 the Milton I. Schwartz Hebrew Academy when he only
2 paid half of what he promised to pay in order to get
3 the name on the school in perpetuity.

4 BY MR. FREER:

5 Q. Do you know of any school records that
6 would show that statement that you just stated?

7 A. Do I know if the school -- there probably
8 are.

9 Q. So that would be in the minutes of the
10 school meetings?

11 A. That was an agreement for all to know. And
12 that was the agreement from day one. He promised a
13 million dollars, he gave us 500,000. And we never
14 saw the other 500,000. And that's why the name
15 didn't go up.

16 Q. Do you remember suing -- you remember
17 suing -- or Milton Schwartz suing you in 1992? Do
18 you remember that?

19 A. Probably.

20 Q. Do you recall ever making a claim in that
21 lawsuit -- strike that.

22 In that lawsuit, you never made a claim
23 that Milton failed to pay a million dollars, did
24 you?

25 MR. JONES: Objection. Your Honor. That's

1 collateral issue. It was not even an issue in that
2 lawsuit. We have seen that petition.

3 THE COURT: All right.

4 MR. JONES: I object.

5 THE COURT: Overruled.

6 THE WITNESS: He never paid the other
7 \$500,000, period, end of conversation. He didn't.
8 We needed the money but he didn't pay it.

9 BY MR. FREER:

10 Q. Why would you need the money? Would you be
11 able to --

12 A. Every school, every school, especially a
13 nonprofit school needs money so run the school.

14 Q. That was important for you then, correct?

15 A. Absolutely.

16 Q. And that would have been important to the
17 school?

18 A. Absolutely.

19 Q. And that would have been reflected in the
20 school's records, correct?

21 A. Possibly.

22 Q. But they are not reflected in the school's
23 records, correct?

24 MR. JONES: Objection. Your Honor.

25 THE COURT: Okay. No question is pending.

1 THE WITNESS: All right.

2 BY MR. FREER:

3 Q. Would the school have been built without
4 Milton's donation?

5 A. I would try to get donations elsewhere. I
6 went all over. And since he gave it to us, it was
7 sufficient to build the school.

8 Q. Do you recall in your deposition that the
9 only other way that you would have had been able to
10 raise that money is if an angles provided the money?

11 A. Yeah. We called them angels, we called the
12 contributors angels.

13 Q. So after nine months of trying to get this
14 money, Milton came along and donated the money?

15 A. He didn't come along. I went to him.

16 Q. But he agreed to pay, correct?

17 A. I begged, yes, and pleaded.

18 Q. And the school wouldn't have been built
19 without Milton's money?

20 MR. JONES: Objection Your Honor this is
21 redundant asked and answered.

22 THE COURT: Sustained.

23 THE WITNESS: I would have gone elsewhere I
24 would have gone everywhere.

25 THE COURT: Thank you Dr. Lubin, no

1 question pending.

2 THE WITNESS: Sorry.

3 BY MR. FREER:

4 Q. Do you remember that Milton assisted in
5 getting Paul Sogg to pay the pledge, correct?

6 A. No. I went to Paul Sogg.

7 Q. You don't recall Paul Sogg -- you don't
8 recall Milton assisting in the -- in getting Paul to
9 pay?

10 A. No.

11 MR. JONES: Objection Your Honor asked and
12 answered on the prior question.

13 THE COURT: Overruled.

14 MR. FREER: Pull up Exhibit 373.

15 BY MR. FREER:

16 Q. Do you recall -- we are showing you meeting
17 minutes from May 25, 1990. You see under
18 paragraph 4 that he assisted in getting Paul Sogg to
19 pay another hundred thousand dollars?

20 A. It says Milton I. Schwartz proposed and
21 Pokroy seconded.

22 Q. No, down under 4 do you see where Milton
23 Schwartz reported?

24 A. It says that Milton Schwartz reported that
25 Paul Sogg gave a hundred thousand. It pretty messed

1 up.

2 Q. Your position is Milton didn't help Paul
3 donate money?

4 A. I know that I went to Paul Sogg to get the
5 money, ask him to give the money. Got the money
6 from Paul Sogg. That's what I remember.

7 Q. Now, in your deposition, do you remember
8 stating that the board agreed to name the school
9 after Milton I. Schwartz?

10 A. Is it here?

11 Q. No. I'm just asking you to remember when
12 you testified in your deposition, that in exchange
13 for Milton's donation the board agreed to name the
14 school after Milton I. Schwartz; do you remember
15 that?

16 A. I remember that what is very clear to me
17 that I remember, he made a pledge to pay \$1 million
18 in order to have his name on the building of the
19 Hebrew Academy. I remember that he gave us 500,000
20 and we never saw the other 500,000 and that's why he
21 name didn't go up.

22 Q. Do you have your deposition in front of
23 you?

24 A. Talking about this?

25 Q. No.

1 A. This?

2 THE CLERK: I haven't published it.

3 MR. FREER: Let's go ahead and publish the
4 deposition.

5 THE COURT: All publishing a deposition
6 means is that it's in a sealed in an envelope so
7 they will unseal it. Give them a minute.

8 BY MR. FREER:

9 Q. I'm going to hand you your deposition. If
10 you will turn to Page 35. And if you want I can
11 assist you in that. If you will take a look at
12 Page 35, take a look at lines 16 through 36 --
13 Page 36, line 10. Does that refresh your
14 recollection as to changing the name of the school
15 to Milton I. Schwartz Hebrew Academy?

16 A. All I see is if we get the funding.

17 Q. Where do you see that?

18 A. Page 22 -- I mean, line 22.

19 Q. But you did change the name to the Milton
20 I. Schwartz Hebrew Academy, correct?

21 A. You are asking me about what I'm reading?
22 I'm reading it says if we get the funding that we
23 will change the name to the --

24 Q. All right.

25 THE COURT: Mr. Freer, are we close?

1 MR. FREER: We are getting close, Your
2 Honor.

3 BY MR. FREER:

4 Q. Turn to page 29, line 1. Read lines 1
5 through 6.

6 MR. JONES: There is no question pending.

7 MR. FREER: I'm just trying to refresh her
8 recollection that the school was changed because of
9 the donation of Milton I. Schwartz.

10 THE COURT: So she testified she didn't
11 change the name, and now you are refreshing her
12 recollection.

13 MR. FREER: I am.

14 THE WITNESS: And this has a question mark.

15 BY MR. FREER:

16 Q. Yes. But do you see your answer lines 3
17 and 4, "yes"? Do you recall that?

18 A. All I can see from here, which I recall, is
19 the question mark and yes, he paid \$500,000.

20 Q. Do you recall changing the name of the
21 school -- do you recall the words "in perpetuity"
22 with respect to the name change?

23 A. No.

24 Q. Let's turn to Page 36, line 25 through 36,
25 line 10.

1 MR. FREER: Your Honor I could speed this
2 up if I could read the deposition testimony.

3 THE COURT: That's not possible to do.

4 BY MR. FREER:

5 Q. Do you recall testifying saying, okay, do
6 you have an understanding with respect to that name
7 change being a perpetual name change?

8 A. Yes, if we get the entire amount, the
9 million dollars. We only got 500,000.

10 Q. Dr. Lubin, if you take a look at that --

11 A. I'm looking.

12 Q. That's what you testified to, right?

13 In fact, you said in response: Yes. In
14 perpetuity, I believe he mentioned that word.

15 Question: What's your understanding of
16 what that term means?

17 Answer: My understanding?

18 Question: Yes.

19 Answer: From here to kingdom come.

20 Question: Okay. And do you recall if that
21 was all the board's understanding when the name
22 was -- change was made?

23 Answer: Yes.

24 MR. JONES: Object that was improper use of
25 the deposition.

1 THE COURT: Overrule it.

2 MR. JONES: Okay.

3 BY MR. FREER:

4 Q. Ms. Lubin, we saw that you had --

5 A. I'm either Mrs. Saposhnik --

6 Q. I'm sorry.

7 A. I'm not Miss.

8 Q. I apologize.

9 Do you recall a time when the school took
10 your name off of the elementary school?

11 A. The time exact, time I wasn't there.

12 Q. Do you recall your name being taken off the
13 elementary school?

14 A. I read about it.

15 Q. Do you remember filing a lawsuit about
16 taking your name off the school?

17 A. I don't recall anything happening with a
18 lawsuit.

19 Q. So you don't remember filing a lawsuit in
20 August of 1996?

21 MR. JONES: Your Honor, ask the relevance
22 of this?

23 THE COURT: This is going to the -- her
24 name.

25 MR. FREER: Her name, but with respect to

1 how she acquired her name.

2 MR. JONES: For the record, I just object.

3 THE COURT: Okay.

4 MR. JONES: It's a collateral issue.

5 THE COURT: Overruled. We are getting
6 close to the end?

7 MR. FREER: We are getting close to the
8 end, Your Honor.

9 THE COURT: Thank you.

10 BY MR. FREER:

11 Q. You don't recall filing the lawsuit in
12 1996?

13 A. It's possible, but I don't recall that
14 happened.

15 Q. And you didn't have a separate naming
16 rights agreement with respect to your name on the
17 school, did you?

18 A. What's the question? Naming rights with
19 whom?

20 Q. With the school.

21 A. Did I have what?

22 Q. Did you have -- do you remember Mr. Jones?

23 A. Yes.

24 Q. Showed you a resolution?

25 A. Yes.

1 Q. To name the school the elementary school
2 after you?

3 A. Yes. It was in the board minutes, yeah.

4 Q. And that's what gave you the right to file
5 a lawsuit?

6 MR. JONES: Objection. Your Honor, again,
7 relevance and collateral issue.

8 THE COURT: This is.

9 MR. FREER: I'm just establishing that she
10 sued on her rights based on the minutes.

11 MR. JONES: Your Honor I would redouble my
12 objection as completely irrelevant.

13 THE COURT: Yeah.

14 BY MR. FREER:

15 Q. My ultimate question would be --

16 THE COURT: Let's get to the ultimate
17 question.

18 BY MR. FREER:

19 Q. Do you believe based on filing your lawsuit
20 that you have a legal right based on what the
21 minutes reflect, to name the school after you?

22 MR. JONES: I object.

23 THE WITNESS: Not the school.

24 MR. JONES: Relevance.

25 THE WITNESS: Elementary school.

1 BY MR. FREER:

2 Q. Dr. Lubin just a couple more questions. --
3 I will actually pass the witness at this point?

4 THE COURT: Thank you.

5 Mr. Jones.

6 EXAMINATION

7 BY MR. JONES:

8 Q. Just a couple brief questions doctor. Have
9 you ever testified in court before? Have you ever
10 testified in front of a jury before?

11 A. No, not in front of a jury.

12 Q. I just wanted to ask you, who was in charge
13 of fundraising for the school in 1990 when you were
14 trying to build the new school?

15 A. Yours truly. I was it. I was the -- I
16 worked very hard at it. I was all over.

17 Q. And again so it's clear what was your job
18 at that time? What was your position with the
19 school?

20 A. Head miss industries.

21 Q. Were you aware of anybody other than you
22 that would know about the fund raiding efforts at
23 the school at that time?

24 A. I did most of the fundraising. I was very
25 aggressive at it because we needed the funds.

1 Q. That's all I have. Thank you, Doctor.

2 A. Thank you.

3 THE COURT: Dr. Lubin, as I mentioned,
4 jurors may have questions for you. So at this point
5 in time we will see if jurors have any questions of
6 Dr. Lubin. I don't see any questions for
7 Dr. Lubin -- oh, we have a question. Great.

8 (Bench conference.)

9 THE COURT: I can only ask you questions of
10 fact. So you can answer the following question if
11 you can. It's from Juror 2, Cheryl Samlaska. Her
12 question is: Was the name of the school changed to
13 the Milton I. Schwartz Hebrew Academy because
14 Mr. Schwartz fulfilled his donation or because he
15 secured a loan for the school?

16 THE WITNESS: I'm trying to figure out the
17 question.

18 THE COURT: I will read it to you again.
19 Unfortunately, I can't explain. You can answer it,
20 if you can. You can let us know if you can't answer
21 it.

22 "Was the name changed to the Milton I.
23 Schwartz Hebrew Academy because Mr. Schwartz
24 fulfilled his donation or because he secured a loan
25 for the school?"

1 THE WITNESS: Neither.

2 THE COURT: Thank you. Unless there are
3 anymore questions -- Counsel, any follow up on that
4 question?

5 MR. JONES: No.

6 THE COURT: All right. Dr. Lubin, we
7 appreciate your time today. You are free to go. We
8 appreciate you waiting for us. If you want to step
9 down -- we will help Dr. Lubin out. I will read to
10 the jurors. We are going to take you back to your
11 jury room for lunch we have a half hour, let's just
12 say 1:30.

13 During this recess, you are admonished not
14 to talk or converse among yourselves or with anyone
15 else on any subject connected with this trial; or
16 read, watch or listen to any report of or commentary
17 on the trial or any person connected with this trial
18 by any medium of information, including, without
19 limitation, to newspapers, television, the internet
20 and radio; or form or express any opinion on any
21 subject connected with the trial until the case is
22 finally submitted to you. It's lunch only and we
23 will be back at 1:30.

24 So we will be back at 1:30. Do you want to
25 do the Rule 50 motion?

1 MR. JONES: Whatever the court pleases,
2 Your Honor. It's up to you. Let me say this. I
3 will say this. Dr. Pokroy told us that -- he is
4 under subpoena, but he told us I have to be gone by
5 2:15, off the stand. So I just want to alert the
6 court to that. I don't have a lot with him, but I
7 can't, obviously, predict their cross.

8 THE COURT: In order to save time, make
9 sure we are done with Dr. Pokroy by 2:15. We will
10 come back at 1:30.

11 MR. JONES: If we could and he will be less
12 anxious.

13 THE COURT: Okay.

14 (Off the record for noon recess.)

15 THE COURT: Do we need Dr. Pokroy's
16 deposition?

17 MR. JONES: And later, Mr. Kantor's.

18 THE MARSHAL: All rise for the jury. You
19 can have seat.

20 THE COURT: Thank you. We are back on
21 P061300. Counsel is present with their respective
22 clients. We have their witnesses present. Counsel
23 stipulate to the presence of the jury.

24 MR. JONES: We stipulate to the presence.

25 MR. LEVEQUE: Stipulated.

1 THE COURT: Thank you.

2 MR. JONES: Your Honor, just so it's clear
3 to the jury, we are now in our case in chief.

4 THE COURT: That is correct. Just so it is
5 clear, the reason Mr. Jones is taking the lead now
6 is we have shifted to their part of the case. So
7 this is a witness for the school.

8 MR. JONES: Thank you, Your Honor.

9 We call Dr. Pokroy.

10 Whereupon --

11 NEVILLE POKROY,
12 having been first duly sworn to testify to the
13 truth, was examined and testified as follows:

14 THE CLERK: Please be seated. And if you
15 will state and spell your name for the record.

16 THE WITNESS: Please N-E-V-I-L-L-E, last
17 name is P-O-K-R-O-Y.

18 THE CLERK: Thank you.

19 EXAMINATION

20 BY MR. JONES:

21 Q. Good afternoon, Doctor.

22 A. Good afternoon.

23 Q. I'm calling you doctor. Would you explain
24 to the jury just basically your professional
25 background, just briefly?

1 A. Yes, I am a physician. I have been in
2 Las Vegas for 41 years. And continue to practice.

3 Q. And do you know or did you know Milton
4 Schwartz?

5 A. Yes, I did.

6 Q. What was your -- how would you describe
7 your relationship with Mr. Schwartz?

8 A. I met Mr. Schwartz in about 1978 soon after
9 I got here. Did we had a good relationship
10 throughout the rest of his life. He was a patient
11 of mine in latter years and we were on multiple
12 boards together, and we had visitation between our
13 two homes. We studied together, and it was -- he
14 was a friend.

15 Q. Very good. Do you know his son Jonathan?

16 A. Yes, I do.

17 Q. What is your relationship with Jonathan?

18 A. It's been amicable and with no problem and
19 I knew him through his father.

20 Q. Fair enough. Now, on the other side there
21 is the Adelson Campus issue. Do you know the
22 Adelsons?

23 A. Yes, I do.

24 Q. Could you tell the jury how you know the
25 Adelsons?

1 A. I have known them since they moved to
2 Las Vegas. We have had relationships through the
3 private community. There are some medical issues.
4 I have been on the board of Miriam Adelson's
5 methadone free clinic. We have been friends and
6 associates.

7 Q. So I guess I would say that from what you
8 have just described, you, like a lot of people that
9 have testified in this case, you are friendly with
10 both sides?

11 A. Yes, I have been.

12 Q. I take it that if you had your can choice
13 you would not be sitting in that seat?

14 A. You are correct.

15 Q. I hope to get you off quickly. Let me take
16 you back and it's going go back a number of years.
17 Were you involved with the Hebrew Academy?

18 A. Yes indeed I was on the board did had
19 children in the school.

20 Q. Were you on the board before it was
21 referred to as the Milton I. Schwartz Hebrew
22 Academy?

23 A. Yes.

24 Q. And about how many years before you got --
25 before -- were you on the board before it became

1 known as the Milton I. Schwartz Hebrew Academy?

2 A. For several years.

3 Q. And were you involved in helping -- well,
4 were you involved in the process where the board was
5 raising money to put -- build a new school?

6 A. To my clear recollection, we were housed in
7 a temple on 17th street, and we could no longer stay
8 in that premises so we had to find a new location
9 through the auspices of the principal and other
10 members of the board, we were lucky to get land in
11 Summerlin. And then we had to find some financial
12 resources to move the school. And at that point, my
13 wife and I had been discussing it, Milton I.
14 Schwartz's name came up, as we knew him as a
15 philanthropist and involved in this type of
16 endeavor. So he was approached by several of us,
17 including ourselves. And he generously said yes he
18 would proceed and help us.

19 Q. And again, I don't think this is a
20 controversial issue so I will ask you out right do
21 you remember this being around 1989?

22 A. Yes, I believe that's my recall.

23 Q. Do you recall some discussion about naming
24 rights at that time when you were talking about
25 moving -- building the new school?

1 A. It wasn't -- initially it was not a
2 prominent issue that we discussed about the naming.
3 What we were trying to do is make sure that there
4 was housing for our school, which was doing well up
5 to that point and getting financially strong in
6 order to construct the building.

7 Q. Were you involved in any specific details
8 about naming rights issues?

9 A. I did not, but I know that I was present
10 for some committee members and signed all of the
11 bylaws that proceeded moving to the school.

12 Q. So just to make sure I'm clear on your
13 answer, you weren't really involved in the
14 discussions, but you were there for some resolution
15 and bylaws, signings and things like that?

16 A. Yes, I was on the school board prior to
17 moving, during the move. Helped to put the first
18 couple spades in the ground and I continued to be on
19 the board thereafter.

20 Q. Do you recall any specific language that
21 was used in the discussions with Milton Schwartz at
22 least your understanding of any discussions about
23 naming the school the Milton I. Schwartz Hebrew
24 Academy?

25 A. I don't remember any specific discussions,

1 but I do know that the school opened with the Milton
2 I. Schwartz Hebrew Academy tied to it on its
3 letterhead and on the school.

4 Q. And on the school?

5 A. Yes.

6 Q. And I can get to this in a moment but do
7 you remember actually at any time when Dr. Tamar
8 Lubin Saposhnik's name was on the school?

9 A. I think -- I heard that it was, but I had
10 already by that time left the board. So I don't
11 recall that exactly.

12 Q. Let me show you exhibit -- you know this
13 has all been a long, long time ago but let me show
14 you Exhibit 384, see if this will refresh your
15 memory. If you look at the top there this is board
16 minutes from 1990, November 29, 1990.

17 A. Yes.

18 Q. You look down lower, you will see there is
19 a list of who attended. In about the third to the
20 bottom it lists you as being present?

21 A. Correct.

22 Q. So would you assume that you were present
23 at that board meeting, you probably were?

24 A. I have no doubt.

25 Q. Let's look at the next page -- first of all

1 do you know who Lenard Schwartz is?

2 A. Yes, I do.

3 Q. Was he on the board at the time, if you
4 remember?

5 A. Yes.

6 Q. So if we look at the paragraph that Mr. God
7 free has blown up for you and the jury it says a
8 motion was made by Roberta Sabbath and seconded by
9 George Rudiak that Dr. Lubin should be honored by
10 naming the Tamar Lubin Saposhnik Elementary School.
11 The motion passed unanimously.

12 Does that refresh your memory that in 1990
13 the board voted, including Milton Schwartz to name
14 the school after her?

15 A. I really do not remember that particular
16 event, I apologize.

17 Q. No apologies needed?

18 A. You have to tell the whole truth and
19 nothing but the truth that I remember.

20 Q. I totally believe that, Doctor. We are
21 asking everybody in this trial to remember stuff
22 that happened almost 30 years ago so it's
23 understandable.

24 Let me show you briefly a photograph from
25 Dr. Lubin wrote a book. She has testified about it.

1 And so have some others. But see if this helps
2 refresh your memory. That's 217 A. So you will see
3 there is a photograph. We will look at -- we have
4 had it enhanced because that name is really hard to
5 see, but you will see there that -- first of all
6 does that look like the front of the school that you
7 all built back in the day?

8 A. Yes.

9 Q. Does that refresh your memory that at least
10 at some period of time that Dr. Lubin's name was on
11 the elementary school? I know it's going back a lot
12 of years. If you don't that's fine. I just want to
13 know if you recall.

14 A. I don't recall that.

15 Q. Fair enough. Did you ever have any
16 discussions with Milton Schwartz about the
17 permanency of his name?

18 A. No.

19 Q. Now, could you -- it's been testified by
20 several witnesses in this trial about a donation
21 that Mr. Schwartz had made in exchange for the
22 naming rights. Do you recall discussions back in
23 the day about that subject?

24 A. Yes.

25 Q. Could you tell the jury what your

1 understanding was of the amount of money that Milton
2 Schwartz agreed to pay for those naming rights?

3 A. Well, my recollection is that we needed
4 about \$1.5 million collected and changed to start
5 the process to construct the new school. May
6 understanding originally was that he was offering
7 about \$1 million, and he had -- he solicited another
8 500 from several members of the community, and
9 obviously on the board, we also gave our share. Not
10 in those numbers but what we could.

11 Q. Your memory is he gave a million dollars
12 himself and then he raised 500,000 from others?

13 A. My recollection.

14 Q. Do you remember any particular bylaws that
15 said anything to the effect that Milton Schwartz's
16 name would remain on the corporation in perpetuity?

17 A. I don't recall that, as I sit here at this
18 moment.

19 Q. So it may or may not be true, you just
20 don't remember?

21 A. Subsequently, four years ago, we had a
22 deposition and I was presented with a document that
23 I was present and that it was discussed at that
24 meeting. And if I signed that document, then I must
25 have read it.

1 Q. Understood. But at the time of your
2 deposition, you didn't have any recollection of that
3 document?

4 A. No, but because of the document, I presume
5 that was absolutely correct because I don't sign
6 documents unless I have read them.

7 Q. Did there ever become a time when there was
8 a riff or a schism with the board at the Hebrew
9 Academy?

10 A. Yes.

11 Q. Do you recall approximately when that
12 happened. I know it's ancient history, but --

13 A. It was in the early 1990s, but the specific
14 day I don't know.

15 Q. Just briefly what happened with the board
16 when that dispute arose? What happened with the
17 school? The people that were on the board, what
18 happened?

19 A. I was on the board and Milton, if I recall
20 correctly, was fired from the board. And there was
21 a discrepancy as to how to proceed. And it ended up
22 that two boards appeared suddenly. There was a
23 board at the school with some of the members who had
24 been on the board, and there was a group of us who
25 stayed with Milton, and we are another board. And

1 we used to meet in his home and the school board in
2 their home, which was outrageous, but it happened.
3 And then I understand there was a case in the
4 courts. And the Milton I. Schwartz board until
5 parallel was dismantled and a decision was to build
6 another school.

7 Q. And at some point everybody kind of made
8 up?

9 A. To a certain extent, yes.

10 Q. And you went with the -- with Mr. Schwartz,
11 you didn't stay with the school at that time?

12 A. Well, at that time, I was -- I was not -- I
13 was not on the board of the school after that. I
14 was on the board of the new school. My children had
15 grown up subsequently I have grandchildren at the
16 current school so I mean we are still involved. But
17 at that time I didn't have any personal involvement.

18 Q. And just to clarify, there has been some
19 talk about the Jewish Community Day School. Did you
20 get involved with that?

21 A. Yes.

22 Q. And then at some point things kind of got
23 worked out with Mr. Schwartz and the Hebrew Academy
24 as far as you know?

25 A. I don't know.

1 Q. Fair enough. I will leave it at that.
2 Doctor, I told you I would be brief. That's all I
3 have.

4 MR. JONES: Your Honor, I pass the witness.

5 THE COURT: Thank you. Mr. LeVeque.

6 EXAMINATION

7 BY MR. LEVEQUE:

8 Q. Doctor, I think I will be briefer. Because
9 Mr. Jones said we are going back 29, 30 years with
10 some of these events, correct?

11 A. Correct.

12 Q. And would you agree with me that documents
13 that were prepared by the school contemporaneous
14 with the events that occurred would be more reliable
15 than a recollection from 29 years ago?

16 A. I must presume that that is correct.

17 MR. LEVEQUE: Thank you, Doctor. I have no
18 further questions.

19 THE COURT: Mr. Jones.

20 MR. JONES: Doctor, you have the record for
21 being the quickest witness, unless you shall, I
22 guess you want to ask the jurors.

23 THE COURT: Unless the jurors have
24 questions. Doctor, in Nevada jurors have the
25 opportunity to ask questions.

1 Any questions for Dr. Pokroy? If not,
2 thank you, Dr. Pokroy. Thank you for being so
3 succinct.

4 MR. JONES: Mr. Kantor will be our next
5 witness.

6 THE COURT: All right.
7 Whereupon --

8 PHILLIP KANTOR,
9 having been first duly sworn to testify to the
10 truth, was examined and testified as follows:

11 THE WITNESS: Yes.

12 THE CLERK: Please be seated. And if you
13 will state and spell your name for the for the
14 record.

15 THE WITNESS: Phillip Kantor, K-A-N-T-O-R.

16 THE CLERK: Thank you.

17 MR. JONES: May I proceed?

18 THE COURT: You may.

19 EXAMINATION

20 BY MR. JONES:

21 Q. Good afternoon, Mr. Kantor.

22 A. Yes.

23 Q. Mr. Kantor, do you have any current
24 association with the Adelson Educational Campus?

25 A. Yes, I do.

1 Q. Could you tell the jury what that
2 association is?

3 A. I'm currently on the board of trustees of
4 the Adelson School and I'm on the executive board
5 and I'm the secretary as well.

6 Q. Could you tell the jury approximately how
7 long or when you first went on the board?

8 A. I'm going to say I think about 12 years
9 ago.

10 Q. So --

11 A. 2006.

12 Q. 2006. Okay. Great.

13 Before we get too far into the school
14 issues, just to get some real basic background, what
15 do you do for a living?

16 A. I'm an attorney.

17 Q. How long have you been in Las Vegas?

18 A. 20 years.

19 Q. Have you been practicing here as an
20 attorney for 20 years?

21 A. Yes.

22 Q. What kind of law do you practice?

23 A. I do intellectual property law which is
24 patent, trademark, and copy right law.

25 Q. Did your association in any way with the

1 school start before 2006, in other words, did you
2 have any relationship with the school at all?

3 A. No, I did not.

4 Q. So let me then go back in time. I know you
5 have got some deadlines, too, so I'm going to try to
6 move this along as quickly as I can.

7 Did you ever have any association with the
8 board when -- well, let me rephrase that.

9 Was there any discussion when you first
10 came on the board in 2006 about a fundraiser was
11 that a topic that you were involved with when you
12 were first on the board?

13 A. It was not a topic that I was involved
14 with. Fundraising is always a part of being on a
15 school board.

16 Q. Good point. Other witnesses have already
17 said that.

18 Was there any issue or discussion about
19 construction at all when you first got on the board?

20 A. At the time I got on the board was the time
21 that the high school was going to be built. So that
22 was going to be a large construction project, as
23 well as refurbishing the lower school.

24 Q. Going to move ahead here so we can cut to
25 the chase.

1 Do you remember -- well first of all, by
2 the way, did you know Milton Schwartz before he
3 passed away?

4 A. Yes, I did.

5 Q. How did you come to know Milton Schwartz?

6 A. I came to know Milton Schwartz originally
7 being on the board of trustees of a different school
8 of which Milton was also on the board.

9 Q. Was Mr. Schwartz on the board when you came
10 on the board of the what was then Milton I. Schwartz
11 Hebrew Academy in 2006?

12 A. So the school I'm referring to was not the
13 Milton I. Schwartz Hebrew Academy.

14 Q. I understand. The one that you are
15 referring to was it is Jewish Community Day School?

16 A. Yes.

17 Q. So in 2006 was there an Adelson Campus
18 school?

19 A. No, I think it was still called the Hebrew
20 Academy at that point.

21 Q. So was Milton Schwartz on the board a at
22 the school at that time? And I say "that," I mean
23 the Hebrew Academy.

24 A. Yes.

25 Q. Did Mr. Schwartz, as far as you can recall,