

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 04:44 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 14**

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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

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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	6714–6750
			28	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           A.    My best recollection, it was Dr. Lubin had  
2           pursued the major contribution from him, and  
3           inspired his interest, his commitment for the  
4           contribution, and then the subsequent participation  
5           on the board. In my mind, those were linked.

6           Q.    When you first joined the board do you  
7           remember where the school was located?

8           A.    We were on Oakey.

9           Q.    Is that where you were leasing space from  
10          temple Beth Sholom?

11          A.    Yes.

12          Q.    Did you relocate?

13          A.    The school relocated, yes.

14          Q.    Do you recall where it located to?

15          A.    Hillpointe Road in Summerlin.

16          Q.    Is that where it currently is?

17          A.    Yes.

18          Q.    Do you recall how it came to be that the  
19          school moved from the Oakey when it was leasing  
20          space at temple Beth Sholom to the location on hill  
21          point?

22          A.    It was under the leadership of Dr. Lubin  
23          who was director. Her fundraising ability, her  
24          vision, her determination to have the school grow  
25          and become an integral part of the community and we

1 supported her. We did what we could.

2 Q. Do you remember how the school obtained the  
3 land in Summerlin to build a new school?

4 A. I remember a meeting, and I'm pretty sure  
5 it was Dr. Lubin where we visited with someone from  
6 Howard Hughes, and there was discussion about  
7 getting a piece of property for the school. So  
8 that's my best recollection.

9 Q. Do you know how funds were raised to build  
10 the building?

11 A. I do, to some extent, certainly Milton's  
12 gift, Paul Sogg, and there were others who gave  
13 smaller amounts to raise money for that  
14 construction.

15 Q. When you say Milton's gift do you know what  
16 that was?

17 A. I had understood it was going to be a  
18 million dollars, having looked at the documents that  
19 had been shown to me at the deposition, it said  
20 500,000 was the ultimate gift, so other than that, I  
21 don't have anymore information.

22 Q. Do you believe one more than the other, a  
23 million or \$500,000?

24 A. I definitely remember there was a promise  
25 of a million dollars, and that's my recollection.

1 Q. Tell me how you know that?

2 A. Conversations. How I know that. I worked  
3 closely with Dr. Lubin, and she was the one who  
4 brought that number up.

5 Q. Okay. So --

6 A. That's my recollection.

7 Q. Okay. So Dr. Lubin told you that?

8 A. Dr. Lubin and whether I had a specific  
9 conversation with Milton to that effect, I cannot  
10 remember.

11 Q. Do you remember being present with Milton  
12 Schwartz when he gave the money to the school?

13 A. Yes, Dr. Lubin and I went to his home. She  
14 had arranged everything. And we had a short meeting  
15 and he handed us a check.

16 Q. Okay. Do you remember how many checks he  
17 handed you?

18 A. One check is what I recalled.

19 Q. Do you remember if anything was discussed  
20 during this meeting when he handed you the check?

21 A. There was discussion of the perpetuity  
22 piece that was very important to him. He wanted the  
23 school named after himself in perpetuity.

24 Q. Is that something that you and Dr. Lubin  
25 agreed to?

1           A.    Yes.  Well, I didn't personally agree to  
2   it.  Dr. Lubin was representing the school.  And I  
3   was representing the board so . . .

4           Q.    So in your capacity as representing the  
5   board, did you agree to accept the money that  
6   Mr. Schwartz gave you in exchange for perpetual  
7   naming rights to the school?

8           A.    That was the gentleman's agreement.  And we  
9   were representing the board and the intention of the  
10  board and the goodwill that generous gift  
11  engendered.

12          Q.    But did you agree to be bound by that  
13  promise that the school would be named for him in  
14  perpetuity?

15          A.    I did not personally agree to be bound.  As  
16  a board member, that was the intention that I  
17  understood.

18          Q.    Of the whole board?

19          A.    Yes.

20          Q.    So the board agreed to be bound by this  
21  promise?

22                MR. JONES:  I object to the form of the  
23  question as to what the agreement was that we are  
24  talking about.

25                THE COURT:  So to specify, I guess, the

1 specify what the agreement we are talking about  
2 here? Okay.

3 MR. LEVEQUE: I think we established that.

4 THE COURT: If you can ask specifically.

5 MR. LEVEQUE: Okay.

6 BY MR. LEVEQUE:

7 Q. Dr. Sabbath what was your understanding of  
8 the agreement?

9 A. The agreement was the quid pro quo of the  
10 donation, which I had remembered would be a million  
11 dollars. And to have the school be named after him  
12 in perpetuity. And that was the spirit of what the  
13 board intended.

14 Q. All right.

15 A. That was my understanding.

16 Q. Thank you. And as a follow-up question, do  
17 you have an understanding one way or the other  
18 whether the board agreed to be bound by that  
19 promise?

20 A. You know, I'm not an attorney, and a word  
21 like "bound" makes me question my own legal  
22 understanding. A promise. So that's -- does  
23 that --

24 Q. I guess just in your not an attorney but in  
25 your capacity as a board member can you answer the

1 question?

2 A. Yes, we agreed that that would be the  
3 agreement.

4 Q. Okay.

5 A. And that was the understanding and that was  
6 the good faith agreement as well. Does that make  
7 sense?

8 Q. I believe so. Thank you.

9 A. Okay.

10 Q. It will be easier than flipping through  
11 books.

12 A. Okay.

13 Q. Dr. Lubin, I'm sorry.

14 Dr. Sabbath, this is a document that has  
15 been admitted into evidence. I would like you to  
16 read it and let me know when you have finished  
17 reading it. Is what is stated in this document, is  
18 it consistent with your understanding as to what the  
19 agreement was between the school and Mr. Schwartz?

20 A. It is.

21 Q. Thank you. Dr. Sabbath, this is exhibit  
22 118 that's been admitted into evidence as well.

23 A. Okay.

24 Q. Do you see your name as listed present?

25 A. Yes.

1 Q. Do you see the date of this document or of  
2 these minutes?

3 A. I do.

4 Q. At the bottom of this document -- by the  
5 way, what are board meeting minutes? What's the  
6 purpose?

7 A. To help people remember what took place and  
8 have the board act in consensus as a unit for  
9 decisions that were made that can be acted upon.

10 Q. Okay. Thank you.

11 The last paragraph of page 1 states "the  
12 status of the building fund pledges was discussed, a  
13 list of pledges is attached. If you go to the last  
14 page of this document, you will see a pledge memo.  
15 Do you see that?

16 A. I do.

17 Q. And if you look at the top portion of this  
18 it shows the pledges that board members pledged. Do  
19 you see that?

20 A. I do.

21 Q. Do you see your pledge on there?

22 A. I do.

23 Q. Does that appear to be the correct amount  
24 that you pledged and paid?

25 A. Apparently. I do not remember if that's

1 what we did, but it would be in keeping and  
2 appropriate.

3 Q. I will represent to you that document that  
4 was produced by the school in this litigation.

5 Dr. Sabbath do you see the amount pledged  
6 by Mr. Schwartz?

7 A. I do.

8 Q. Does it say a million?

9 A. No, it does not.

10 Q. Dr. Sabbath what would you believe more  
11 what Dr. Lubin told you or what a document from the  
12 school states?

13 MR. JONES: Objection Your Honor this  
14 document does not purport to show any agreement. It  
15 just simply is a document that states an amount of  
16 money so I object to the form of the question.

17 THE COURT: So I think we need foundation  
18 because there was some reference to something that  
19 Dr. Lubin told her but I'm not sure what Dr. Lubin  
20 spoke to her about.

21 BY MR. LEVEQUE:

22 Q. I believe, Dr. Sabbath, you testified that  
23 Dr. Lubin told you that Milton promised million  
24 dollars?

25 A. I did say that. That -- anyway, I don't

1 know whether I should go on.

2 Q. And this document that's an internal  
3 document at the school states that the amount  
4 pledged was \$500,000, do you see that?

5 A. Yes, I do see that.

6 Q. So let me ask you this. Do you believe  
7 this document is inaccurate?

8 MR. JONES: Object -- Your Honor,  
9 objection. Lacks foundation.

10 THE COURT: Overruled.

11 THE WITNESS: It's a document that seems to  
12 reflect appropriately the status of the pledges at  
13 that time.

14 BY MR. LEVEQUE:

15 Q. Thank you.

16 Dr. Sabbath, this document was admitted  
17 today as Exhibit 113. And I will represent to you  
18 that Mr. Schwartz's secretary testified today that  
19 these were the three checks that she typewrote that  
20 complied the half million dollar gift.

21 A. Okay.

22 Q. With that representation that I made, does  
23 that change your testimony now with respect to  
24 whether one or more than one check was given on that  
25 date?

1 A. I just remember one check. Him handing  
2 that over to us. So that's really what I remember.

3 Q. You were present when those checks were  
4 handed over -- or what you thought was one check  
5 handed over?

6 A. Uh-huh.

7 THE COURT: That's a yes?

8 THE WITNESS: That is a yes.

9 BY MR. LEVEQUE:

10 Q. If you could -- have to do a exhibit binder  
11 this time do you have binder with Exhibit 115?

12 A. I have two and three hundreds here. This  
13 looks like it is. Yes.

14 Q. You should have a photograph in front of  
15 you.

16 A. Right.

17 Q. Do you recognize the folks in this  
18 photograph?

19 A. I do.

20 Q. Do you see that one of the person is  
21 handing something to the other person?

22 A. Yes.

23 Q. Who are the two people?

24 A. Dr. Lubin and Milton Schwartz.

25 Q. Does this appear to be a photograph of the

1 meeting that you were present at where Mr. Schwartz  
2 handed checks to Dr. Lubin?

3 A. I don't remember this pose. I just  
4 remember the three of us in his home in a room. I  
5 don't know who would have taken the picture. So I  
6 don't know if I'm answering your question or not.

7 Q. Does it look like it's taken around the  
8 same time period that this event occurred?

9 MR. JONES: I object to the form of the  
10 question.

11 BY MR. LEVEQUE:

12 Q. The event of the handing of the check?

13 MR. JONES: Objection Your Honor. Lacks  
14 foundation. Calls for speculation.

15 THE COURT: So if the question is, is this  
16 documentation of the meeting she remembers that's  
17 one thing. I think she indicated it could have  
18 been -- I guess that's what we need to see.

19 THE WITNESS: I'm looking at the pictures I  
20 can't see if they are Dr. Lubin pictures or Milton's  
21 personal pictures.

22 BY MR. LEVEQUE:

23 Q. Are you looking behind them?

24 A. Yeah. It looks like an office. And we met  
25 in a -- in his private -- I think in his den or

1 something like that. I remember there was a table.

2 Q. So this doesn't help you remember whether  
3 the meeting was here or somewhere else?

4 A. No.

5 Q. When you were at this meeting with  
6 Dr. Lubin and Mr. Schwartz, I think you might have  
7 already said this but I just want to make sure. Did  
8 the phrase in perpetuity come up?

9 A. Yes.

10 Q. Was Mr. Schwartz very specific about that?

11 A. Yes, I do remember that.

12 Q. Do you know if there were any documents  
13 that were prepared to memorialize this agreement?

14 A. Well, the minutes were -- I saw the minutes  
15 that were presented during my deposition. And I  
16 don't remember seeing whatever legal documents might  
17 have been drawn up. That I just don't know if they  
18 were or if they exist.

19 Q. Okay.

20 A. Other than the minutes that were --

21 Q. Do you remember testifying at your  
22 deposition about knowing of a document?

23 A. No, I don't.

24 Q. Okay.

25 A. Other than the minutes and was there

1 another document? Anyway...

2 MR. LEVEQUE: Your Honor, I would like to  
3 move to publish the deposition of Dr. Sabbath.

4 THE COURT: We will publish the deposition  
5 of Dr. Roberta Sabbath. Here you go.

6 BY MR. LEVEQUE:

7 Q. Bear with me, Doctor. I'm just trying to  
8 find the testimony here.

9 Dr. Sabbath, it's showing up on the screen  
10 now. It's a document that's been admitted as  
11 Exhibit 5. Have you seen this document before?

12 A. So this is the bylaws?

13 Q. Yes. If you -- I will go to the bottom  
14 here. See if you can pick out your signature?

15 A. There I am.

16 Q. Is that four from the bottom?

17 A. Fourth from the top.

18 Q. Fourth from the top?

19 A. Uh-huh.

20 Q. Thank you.

21 Can you see when this document is dated?

22 A. Yes, I do.

23 Q. What's it dated?

24 A. December 1990.

25 Q. Do you remember this document at all?

1 A. So this was bylaws. That was almost 30  
2 years ago.

3 Q. I know.

4 A. I don't -- it would be of course would have  
5 to have bylaws. I remember the conversations in  
6 general about bylaws. Do I remember this document?  
7 I don't. I don't. But it's obviously it's  
8 reasonable we were a functional school to think that  
9 we had the bylaws, talked about bylaws, talked about  
10 the change. This would have been . . .

11 Q. Do you believe that amending the bylaws was  
12 in furtherance of the agreement that you had with  
13 the school -- or the board members had with the  
14 school?

15 A. I do.

16 Q. You do?

17 A. (No audible answer.)

18 Q. Thank you. All right now we are going to  
19 go to -- which I will show you on the screen. Make  
20 things go a little fast officer. Can you see that  
21 okay or do you want me to blow it up?

22 A. I'm good.

23 Q. Do you see the date on this document?

24 A. I do.

25 Q. What's the date?

1 A. November 29, 1990.

2 Q. Were you present for this board meeting?

3 A. Yes, according to that, I was according to  
4 the minutes.

5 Q. I didn't hear the last part?

6 A. According to the minutes.

7 Q. According to the minutes, thank you?

8 MR. JONES: Could you say what exhibit this  
9 is.

10 MR. LEVEQUE: 384.

11 MR. JONES: Thank you.

12 BY MR. LEVEQUE:

13 Q. Do you see that in this paragraph that I  
14 have highlighted that the minutes reflect the board  
15 corrected a draft of bylaws to name the corporation  
16 after Milton Schwartz in perpetuity?

17 A. I do.

18 Q. Do you remember, Dr. Sabbath, during this  
19 time period if the board also passed any resolution  
20 to name the elementary school after Dr. Lubin?

21 A. I generally remember that.

22 Q. Okay.

23 A. That that would have been in the spirit of  
24 the moment.

25 Q. Okay. And on the second page of this, I

1 actually highlighted it, it says that a motion was  
2 made by you and seconded by George Rudiak that  
3 Dr. Lubin should be honored by naming the Tamar  
4 Lubin Saposhnik Elementary School, and the motion  
5 was passed. Do you see that?

6 A. I do.

7 Q. Do you see anything in respect to that  
8 motion that the elementary school would be named in  
9 name of Dr. Lubin in perpetuity?

10 A. No.

11 Q. Do you know if Dr. Lubin gave any money for  
12 naming the elementary school?

13 A. No. The question do I know if money was  
14 given?

15 Q. Yes.

16 A. No, I know of no such money.

17 Q. Do you know why the board agreed to do  
18 this?

19 A. She was the driving force. She was the  
20 founder. It was her vision, her energy, her  
21 expertise. We respected her. And we were grateful  
22 to her for what she had achieved.

23 Q. Thank you. Did Mr. Schwartz agree with  
24 this as well?

25 A. He was there and there was no -- I don't

1 remember any negative comments on his part.

2 Q. Well, yeah. I mean, if the motion was  
3 passed unanimously, one would assume that all of the  
4 board members present would not object?

5 A. Yes.

6 Q. Okay. Now if we can switch to your  
7 deposition, please. If I could take you to Page 19.

8 A. Opened right up to that. Okay.

9 Q. A question was asked --

10 MR. JONES: Sorry, while you are  
11 publishing.

12 MR. LEVEQUE: Sorry.

13 THE COURT: You can just look at it  
14 yourself right there.

15 BY MR. LEVEQUE:

16 Q. A question was asked on line 11 of Page 19  
17 you answered it starting on line 19. Do you see  
18 that?

19 A. Yes, I do.

20 Q. Do you know which document you were talking  
21 about?

22 A. Well, you have refreshed my memory that  
23 could have been the bylaws, but it doesn't say  
24 specifically. And I don't recall specifically what  
25 that document was.

1 Q. Okay. Thank you.

2 Was it presented as a legal document,  
3 whatever you do remember?

4 MR. JONES: I object to the form of the  
5 question. I think that calls for a legal conclusion  
6 as to what constitutes a legal document.

7 THE COURT: I wouldn't ask her to say that  
8 it was or wasn't a legal document. I think the  
9 question was, was she presented as a legal document  
10 is that what she understood was being presented as.  
11 I think it's allowable.

12 THE WITNESS: I don't remember a  
13 presentation of a legal document. Is that the  
14 question?

15 BY MR. LEVEQUE:

16 Q. I was just wondering why you said that in  
17 your deposition. I didn't know if you had any  
18 further knowledge on it.

19 A. That it was presented. Presented. Here I  
20 said the verb presented. I meant it in an abstract  
21 way that it appeared to be a legal -- a legal  
22 document. But in terms of an official signing or  
23 presentation, that I do not remember.

24 Q. Okay. Thank you. We have been saying the  
25 word "school" a lot in this case. You testified

1 that there was an agreement to name the school after  
2 Milton Schwartz in perpetuity. Do you have an  
3 understanding or definition as to what "school"  
4 means?

5 A. Is that your question?

6 Q. Yes.

7 A. In this context, my understanding was that  
8 the actual elementary school building would be named  
9 after Dr. Lubin, but a campus would be named any  
10 other buildings in addition to that actual building.  
11 At that time, if I recall correctly, there was the  
12 elementary school and then there was another  
13 building, a gymnasium. And I can't remember if they  
14 were built at the same time but ultimately that  
15 entire campus and the property would be Milton I.  
16 Schwartz Hebrew Academy we had acreage behind the  
17 elementary school for subsequently the other  
18 buildings constructed.

19 Q. Basically everything except for the  
20 Dr. Lubin elementary school?

21 A. Correct -- well, no, the campus would  
22 include the elementary school. Did I understand  
23 your --

24 Q. The elementary school was named after  
25 Dr. Lubin, correct?

1 A. Yes.

2 Q. So everything except for Dr. Lubin  
3 elementary school was going to be named after Milton  
4 Schwartz in perpetuity, right?

5 A. So a campus includes several buildings,  
6 whatever property, yes.

7 Q. Thank you. And in 1990, 1990, 1992, what  
8 was the elementary school defined at that point in  
9 time in terms of grades?

10 A. You know, that's -- that's -- it was always  
11 K through 8th grade.

12 Q. Okay.

13 A. And I don't remember conversations with K  
14 through 6, K through 5, junior high. We never had a  
15 distinguished divide between elementary school and  
16 junior high. So it was just K-8 that's how my kids  
17 always referred to -- we always thought of it.

18 THE COURT: We are getting close to our  
19 quitting time. It's 4:55.

20 MR. LEVEQUE: Okay. This is probably a  
21 good time to stop because my next line is about the  
22 '90s litigation.

23 THE COURT: Before we get into the 90  
24 litigation we will take our break we will see you  
25 9:00 a.m. and you have to leave at 1130.

1 THE WITNESS: Yes.

2 THE COURT: Thank you very much we will  
3 keep that in mind.

4 Please recall over the weekend during this  
5 recess, you are admonished not to talk or converse  
6 among yourselves or with anyone else on any subject  
7 connected with this trial; or read, watch or listen  
8 to any report of or commentary on the trial or any  
9 person connected with this trial by any medium of  
10 information, including, without limitation, to  
11 newspapers, television, the internet and radio; or  
12 form or express any opinion on any subject connected  
13 with the trial until the case is finally submitted  
14 to you. See you back here 9:00 a.m. on Monday.

15 Please enjoy your weekend. We will wrap up  
16 Dr. Sabbath in the majority and proceed in the  
17 afternoon.

18 THE MARSHAL: Books on chairs.

19 THE COURT: Let the record reflect we are  
20 outside the presence of the jury.

21

22

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24

25

# EXHIBIT 3

**In the Matter Of:**  
Schwartz vs Adelson Educational Institute

**TRANSCRIPT TRIAL**

*August 27, 2018*

003273

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ROUGH DRAFT TRANSCRIPT

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REALTIME AND INTERACTIVE REALTIME TRANSCRIPT  
ROUGH DRAFT DISCLAIMER

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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.

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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.

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18 Court Reporter's Name:

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I N D E X

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1 THE COURT: On the record. So we are going  
2 to go back on the record outside the presence we are  
3 back on Monday having broke in the middle of  
4 Dr. Sabbath's testimony what's our plan.

5 MR. LEVEQUE: Ready to go with Dr. Sabbath.

6 MR. JONES: I have knowing other than to  
7 introduce Todd Peters taking the place of Allie  
8 Abramson.

9 THE COURT: Make sure to introduce him to  
10 the jury anything else.

11 MR. JONES: Nothing from us Your Honor.

12 THE COURT: We will ask Dr. Sabbath to  
13 resume we will get the jury in here and be ready to  
14 restart Dr. Sabbath and keeping our eye on the clock  
15 for 11:30. Okay, I will be back.

16 (Off the record.)

17 THE COURT: I hope that you had a good  
18 weekend. We are ready to go back on the record in  
19 case P061300 should reflect the presence of counsel.

20 Mr. Jones, you need to announce a new  
21 representative?

22 MR. JONES: I wanted to introduce you to  
23 Todd Peters. Miss Abrams got called back to school  
24 on an urgent matter, so Todd agreed to be here on  
25 behalf of the school. He is a senior administrator

1 from the school as well.

2 Thank you, Your Honor.

3 THE COURT: Counsel stipulate to the  
4 presence of our jury panel?

5 MR. JONES: Yes, Your Honor.

6 MR. LEVEQUE: Yes.

7 THE COURT: We have Dr. Sabbath on the  
8 stand. She understands the oath. I'm sure she is  
9 comfortable with it. We have a new clerk. It would  
10 be wise to reswear her so that Louise is a can  
11 report her as sworn.

12 Whereupon --

13 ROBERTA SABBATH,  
14 having been first duly sworn to testify to the  
15 truth, was examined and testified as follows:

16 THE WITNESS: Yes.

17 THE CLERK: Please be stated. Please state  
18 and spell your first and last name for the record.

19 THE WITNESS: Roberta Sabbath.

20 THE CLERK: Spell it.

21 THE WITNESS: S-A-B-B-A-T-H and  
22 R-O-B-E-R-T-A.

23 THE CLERK: Thank you.

24 ///

25 ///

1 EXAMINATION

2 BY MR. LEVEQUE:

3 Q. Good morning, Dr. Sabbath. We left off  
4 Friday afternoon, do you recall me asking you  
5 questions about what happened in 1989 and 1990 with  
6 respect to the naming rights for Mr. Schwartz?

7 A. I do.

8 Q. Not going to go back through that again but  
9 I just wanted to remind everybody where we left off.

10 Dr. Sabbath, do you remember, do you have  
11 any recollection of a dispute that occurred in 1992  
12 with respect to a fight over what board was the  
13 operating board of the school?

14 A. I know there was a fight. I remember the  
15 fight. And I don't remember the year.

16 Q. Okay. What's your recollection of what the  
17 fight was about?

18 A. I don't know. I don't remember.

19 Q. That's fine. That's fair.

20 Let me ask you this. I have all right  
21 marked for you Tab 9 in the exhibit binder. Are you  
22 there?

23 A. Let's see. It's -- I have open Tab 7 so  
24 it's Tab 9.

25 Q. No, I'm sorry, Tab 9. Yes?

1 A. So Tab 9.

2 Q. This is a joint exhibit between the estate  
3 and the school. I will put it on the monitor for  
4 everybody.

5 Do you see the file stamp of this lawsuit?

6 A. December 21, 1992.

7 THE COURT: If you could speak a little  
8 louder.

9 THE WITNESS: Is this a microphone.

10 THE COURT: It's a microphone.

11 THE WITNESS: Okay thank you judge.

12 BY MR. LEVEQUE:

13 Q. Do you see your name in the block for  
14 defendants in this case?

15 A. I do.

16 Q. Do you remember being a defendant in this  
17 lawsuit?

18 A. I don't.

19 Q. If you go to the next page of that exhibit,  
20 Page 2, you will see an allegation starting on  
21 paragraph 9 at the bottom where it states that  
22 pursuant to NRCP 57 plaintiff is entitled to a  
23 declaratory judgment because the confusion and the  
24 legal actions of the second board have threatened to  
25 cause irrelevant repairable injury to the academy.

1 Do you see where I read that?

2 A. Yes, I do.

3 Q. Do you remember an election in or about  
4 June of 1992 where there was confusion with respect  
5 to the process and who got elected?

6 A. I do not.

7 Q. You don't. Okay. That speeds things up a  
8 bit.

9 A. I'm sorry. What did you say?

10 Q. I said that will speed things up a bit.

11 MR. LEVEQUE: We are going to need the  
12 binder that has Exhibit 422.

13 THE COURT: Do you want to take it to your  
14 witness.

15 MR. LEVEQUE: Yes, Your Honor. Thank you.

16 BY MR. LEVEQUE:

17 Q. Dr. Sabbath, what should be in front of you  
18 is Exhibit 422 which should be board meeting minutes  
19 of an executive session on December 16, 1992; is  
20 that right?

21 A. December 16, 1992.

22 Q. Do you see yourself listed in those who  
23 attended that meeting?

24 A. I do.

25 Q. And do you see on the second page of this

1 document that the meetings -- the minutes were  
2 signed by the secretary?

3 A. I do.

4 Q. Was the secretary at that time?

5 A. Geri Rentchler according to this document.

6 MR. LEVEQUE: Estate moves for the  
7 admission of Exhibit 422.

8 MR. JONES: No objection, Your Honor.

9 THE COURT: Be admitted.

10 BY MR. LEVEQUE:

11 Q. Dr. Sabbath, again, this was a meeting  
12 where it appears you attended, do you see that?

13 A. I do.

14 Q. If you go to the bottom of the minutes,  
15 there is a discussion that I have highlighted called  
16 out for everybody here. Where it's talking about  
17 taking a certain actions with respect to pictures  
18 and letterhead. Could you just read that for a  
19 minute, please?

20 A. Ira Sternberg --

21 THE COURT: To yourself.

22 THE WITNESS: Sorry.

23 THE COURT: No problem.

24 THE WITNESS: Yes.

25 BY MR. LEVEQUE:

1 Q. Do you remember any of this occurring?

2 A. I don't remember the details, but I  
3 remember that something like this happened.

4 Q. Do you remember a picture of being taken --  
5 pictures being taken off the wall?

6 A. I don't remember that.

7 Q. What about running out of the letterhead?

8 A. Somehow those words are in my mind, but  
9 when, what caused it, I don't remember.

10 Q. What about answering the phone as the  
11 Hebrew Academy. Do you have any recollection of  
12 that?

13 A. I do not.

14 Q. Do you have any general recollection of why  
15 these things occurred?

16 A. I don't remember why. I do not remember  
17 why. Frustrating.

18 Q. Do you remember suggesting that the school  
19 speak to that you are attorney with respect to the  
20 name of the school?

21 A. I don't, but that sounds like something I  
22 would do.

23 Q. Dr. Sabbath, in the early '90s do you have  
24 any recollection with respect to whether there was  
25 any dispute between Mr. Schwartz -- Mr. Milton

1 Schwartz and Dr. Lubin Saposhnik?

2 A. I don't remember.

3 Q. I'm going to show you, Dr. Sabbath, an  
4 affidavit that was filed in connection with the  
5 lawsuit that I just showed you.

6 MR. JONES: Counsel, I'm sorry is that in  
7 evidence.

8 MR. LEVEQUE: Yes. Exhibit 134.

9 MR. JONES: Thank you.

10 BY MR. LEVEQUE:

11 Q. One of the representations made by  
12 Mr. Schwartz in that laud under oath was that he  
13 donated a half million dollars to the Hebrew Academy  
14 with the understanding --

15 A. I'm sorry could you repeat that?

16 Q. One of the representations that  
17 Mr. Schwartz made in that lawsuit in this  
18 declaration under oath was that he donated a half  
19 million dollars to the Hebrew Academy with the  
20 understanding that it would be renamed the Milton I.  
21 Schwartz Hebrew Academy in perpetuity. Do you agree  
22 or disagree with that statement under oath?

23 MR. JONES: Object to the form of the  
24 question. Your Honor. Calls for -- well I will  
25 withdraw the objection.

1 THE WITNESS: Say that question again.

2 BY MR. LEVEQUE:

3 Q. Sure. The representation Mr. Schwartz made  
4 in Paragraph 5 in this declaration --

5 A. Could I read this?

6 Q. Of course. I will make an easier question.

7 Do you agree or disagree with that  
8 statement?

9 A. I disagree.

10 Q. Okay. How so?

11 A. I remember the million dollar commitment.

12 Q. Again, I think you testified on Friday that  
13 that was based on what Dr. Lubin Saposhnik told you?

14 MR. JONES: Objection. Your Honor, that  
15 misstates her full testimony.

16 THE WITNESS: Yeah, so maybe if you could  
17 reask the question.

18 MR. LEVEQUE: Sure.

19 BY MR. LEVEQUE:

20 Q. How did you come up with the understanding  
21 that it was going to be a million dollar donation?

22 A. It's in my mind, that number. There was a  
23 lot of zeros.

24 Q. Okay.

25 A. And as to exact -- the details of how that

1 was made or -- I don't recall. And I see in this  
2 statement donated 500,000 I recognize that you  
3 showed me the addendum to the minutes where it did  
4 say 500,000 with a zero balance and so on. But I  
5 would disagree because of that.

6 Q. And do you remember how you came to that  
7 understanding, that it was going to be a million  
8 dollars. Did anyone tell you that?

9 MR. JONES: Objection. Asked and answered.

10 MR. LEVEQUE: He wanted me to clarify.

11 THE COURT: Okay I will allow that.

12 THE WITNESS: I can't say specifically.

13 That's the number that's in my mind, and I cannot  
14 say specifically who or where I got exactly how I --  
15 what causes that memory.

16 BY MR. LEVEQUE:

17 Q. The school did ultimately change its name,  
18 is that your understanding?

19 A. Which time?

20 Q. Back in 1989?

21 A. Correct.

22 Q. So would you agree that whatever amount of  
23 money he pledged, the school is fine with?

24 A. It caused there was a quid pro quo. It  
25 changed the name to the Milton I. Schwartz Hebrew

1 Academy. It was 1989, 1990 according to these  
2 documents you have shown me.

3 Q. Dr. Sabbath do you recall if there was ever  
4 a demand made for the other half million dollars?

5 A. I do not.

6 Q. Do you remember what happened with respect  
7 to that lawsuit, whether it went to trial or  
8 settled?

9 A. This lawsuit you are showing me the  
10 documents now?

11 Q. Yes.

12 A. I do not.

13 MR. LEVEQUE: Can I get the exhibit binder  
14 that has Tab 136 in it, please.

15 THE COURT: Is it in.

16 MR. LEVEQUE: 136.

17 THE COURT: Is it in?

18 MR. LEVEQUE: It's not showing that it's  
19 in.

20 THE COURT: Okay.

21 THE CLERK: Is it the one she has?

22 THE WITNESS: I have the one that goes to  
23 64.

24 MR. LEVEQUE: Should be a different binder.

25 THE WITNESS: Then I have 415 to 50.

1 THE COURT: Okay.

2 MR. LEVEQUE: May I approach, Your Honor.

3 THE COURT: Yes.

4 MR. LEVEQUE: I will give it to the  
5 witness.

6 BY MR. LEVEQUE:

7 Q. Dr. Sabbath, are you on proposed  
8 Exhibit 136?

9 A. Yes, I am.

10 Q. Do you see what the document is titled?

11 A. Stipulation and order for dismissal with  
12 prejudice. Is that --

13 Q. Yes, it is. Do you see when this was  
14 filed?

15 A. July 26, 1994.

16 Q. And at the bottom, the last page of the  
17 document, do you see a bunch of signatures of  
18 attorneys and a judge signing the order?

19 A. You mean at the end of the document?

20 Q. Yes.

21 A. District court judge signs the order.

22 Q. Does this document refresh your memory at  
23 all with respect to what happened in the lawsuit?

24 A. It does not.

25 Q. You would agree with me that based on this

1 document, that the case was dismissed?

2 A. I don't even -- I'm looking at a document,  
3 of course I'm not going to doubt this document. Is  
4 that your question?

5 Q. Yes.

6 A. If I recognize that this is a legal  
7 document?

8 THE COURT: Not asking her for a legal  
9 conclusion.

10 MR. LEVEQUE: No.

11 THE COURT: To be clear, in looking at it  
12 does it refresh your recollection that the case was  
13 dismissed?

14 MR. LEVEQUE: Yes.

15 THE WITNESS: It does not refresh my  
16 memory. I do not have a memory of this.

17 BY MR. LEVEQUE:

18 Q. Is there any reason to believe that the  
19 case was not dismissed?

20 A. Absolutely not.

21 MR. JONES: Your Honor, we are talking  
22 about the document; I don't think it's in evidence.

23 THE COURT: It's not.

24 MR. JONES: At least I didn't hear that. I  
25 have no objection it coming into evidence. Since

1 Dr. Sabbath was talking about it I thought it would  
2 be appropriate that it would be in evidence before  
3 she started talking about it.

4 THE COURT: She didn't recall it. It is a  
5 legal document. I guess we can admit it.

6 MR. LEVEQUE: There is no objection by the  
7 estate. The estate will move to admit Exhibit 136.

8 THE COURT: We will admit it.

9 MR. LEVEQUE: Then we will show it.

10 MR. JONES: Thank you, Your Honor.

11 BY MR. LEVEQUE:

12 Q. The filing of this document, do you see, is  
13 July 26, 1994?

14 A. I do.

15 Q. And again, you see that the name of the  
16 document is a stipulation and order for dismissal  
17 with prejudice?

18 A. I do.

19 Q. And at the last page of the document do you  
20 see where the judge signed the order?

21 A. I do.

22 Q. Okay. Thank you.

23 Dr. Sabbath, do you recall voting in a  
24 board meeting just shortly after that stipulation  
25 was filed to change the name of the school back from

1 the Milton I. Schwartz Hebrew Academy just to the  
2 Hebrew Academy?

3 A. I don't remember.

4 Q. I will show you a document that's already  
5 been admitted in this case as Exhibit 11. Do you  
6 see your name?

7 A. I do.

8 Q. As members attending?  
9 Do you see the date of this meeting?

10 A. I do.

11 Q. And what date is that?

12 A. It August 25, 1994.

13 Q. And the highlighted portion, which I'm  
14 going to blow up here, states that it's, "Resolved  
15 that it is advisable and in the best interests of  
16 this corporation that its articles of incorporation  
17 be amended by changing the language of article one  
18 of said articles to read as follows: This  
19 corporation shall be known as the Hebrew Academy."  
20 Do you see where I read that?

21 A. I do.

22 Q. Does this refresh your memory as all with  
23 respect to voting on this resolution?

24 A. I remember that the name was changed from  
25 the Milton I. Schwartz Hebrew Academy to the Hebrew

1 Academy. I do not remember the specific events that  
2 triggered that.

3 Q. So you don't remember why?

4 A. I do not.

5 Q. Dr. Sabbath, do you believe that doing  
6 this, in your opinion, violated the agreement that  
7 the school had with Mr. Schwartz that was understood  
8 back in 1989 and 1990?

9 MR. JONES: Objection. Just for the record  
10 to the extent it calls for a legal conclusion, Your  
11 Honor I would object but I have no objection to  
12 Dr. Sabbath's understanding.

13 THE COURT: Understood. Thank you on that  
14 basis, we will allow it.

15 THE WITNESS: Would you repeat the  
16 question.

17 BY MR. LEVEQUE:

18 Q. Dr. Sabbath, do you believe that this  
19 resolution that I'm assuming you voted for where it  
20 changed the name of the school from the Milton I.  
21 Schwartz Hebrew Academy to the Hebrew Academy  
22 violated the agreement that the school had with  
23 Mr. Schwartz back in 1989 and 1990?

24 A. All I can report is that we made that  
25 decision based on something.

1 Q. Do you understand at least from the  
2 documents we looked at 1989 and 1990 that the school  
3 resolved to amend its bylaws to name the school in  
4 perpetuity as the Milton I. Schwartz Hebrew Academy,  
5 correct?

6 A. I remember that of course.

7 Q. So if that's the case do you believe that  
8 this resolution where it's changing the name of the  
9 school back to the Hebrew Academy violated that in  
10 perpetuity language?

11 MR. JONES: Objection, Your Honor. Asked  
12 and answered.

13 THE COURT: Overruled, I will allow it, if  
14 she knows.

15 THE WITNESS: We had a reason to do this.  
16 I cannot honestly say that I remember why, but it  
17 was done, and we voted on it.

18 BY MR. LEVEQUE:

19 Q. Dr. Sabbath, I'm going to fast forward in  
20 time a little bit to 1996. Do you recall a lawsuit  
21 being filed against the school by the Textor family?

22 A. I do not.

23 Q. Do you remember calling an emergency  
24 meeting of the board in May of 1996?

25 A. I do not.

1 Q. Should be in the same exhibit binder that  
2 you presently have in front of you. Could you  
3 please turn to proposed Exhibit 138. Are you there?

4 A. I am.

5 Q. Okay.

6 A. I'm sorry.

7 Q. Do you recall Dr. Lubin being sued in a  
8 liable action?

9 MR. JONES: I'm going to object to  
10 relevance of any issues related to Dr. Lubin and  
11 what it has to do with this lawsuit.

12 MR. LEVEQUE: The relevance Your Honor is  
13 these actions are what precipitated the termination  
14 of Dr. Lubin.

15 THE COURT: Do you want to approach.

16 (Bench conference.)

17 THE COURT: We are going to rephrase. I  
18 will sustain that objection.

19 BY MR. LEVEQUE:

20 Q. Dr. Sabbath, hate to keep jump link binders  
21 but could you go back to Exhibit 13?

22 A. 13?

23 Q. Yes.

24 A. Okay.

25 Q. All right. Dr. Sabbath, this has been an

1 exhibit that's already been admitted into evidence.  
2 Do you see it's emergency board meeting minutes for  
3 May 7, 1996?

4 A. I do.

5 Q. It states on the second sentence all  
6 trustees were present including Gertrude Rudiak,  
7 Jackie glass, Ira Sternberg and Jerry Rentschler and  
8 Tamar Lubin. Do you see that?

9 A. I do.

10 Q. Do you recall this emergency meeting on  
11 May 7, 1996?

12 A. Vaguely.

13 Q. Can you tell me what you recall about it?

14 A. That this happened.

15 Q. Do you recall the board terminating  
16 Dr. Lubin Saposhnik?

17 A. I do.

18 Q. You will see in these minutes the reasons,  
19 the grounds for that termination, and those are the  
20 paragraphs that start at one and two and on to the  
21 next page, 3, 4, 5, and 6. I would like to start  
22 with --

23 MR. JONES: Your Honor again just for the  
24 record I understand those are minutes they are in  
25 the evidence these are the collateral issue that

1 have nothing to do with naming rights of Milton  
2 Schwartz I think this is an establishment to smear  
3 the name of Dr. Lubin and object to try and smear  
4 Dr. Lubin's name.

5 THE COURT: Overruled.

6 You can proceed.

7 BY MR. LEVEQUE:

8 Q. Just want to ask you Dr. Sabbath and let me  
9 know if it refreshes your memory as to the reasons  
10 or not.

11 A. Should I go by then one by one?

12 Q. To yourself. We don't need to read them  
13 out loud.

14 A. You don't want to hear my voice.

15 What is your question?

16 Q. Do you remember these reasons?

17 A. I do.

18 Q. Are any of the reasons stated not correct  
19 in those bullet points?

20 A. These look correct.

21 Q. As a result of Dr. Lubin Saposhnik's  
22 termination, did your position change at all with  
23 respect to the school?

24 A. Yes, eventually, I was appointed director,  
25 interim director.

1 Q. Was that the same position that Dr. Lubin  
2 had?

3 A. She was not interim. She was permanent.

4 Q. What was the reason for being interim as  
5 opposed to permanent?

6 A. I knew I would be replaced. We needed  
7 someone who would be considered permanent.

8 Q. Do you know how long you held that position  
9 as interim director of the school?

10 A. It was about three years, as I recall.

11 Q. So that would be from 1996 to 1999?

12 A. Those are the dates that I looked on the  
13 records.

14 Q. Dr. Sabbath, if you could go to Tab 43,  
15 which is another joint exhibit that's been admitted  
16 into evidence.

17 A. Okay.

18 Q. This should be a document that -- I'm  
19 sorry. Hold on. I'm sorry. 14.

20 A. 14. Okay.

21 Q. What you should have in front of you are  
22 more minutes, emergency board meeting minutes but  
23 this one from 1996. Do you have that in front of  
24 you?

25 A. I do.

1 Q. This is a board meeting that's about 12  
2 days after the one we just looked at?

3 A. What was the other date?

4 Q. I think it was May?

5 MR. JONES: 7.

6 BY MR. LEVEQUE:

7 Q. May 7th.

8 A. Yes.

9 Q. I will call out some things just to ask you  
10 questions about them. Okay. Paragraph that I have  
11 called out here and highlighted states that Dennis  
12 Sabbath also discussed the text of the Milton  
13 Schwartz letter. First question I'm assuming you  
14 are related to Dennis Sabbath?

15 A. Yes.

16 Q. Who is Mr. Sabbath?

17 A. My deceased husband.

18 Q. Do you recall a discussion about the text  
19 of a letter to Mr. Schwartz?

20 A. I don't know to which letter this is  
21 referring.

22 Q. I guess let me ask you a more general  
23 question, Dr. Sabbath. Do you remember the board  
24 have any discussions amongst itself or with  
25 Mr. Milton Schwartz about reconciling with

1 Mr. Schwartz?

2 A. Absolutely.

3 Q. Can you tell me about that?

4 A. It was -- I believe I discussed it in my  
5 deposition. It was our intent at that moment to  
6 rebuild bridges that we felt had crumbled. And  
7 Mr. Schwartz was -- had been an important part in  
8 building the school, having the school be able to  
9 move to the new campus. And, generally, building  
10 goodwill with Mr. Schwartz.

11 Q. It states the last sentence of the  
12 highlighted portion 9 board pasted a resolution  
13 returning the name to the Milton I. Schwartz Hebrew  
14 Academy. Do you remember if that in fact occurred?

15 A. The renaming?

16 Q. Yes.

17 A. Yes, I do remember it did occur.

18 Q. Thank you. What about the last sentence  
19 the name would be returned to the stone outside of  
20 the school as well as the school letterhead as well  
21 as other appropriate places do you remember that  
22 happening?

23 A. I do. I believe the name was put back on.

24 Q. How would you describe -- during this time  
25 period in May 1996, how would you describe the

1 overall state and condition of the school?

2 A. We believed, as you can see in the minutes,  
3 that the school was -- the school's very existence  
4 was under threat. And so we moved as a cohesive  
5 body to guarantee the legacy of the school would  
6 continue into a bright future.

7 Q. Was an integral part of that path to the  
8 bright future reconciling with Mr. Milton Schwartz?

9 A. It was.

10 Q. Why?

11 A. He was a public face to not only the Jewish  
12 community but the larger community. He had  
13 credibility in the community and had been generous  
14 to us at an important time in the development of the  
15 school.

16 Q. Thank you?

17 A. And as a human being.

18 Q. Okay.

19 A. As a human being.

20 Q. Thank you. As we sit here today do you  
21 recall who participated in these discussions  
22 concerning the letter that going to be sent to  
23 Mr. Schwartz?

24 A. I'm really sorry. Do you -- is this  
25 specific letter --

1 Q. We haven't looked at the letter yet?

2 A. So I don't know what letter we are talking  
3 about.

4 Q. Okay. Let's look at it. This is going to  
5 be Exhibit 139 in your binder. It's already been  
6 admitted as estate's exhibit.

7 A. Should I open up that?

8 Q. Yes, please.

9 A. Dear Milton.

10 Q. Oh, you don't have to read it. I'm just  
11 going to ask you a question. I'm trying to get you  
12 out of here.

13 Do you see the date of this letter?

14 A. I do.

15 Q. What's the date?

16 A. May 23, 1996.

17 Q. Did you send this letter?

18 MR. LEVEQUE: This is actually from your --

19 MR. FREER: It's the original. We found  
20 the original from the Bates number that we provided.

21 MR. LEVEQUE: It's from the school's  
22 production.

23 MR. JONES: I have no objection. I was  
24 looking for one this clear. I thought Mr. Freer  
25 said you enhanced it because it was a bad copy.

1 MR. LEVEQUE: We had our own copy of the  
2 letter, but guys had it in your file. So we are  
3 using the one in your file.

4 MR. JONES: I believe that's incorrect.

5 MS. KEAST: That's incorrect.

6 MR. LEVEQUE: That's incorrect? I  
7 apologize. So we enhanced it.

8 MS. KEAST: We found the original and we  
9 made a clear copy of it.

10 MR. JONES: That's what I thought.

11 MR. LEVEQUE: We didn't change anything.

12 MS. KEAST: No, no, no.

13 MR. JONES: I'm not trying to suggest that.  
14 I just want to make sure that I wasn't missing an  
15 exhibit that looks as clear as this, because I have  
16 never seen it before.

17 MR. LEVEQUE: It is in your -- we pulled it  
18 from your exhibits.

19 MR. JONES: I just wanted to make sure.  
20 You retyped it so we could all read it easier?

21 MR. LEVEQUE: We didn't retype it; right  
22 Sherry?

23 MS. KEAST: We did not retype it. We  
24 located the original of the letter and we made a  
25 clear copy of it. It's the same language as what

1 has been produced in this case. It's just a clear  
2 copy.

3 MR. JONES: Okay.

4 THE COURT: Do you want to discuss this  
5 outside the presence of the jury?

6 MR. JONES: It's fine, Your Honor. I don't  
7 want to -- I just want to make sure I knew what I  
8 was looking at. That's all. Still not sure I  
9 understand, but this is fine.

10 THE COURT: They found the original in, I  
11 guess, Mr. Schwartz's records and somehow --

12 MR. LEVEQUE: Which was not a great copy.

13 THE COURT: Through the miracle of  
14 technology, we were able to make it  
15 clearer/brighter?

16 MR. LEVEQUE: No. For the record, no.  
17 This is a copy that was from the school's file.  
18 It's just a better copy than ours.

19 THE COURT: I got it. Never mind, Doctor.

20 BY MR. LEVEQUE:

21 Q. Was this letter sent from you, Dr. Sabbath?

22 A. It's my signature, certainly, and that's  
23 what -- reflective of our intent of that moment,  
24 yes.

25 Q. The letter states that we, and I'm assuming

1 that's the school, will immediately commence action  
2 to I implement as possible the following. Do you  
3 see that?

4 A. Yes.

5 Q. And then there is an itemized list that the  
6 school says it was going to do. The first one you  
7 see it's to restore the Hebrew name to the Milton I.  
8 Schwartz Hebrew Academy?

9 A. Yes.

10 Q. Was that in fact done?

11 A. Yes.

12 Q. The second is amend the Hebrew Academy  
13 articles of incorporation to restore the former name  
14 of the Milton I. Schwartz Hebrew Academy. To your  
15 recollection, was that done?

16 A. I don't remember actually the mechanism of  
17 doing it, but that would be the spirit certainly to  
18 accomplish what our intent was.

19 Q. And then there was apparently a marker in  
20 front of the academy that identified it as the  
21 Milton I. Schwartz Hebrew Academy. Was that  
22 actually changed?

23 A. Yes, it was changed.

24 Q. How about changing the formal stationery  
25 back to the Milton I. Schwartz Hebrew Academy, was

1 that done?

2 A. Yes, as I recall that was done.

3 Q. Take you to the second page. This is where  
4 I need your expertise Dr. Sabbath. States the  
5 restoration of the name Milton I. Schwartz Hebrew  
6 Academy has been taken as the matter menschlackeit.  
7 Did I say that correctly?

8 A. Absolutely.

9 Q. What does that word mean, menschlackeit?

10 A. Doing the right thing. It usually refers  
11 to a man, but it could be gender neutral. And it  
12 has a very warm, positive feeling other than doing  
13 exactly what according to legal right, the higher  
14 bar of the ethical and human appropriate thing to  
15 do.

16 Q. Is that a Hebrew word or Yiddish word?

17 A. It's a Yiddish word.

18 Q. Yiddish word?

19 A. Uh-huh. Yes.

20 Q. And the second to last paragraph of this  
21 letter, Dr. Sabbath, states that you have our pledge  
22 that we are committed to making the Milton I.  
23 Schwartz Hebrew Academy a source of honor and a  
24 place of Jewish learning of which you and your  
25 family will always justly be able to take with great

1 pride do you see that?

2 A. Yes.

3 Q. What were you trying to convey to  
4 Mr. Schwartz?

5 A. This certainly reflected the "in  
6 perpetuity" piece, but -- it doesn't say that, but  
7 that it would be a legacy for him and his family.

8 Q. This reflects the in perpetuity piece. Is  
9 that because you used the word "always"?

10 A. Yes, it is there. That's what made me make  
11 that connection.

12 Q. Dr. Sabbath, to your knowledge, what was  
13 the school's intent by sending this letter to  
14 Mr. Schwartz?

15 MR. JONES: Your Honor objection. Lacks  
16 foundation. She doesn't even recall the letter.

17 THE COURT: Overruled. She can answer it  
18 if she knows.

19 MR. JONES: Your Honor, then I would object  
20 on foundation that there is lack of foundation as to  
21 the school's intent as to hers.

22 THE COURT: That's a good point.

23 MR. LEVEQUE: I asked her understanding  
24 what the school's intent was.

25 THE COURT: I don't remember that part. So

1 if it is her understanding of the intent of the  
2 school by which I'm assuming you mean the board?

3 MR. LEVEQUE: The board, yes.

4 THE COURT: I will allow that.

5 BY MR. LEVEQUE:

6 Q. Do you want me to restate it?

7 A. Yes, please.

8 Q. Dr. Sabbath, to your knowledge and  
9 understanding what was the board's intent by sending  
10 this letter to Milton Schwartz?

11 A. I believe I said that earlier we were  
12 trying to rebuild bridges and goodwill, as well as  
13 credibility in not only the Jewish community but the  
14 community at large, and one of the first important  
15 steps was by reaching back out to our biggest donor.

16 Q. And to your knowledge, as a result of this  
17 letter, did Mr. Schwartz come back and get involved  
18 with the school again?

19 A. Yes.

20 Q. And what was the -- after your tenure ended  
21 with the interim director position did you serve in  
22 any other capacity on behalf of the school after  
23 that, after 1999?

24 A. No, I did not.

25 Q. So through your involvement with the school

1 through 1999, after this letter was sent, was  
2 Mr. Schwartz actively involved with the school?

3 A. I can't say I remember how or if. I think  
4 you have shown me minutes where his name is listed,  
5 other than that, I don't remember any major active  
6 involvement.

7 Q. Dr. Sabbath, through your oversight as  
8 interim director, did the school's over all  
9 condition and reputation improve from 1996 through  
10 1999?

11 A. I believe it did.

12 MR. LEVEQUE: Thank you very much, Doctor.

13 THE COURT: Mr. Jones.

14 MR. JONES: Thank you Your Honor.

15 THE COURT: We have to switch out our  
16 technology. Just 1 minute and we will switch the  
17 computers and we will be ready to start.

18 MR. JONES: Your Honor, live by technology  
19 die by technology Mr. God Friday is having trouble  
20 with his computer has to have someone bring one down  
21 here. I know Dr. Sabbath needs to get out of here  
22 by 1130 I don't think I'm going to be nearly as long  
23 as Mr. LeVeque, but I apologize to everyone.

24 THE COURT: So you are going to need a  
25 recess.

1 MR. JONES: I will.

2 THE COURT: About how long.

3 MR. JONES: Ten minutes.

4 Sorry everyone, I apologize.

5 THE COURT: We will take a recess. If you  
6 come back at 10:25. And, unfortunately, I have to  
7 read the entire thing again.

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

18 Record should reflect we are outside the  
19 presence of the jury.

20 (Off the record.)

21 THE COURT: Mr. Jacques ever Jones have you  
22 satisfied yourself with the issue with the exhibits.

23 MR. JONES: What I determined is that  
24 apparently the estate's paralegal went back sometime  
25 in not too distant past and found a different copy

1 than had ever been produced by the parties  
2 apparently with an unBates-stamped document, put  
3 that in your binder, the witness binder and their  
4 binder and on top of the copy that was of the old  
5 faded copy but failed to produce that new copy to us  
6 in the binder so I didn't have it in my binder and  
7 so apparently they put it together with the new  
8 document. It's a bunch of document that is they  
9 tried to produce the first day of trial that the  
10 court excluded so I did not look at those documents  
11 but I take them at their word that it is the same  
12 document, that it has not been altered.

13 THE COURT: The text has not been altered.

14 MR. JONES: So I am just a little upset  
15 that it was -- and I think Mr. Freer was even  
16 working under the same miss apprehension than I was  
17 that the old document had been retyped so you could  
18 see it better so that's why I was further confused.  
19 So with that said, I'm not going to make an issue of  
20 it but I have to say that certainly was upsetting to  
21 me.

22 THE COURT: I thought we were just  
23 discussing how copy machines used to be able to  
24 lighten them or darken them. That's what I thought  
25 had happened. So as long as we are all on the same

1 page.

2 MR. FREER: I thought it was scanned and  
3 digitally enhanced, kind of like the CSI stuff.

4 THE COURT: That's all I thought it was.  
5 As long as we are all on the same page, it's the  
6 same text, which was the important thing we were  
7 asking Dr. Sabbath about.

8 MR. JONES: I have not had an opportunity  
9 to compare the documents, but I will take  
10 Mr. LeVeque's word, as an officer of the court, that  
11 the language in the two documents is identical.

12 THE COURT: For the record, the one that's  
13 going to go -- I hate to say to the Supreme Court.  
14 The one that's going to be the admitted document  
15 that we have, to make sure we are on the same page,  
16 as the admitted document.

17 MR. LEVEQUE: The physical document in  
18 there.

19 THE COURT: Yes, will be the physical one  
20 that we have marked in the book.

21 MR. JONES: The physical one that's in the  
22 book.

23 THE COURT: You need to come up and look at  
24 it.

25 MR. JONES: Let me go up and look at it. I

1 have been told it's the old version and the new  
2 version.

3 THE COURT: I believe she has her book  
4 open.

5 MR. LEVEQUE: It's just the new.

6 MR. JONES: In Exhibit 138 --

7 MR. LEVEQUE: 139.

8 MR. JONES: In 139 is the new unBates'd  
9 version. I would ask that the court put on top of  
10 Exhibit 138 -- excuse me 139 A the old, unenhance --  
11 or -- or bad copy so when it goes to the Supreme  
12 Court.

13 THE COURT: They will understand what we  
14 are talking about.

15 MR. LEVEQUE: No objection.

16 MR. CARLSON: Makes sense.

17 THE COURT: Mr. LeVeque get that and give  
18 it to Lisa and she will make that change. We are  
19 not replacing it simply inserting it as 139 A so  
20 they will both be in the record and the court can  
21 understand what we are talking about.

22 Dr. Has about an hour left so want to get  
23 the jury back in here.

24 MR. JONES: We are waiting for the  
25 computer. He said he would be here any minute. I

1 apologize.

2 THE COURT: All right. Still waiting.  
3 Make sure they are all there. As soon as we have  
4 our computer changed out, we will be ready to go.

5 MR. JONES: He is almost here but it will  
6 take a minute or two to get it all set up.

7 (Off the record.)

8 THE COURT: Ladies and gentlemen, we  
9 appreciate you accommodating that. We are ready to  
10 go now.

11 Mr. Jones, you may begin.

12 EXAMINATION

13 BY MR. JONES:

14 Q. Let me apologize, Dr. Sabbath, and also  
15 ladies and gentlemen of the jury. I started this  
16 process where we used great big boards instead of  
17 all this technology, and it's great when it works;  
18 and when it doesn't, it's a disaster, because I  
19 don't know how I would show you everything. I  
20 appreciate everybody's patience.

21 Dr. Sabbath, I won't belabor this point. I  
22 know you have to be out here by 11:30 because you  
23 have a class to teach.

24 A. Yes.

25 Q. You and I have never talked about this

1 case; is that true?

2 A. That is true.

3 Q. Has anybody from my office talked to you  
4 about this case?

5 A. No.

6 Q. But you and I do know each other?

7 A. That is true.

8 Q. All right. So I don't want to mislead the  
9 jury about anything although probably how long has  
10 it been since we have seen each other?

11 A. I was going to say, it's been decades  
12 probably.

13 Q. But our boys were very good friends growing  
14 up?

15 A. Yes, they were.

16 Q. I have reasons to be as quick with you as I  
17 can so I don't get you upset with me after our long  
18 association. I also knew your husband Dennis as  
19 well.

20 A. Yes, thank you for that recollection.

21 Q. Nice to see you doctor but I wish it was  
22 for your sake under different circumstances.

23 A. Thank you.

24 Q. Let me just start by going back in time  
25 like Mr. LeVeque did and start with all this started

1 and the discussion with Milton Schwartz at the very  
2 beginning of time. You were with Dr. Lubin when you  
3 met with Mr. Schwartz to talk about a donation?

4 A. Yes. And Dr. Lubin had instigated that  
5 meeting and I was --

6 Q. Right?

7 A. Companion.

8 Q. I read your deposition and your deposition  
9 was where you met with the lawyers before court and  
10 they asked for your statement under oath. Do you  
11 remember that?

12 A. I do.

13 Q. And so that is would have been what, March  
14 of 2014, so over four years ago?

15 A. Yes.

16 Q. So even though it had still been like 20  
17 something years since you thought about these things  
18 in 2014, that's still four years earlier than today,  
19 right?

20 A. That is correct.

21 Q. You would think your memory was better  
22 today or four years ago about things that happened  
23 20 years ago?

24 A. I would say four and a half years ago  
25 that's better.

1 Q. The reason I ask that because what I  
2 understand in your deposition, you were very clear  
3 in your deposition, and I have got it here, but  
4 where you said your recollection is that he  
5 actually -- you met in his home, which you said  
6 before?

7 A. Uh-huh.

8 Q. And that he gave a million dollars. Is  
9 that what your recollection is?

10 A. That was my recollection.

11 Q. And that recollection, as I understand it,  
12 was very clear?

13 A. Yes.

14 Q. That whether he gave a million dollars at  
15 that time specifically or not, he certainly promised  
16 to give a million dollars, right?

17 A. That was my -- that was my best  
18 recollection.

19 Q. And that's not something somebody just told  
20 you like Dr. Lubin, that's your own personal  
21 recollection, isn't that true?

22 A. That is correct.

23 Q. And by the way, if Dr. Lubin testified that  
24 that was what the agreement was, that Mr. Schwartz  
25 was going to give a million dollars, would you think

1 her recollection would be even stronger because she  
2 was the one that was involved in the process?

3 A. Yes.

4 MR. LEVEQUE: Objection. Foundation calls  
5 for speculation.

6 THE COURT: Overruled.

7 BY MR. JONES:

8 Q. Let me put it differently would you defer  
9 to her -- if she said it was \$500,000, would you  
10 think she would know more about that than you  
11 because she was the one leading that charge?

12 A. Yes.

13 Q. If she said it was a million, would that  
14 just confirm what you believe to be the case?

15 A. Yes.

16 Q. All right. Thank you.

17 You said something earlier that I found  
18 interesting in response to a question from  
19 Mr. LeVeque. You said there was a quid pro quo. Do  
20 you remember that?

21 A. Yeah. It's a fancy -- I like that phrase,  
22 fancy phrase.

23 Q. Are you a lawyer?

24 A. I am not.

25 Q. Was Dennis a lawyer?

1 A. Yes.

2 Q. Dennis your husband?

3 A. Yes.

4 Q. And so how are you familiar with the Latin  
5 phrase quid pro quo?

6 A. Reading the newspaper.

7 Q. And what do you understand that word to  
8 mean?

9 A. That you do something for someone and they  
10 do something specifically in return related to that  
11 action.

12 Q. So let me ask you, in the context of this  
13 naming rights issue that the estate is talking  
14 about, was it your understanding that the quid pro  
15 quo, the thing that was in exchange for the naming  
16 rights was a million dollars?

17 A. That was my understanding.

18 Q. So in other words, the deal was the quid  
19 pro quo as you have described it was Mr. Schwartz  
20 was going to give \$1 million, and in return, he was  
21 going to get naming rights?

22 A. That is correct.

23 Q. And if he didn't give the million dollars,  
24 then he would not have lived up to his quid pro quo,  
25 right?

1 A. To the promise.

2 Q. To the promise?

3 A. To the promise.

4 Q. So if he promised a million and he didn't  
5 pay a million, then he would have not lived up to  
6 his promise, as simple as that?

7 A. Yes.

8 Q. And whether he did or not, as you sit here  
9 today, you do not know?

10 A. I do not know.

11 Q. Now with that said you talked about some  
12 legal documents also that you saw at one point but  
13 you never saw a contract at any time between the  
14 school and Milton Schwartz to give him perpetual  
15 naming rights, did you?

16 MR. LEVEQUE: Object to the extent it calls  
17 for a legal opinion and conclusion.

18 THE COURT: To the extent it's her  
19 understanding, she can answer.

20 THE WITNESS: I never saw a contract. I  
21 remember being shown these by laws and the letter  
22 that's it.

23 BY MR. JONES:

24 Q. Let's look at those bylaws by the way Lenny  
25 Schwartzer was on the board at that time, wasn't he?

1 A. I would have to look at it.

2 Q. Let me do that. Let me get those 1990  
3 bylaws. I think it's J 5. Could you pull up  
4 Exhibit J 5 for it Dr. Sabbath and the jury please  
5 let's pull up the first part. Can you just see the  
6 very first line the name of this corporation is the  
7 Milton I. Schwartz Hebrew Academy, hereinafter  
8 referred to the academy shall remain so in  
9 perpetuity. Do you see that?

10 A. I do.

11 Q. So those are bylaws, right that's not what  
12 you would consider to be a contract, right?

13 MR. LEVEQUE: Same objections.

14 THE COURT: Overruled.

15 BY MR. JONES:

16 Q. As far as you know?

17 A. I mean I'm not an attorney. Bylaws are a  
18 different format than a contract.

19 Q. Right. So let's look at the last page of  
20 those bylaws. And by the way, if Mr. Schwartz  
21 testified that the second signature on that line of  
22 signatures was his last week when he was here, do  
23 you have any reason to disbelief that Mr. Schwartz  
24 had signed those bylaws, Lenny Schwartz?

25 A. To disbelieve was that your question?

1 Q. Yes?

2 A. No, not at all.

3 Q. Let's look at the next to the last page.  
4 And if we go down to -- I think it's actually up,  
5 right there, number 1, amendments, you see that says  
6 the board of trustees shall have the power to make  
7 alter amend and repeal the bylaws of the corporation  
8 by affirmative vote of a majority of the full board  
9 and meeting of duly noticed therefore. Do you see  
10 that?

11 A. I do.

12 Q. Did you in fact know that as a board  
13 member, specifically under the bylaws themselves, it  
14 said the board could repeal, alter or amend the  
15 bylaws, right?

16 A. I did not remember this, but it's here.

17 Q. And if it's there, then that means that by  
18 simply putting -- would you agree with me that  
19 simply putting the words "in perpetuity" on the  
20 first page, the very document that says "in  
21 perpetuity" also says you can take that off, a later  
22 board could take that off, right?

23 A. That's what I'm looking at here.

24 Q. Okay. Thank you.

25 Now let me also ask you. Isn't it true

1 that at the time of your deposition, you testified  
2 that the understanding was that the million dollars  
3 would be used to put his -- Mr. Schwartz's -- Milton  
4 Schwartz's name on the building?

5 A. Yes.

6 Q. And by the way, his name went on the  
7 building, right?

8 A. Yes, it did.

9 Q. Let's look at Exhibit 173. I think this is  
10 in evidence. It's just a picture of the school?

11 MR. LEVEQUE: Yes, it is.

12 BY MR. JONES:

13 Q. 173. Dr. Sabbath, if you look at that  
14 picture that looks like the front of the school,  
15 right?

16 A. Yes.

17 Q. And that has Mr. Schwartz's name on it?

18 A. Yes, it does.

19 Q. Let's look at Exhibit 384, which I think is  
20 also in evidence, I hope. If it's not, another  
21 version is because we have so many?

22 MR. CARLSON: I have it.

23 MR. JONES: 384.

24 MR. CARLSON: Yes.

25 MR. JONES: We have that Your Honor.

1 BY MR. JONES:

2 Q. It says November 29, 1990. If you also  
3 look there, it will list on the next page who is  
4 present at the meeting. And the first one present  
5 Milton Schwartz. Next one down is Roberta Sabbath,  
6 right?

7 A. Right.

8 Q. And if you go to the next page, you will  
9 see a motion was made by Roberta Sabbath and  
10 seconded by George Rudiak that Dr. Lubin should be  
11 honored by naming the Tamar Lubin zap elementary  
12 school, the motion was passed do you see that?

13 A. I do.

14 Q. Do you remember that her name was on the  
15 school?

16 A. I don't -- I don't have a picture of the  
17 name being on the school, but that was certainly the  
18 intent.

19 Q. Why was that? Why did you want to put her  
20 name on the school?

21 A. She was the founding director and the  
22 energy behind the realization of this vision of  
23 having a Jewish day school.

24 Q. So did you think it was a breach of  
25 whatever naming rights deal you had with Milton

1 Schwartz, did you think it was a breach of that  
2 agreement to put Dr. Lubin Saposhnik's name on the  
3 school?

4 A. No. When it says on the school, does it  
5 say on -- by naming the elementary school. So where  
6 the physical name was, that I don't recall.

7 Q. Let's take a look, if you would -- I would  
8 like to show you what's been marked -- before we put  
9 this up, it's -- let me get you binder Exhibit 217.  
10 I don't think you have it there, Dr. Sabbath.

11 A. No.

12 Q. I will get it for you.

13 MR. JONES: May I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. JONES:

16 Q. Let me find it for you first and dig  
17 through all these pages. I'm going to show you  
18 what's been marked as Exhibits 217 A and 217 B. And  
19 if you look at the very front of that exhibit, there  
20 is an exhibit that talks about a book. Do you  
21 remember Dr. Lubin writing a book about the school?  
22 Did you ever hear -- know about that?

23 A. Yes, I do.

24 Q. And in that book there was a photograph of  
25 the front of the school. Those Exhibits 217 A and

1 217 B are pictures, one that kind of blows up the  
2 name of the school so you can see it more clearly  
3 because it's kind of vague there. Does that look  
4 like the front of the school?

5 A. It certainly does.

6 Q. Does that refresh your memory that actually  
7 at one point in time Dr. Lubin Saposhnik's name was  
8 actually on the very front of the school?

9 A. I have no reason to doubt that. The logo  
10 is different from when Mr. Schwartz's name was on  
11 there.

12 Q. Right.

13 A. So it's a different façade.

14 Q. Does that refresh your recollection that in  
15 fact you did put her name right on that school?

16 A. I have no reason to doubt this absolutely.

17 MR. JONES: Your Honor I move for the  
18 admission of 217. We can just limit it to A and B  
19 as opposed to the entire book.

20 THE COURT: Mr. LeVeque.

21 MR. LEVEQUE: I may not have heard her say.  
22 Did she say she recognized the condition of the  
23 school in this photograph?

24 THE COURT: No she said she has no reason  
25 to doubt.

1 THE WITNESS: I have no reason to doubt  
2 this. It looks like the front of the school.

3 MR. LEVEQUE: No objection.

4 THE COURT: It will be admitted.

5 BY MR. JONES:

6 Q. So let's put up Exhibit 217. And then  
7 let's -- so can you blow up the name there as best  
8 you can. Even without that, blow up the first page  
9 so the jury can see, just the name.

10 When you look at it there that does appear  
11 to be Dr. Lubin's name on the front of the school.  
12 Right?

13 Go back to the other picture. That's the  
14 same building as the one that had Mr. Schwartz's  
15 name on it later, correct?

16 A. Was it later? Because Milton was in that  
17 meeting.

18 MR. FREER: I object. Lack of foundation.

19 BY MR. JONES:

20 Q. Do you recall if the corporation was named  
21 after Dr. Sabbath, because that's what the bylaws  
22 say, "the corporation shall be named"?

23 A. Right.

24 Q. And then in 1990 right after those bylaws,  
25 bylaws were passed that said in perpetuity in

1 November of 1990. The bylaws where you raised the  
2 vote and Milton Schwartz voted to put her name on  
3 the building was December of 1990. Does that  
4 refresh your memory that maybe it was the  
5 corporation that would be named after him and the  
6 building would be named after her?

7 A. And then his name was on that -- on the  
8 front sign that's what I'm remembering.

9 Q. He had a name at the front of the school  
10 the monument?

11 A. The monument.

12 Q. The entryway?

13 A. That makes sense.

14 Q. Does that seem more like what you -- I know  
15 it's been 26 or gosh I'm bad at math, a long time  
16 ago?

17 A. Uh-huh, almost 30 years.

18 Q. Almost 30 years?

19 A. Yes, 28.

20 Q. All right. Let me then move to exhibit --  
21 well, I think Mr. LeVeque used --

22 MR. JONES: Did you use 422 or 130? They  
23 are both the same.

24 MR. LEVEQUE: I think it was 422.

25 BY MR. JONES:

1 Q. Let's use 422. Let's go up to the top just  
2 to refresh everybody's memory where we were these  
3 were December 1992 meeting minutes. And then if we  
4 go down to the bottom, the last paragraph and blow  
5 that last paragraph up for Dr. Sabbath if you would,  
6 Shane. Here we have this issue about taking the  
7 name off the wall and the name from the school,  
8 Mr. Schwartz and the this is 1992. This is two  
9 years after the motion to put Dr. Saposhnik's  
10 name -- Lubin Saposhnik's name on the school. And  
11 this is part of the fight. Even though I know you  
12 don't have any specific recollection about the  
13 fight, this is when the fight was occurring with  
14 Mr. Schwartz, right?

15 A. Okay.

16 Q. And if -- let me ask you this question.

17 You were a part of this process where it  
18 was agreed that would take the name, Mr. Schwartz'  
19 name off the wall, off the school, and off the  
20 letterhead, right?

21 A. It says so there.

22 Q. And essentially even stopped answering the  
23 phone Milton I. Schwartz Hebrew Academy and just say  
24 the Hebrew Academy, right?

25 A. Correct.

1 Q. And so now, Dr. Sabbath, again I haven't  
2 seen you probably in 20 years but just knowing who  
3 you are, you were married to a lawyer who I know a  
4 very good lawyer, would you have done anything you  
5 felt was in violation of a contractual right for the  
6 school? Would that be who you think you -- what you  
7 would have done?

8 A. Well, I say here that I suggested we speak  
9 to our attorney.

10 Q. Well, in fact, you anticipated my next  
11 question. The last sentence says, "The staff are  
12 answering phones at the Hebrew Academy. Roberta  
13 Sabbath suggested that we speak to our attorney,  
14 Scott Kantor, and get his opinion with regards to  
15 the name of the school." Do you see that?

16 A. I do.

17 Q. I know you said you can't remember a lot of  
18 this stuff, and understandably so. So far nobody  
19 has a perfect memory about these things going back  
20 20 years. But why do you think you would have said  
21 let's talk to our attorney about the name of the  
22 school? Why would you have said or thought about  
23 something like that? When you know you are going to  
24 take the name off the school, you are going to start  
25 taking Milton Schwartz's -- anything with the

1 academy off, why would you want to talk to your  
2 lawyer? Could it have been to make sure you weren't  
3 violating any agreements?

4 A. Yes.

5 Q. And do you have any -- well, you did take  
6 the names off, right?

7 A. I didn't personally, the board voted.

8 Q. I meant the school. The school took the  
9 all names of Milton Schwartz off. Would that lead  
10 you to believe that you would not have been a party  
11 to a circumstance where you agreed to take  
12 Mr. Schwartz's name off of that school, unless you  
13 were confident that you were not breaking any  
14 contractual agreements?

15 A. And not only contractual agreements, and  
16 again, I don't remember a contract, bylaws, letter,  
17 intent, verbal communications.

18 Q. So I guess just to be clear, would you have  
19 been a part of intentionally breaking what you  
20 believed to be an enforceable legal contract without  
21 having talked to the lawyer?

22 MR. LEVEQUE: Objection. Foundation.

23 THE COURT: So we are asking --

24 MR. JONES: Let me rephrase that Your  
25 Honor. Bad question.

1 THE COURT: Meaning her.

2 MR. JONES: Yes, I mean her.

3 THE COURT: Not the school.

4 BY MR. JONES:

5 Q. Can you see yourself taking Mr. Schwartz's  
6 name off that school unless you felt it was  
7 something that was appropriate legally?

8 A. I would not have done that unless I felt it  
9 were appropriate legally. Does that answer your  
10 question?

11 Q. It does. It answers my question. Thank  
12 you.

13 Let me also show you if I may and this is  
14 not in evidence so let me get Exhibit 443. You may  
15 have that binder up there.

16 MR. JONES: May I approach, Your Honor?

17 Ms. Clerk, I don't think we have it over  
18 there.

19 BY MR. JONES:

20 Q. Now, Dr. Sabbath, you will note there, just  
21 for orientation purposes, when I looked at these  
22 documents there is some handwritten notes on them  
23 but I don't see them to be signed, but do you recall  
24 of a draft board meeting minutes that sometimes  
25 didn't get finalized when you were on the board?

1 A. Do you recall that happening?

2 Q. Yeah, at any time.

3 A. I don't recall one way or the other. It  
4 wasn't --

5 Q. Let me then just ask you.

6 MR. JONES: Your Honor, may I approach?  
7 It's kind of hard to find.

8 THE COURT: Sure.

9 BY MR. JONES:

10 Q. I'm referring to what is exhibit  
11 Page 443.0010. If I could ask you to look at the  
12 second paragraph and read that to yourself?

13 MR. LEVEQUE: Mr. Jones, do you have a  
14 Bates number for that.

15 MR. JONES: Here you go.

16 BY MR. JONES:

17 Q. If you look at paragraph 2, and read that  
18 to yourself because it's not in evidence, does that  
19 refresh your recollection that you ever talked  
20 specifically talked about naming the elementary  
21 school at a board meeting for Dr. Lubin Saposhnik in  
22 perpetuity?

23 A. I don't remember one way -- using  
24 specifically the phrase in perpetuity as related --

25 Q. Yes.

1 A. I mean, it's here. I have no reason to  
2 doubt it. I just don't remember the conversation.

3 Q. So you are aware -- I think we even --  
4 Mr. LeVeque showed you bylaws later in 1996 where  
5 there was a vote to take Dr. Lubin's name off the  
6 school in 1996. Do you remember that?

7 A. Did I see that document here today?

8 Q. Sure. It actually is Exhibit 139.

9 A. Okay.

10 Q. And we will use the clean copy. Well, go  
11 ahead and pull 139?

12 A. Oh, you have got it right here.

13 Q. So this is the letter that Mr. LeVeque  
14 showed you where it talks about putting  
15 Mr. Schwartz's name back on the school.

16 A. Okay.

17 Q. And this would be a part of the agreement,  
18 I believe the board minutes right before that, and  
19 I'm trying to find them. I don't know what I have  
20 done with them.

21 But if her name was on the school when  
22 Milton Schwartz came back, when everybody got back  
23 together again --

24 A. Yes.

25 Q. -- then you would have had to take her name

1 down to put his name up on the building, right?

2 A. Well, there was the monument versus the  
3 building.

4 Q. Right. Sure.

5 A. So -- and then we put his name back on the  
6 monument, I just can't specifically remember taking  
7 her name off. I'm sure there is a picture,  
8 but . . . I guess I should wait.

9 Q. Let me also ask if we could look at  
10 Exhibit 447?

11 THE COURT: Would that be in the same book.

12 THE WITNESS: Sure.

13 BY MR. JONES:

14 Q. 447 is a document I think you have seen  
15 before where it says it takes the name of the Milton  
16 I. Schwartz Hebrew Academy in 1994 did changes it to  
17 the Hebrew Academy. Do you see that? And this is  
18 when the board, without Milton Schwartz took his  
19 name off the corporation. Do you remember you were  
20 talking about that?

21 A. Yes.

22 Q. Would it be something that you would think  
23 that you would do knowing married to a lawyer, and  
24 with your particular background, that you would have  
25 taken Mr. Schwartz's name or voted to take

1 Mr. Schwartz's name off the corporation if you felt  
2 that was a violation of a contract right?

3 MR. LEVEQUE: Objection. Calls for  
4 speculation.

5 THE COURT: (Inaudible.)

6 MR. JONES: Right.

7 THE WITNESS: I wouldn't have done anything  
8 that would have been against the law or against a  
9 contractual law.

10 BY MR. JONES:

11 Q. Thank you. I wouldn't have thought so.

12 Now let's also look at Exhibit J 9, which  
13 is the arbitration -- excuse me, the complaint that  
14 Mr. Schwartz filed in 1992 against the school. And  
15 if you look at Exhibit J 9, I don't know if you  
16 still have it up there, but that was about a fight  
17 between the board -- what Mr. Schwartz claimed was a  
18 illegitimate board and what the board claimed -- you  
19 claimed, was a legitimate board for the school,  
20 right? I know you said you are having a hard time  
21 remembering.

22 A. Wow, I do not remember.

23 Q. You know what I'm not going to drag that up  
24 and I don't want to keep you late.

25 Let me put it this way. You don't remember

1 any lawsuit by Mr. Schwartz ever suing the school at  
2 any time saying you -- while you were on the board  
3 saying you violated my naming rights agreement, do  
4 you?

5 A. I don't recall that.

6 Q. And in fact, when you took Mr. Schwartz's  
7 name off the school, the corporation, and removed  
8 the headstone and stopped using the letterhead and  
9 all that stuff, you don't recall Mr. Schwartz suing  
10 the school saying you breached a contract with me  
11 when you did that, do you?

12 A. I do not recall that.

13 Q. Would you think that would be something you  
14 would probably remember if he did that, said that  
15 you were trying to take his name off the school?

16 A. If I knew about it.

17 Q. You certainly knew about it because you  
18 were in the lawsuit, right?

19 A. I do not recall.

20 Q. I want to -- let's -- I want to pull up  
21 Exhibit 13.

22 A. 13?

23 Q. Yes. You can see it on the screen there if  
24 you want?

25 A. Sure.

1 Q. These are the minutes from 1996 where --  
2 find me those minutes.

3 MR. CARLSON: Which ones?

4 MR. JONES: May 7th.

5 BY MR. JONES:

6 Q. This is the one where they talk about --  
7 the board talks about terminating Dr. Lubin  
8 Saposhnik.

9 A. Yes.

10 Q. Now, Mr. LeVeque asked you questions about  
11 Dr. Lubin that seemed to me were essentially trying  
12 to smear her reputation. I want to ask you some  
13 things about Dr. Lubin. He asked you about a bunch  
14 of things that was there about bad things. So let  
15 me ask you, Dr. Sabbath. There were issues with  
16 Dr. Lubin, correct?

17 A. Yes.

18 Q. Was Dr. Lubin, though, a good thing for  
19 that school?

20 A. In the big picture, yes.

21 Q. Would there have been a Hebrew Academy  
22 without Dr. Lubin?

23 A. No.

24 Q. Did Dr. Lubin work tirelessly for that  
25 school?

1 A. Yes.

2 Q. Do you believe that Dr. Lubin loved that  
3 school with all of her heart?

4 A. Yes.

5 Q. Do you believe Dr. Lubin did everything she  
6 could in her -- at least in her mind in the best  
7 interest of the school?

8 A. Yes.

9 Q. Did Dr. Lubin -- was she responsible for  
10 raising millions of dollars that actually helped the  
11 school exist?

12 A. I don't know about the millions.

13 Q. She raised money from Mr. Schwartz which  
14 everyone says was critical?

15 A. Absolutely.

16 Q. She is the one that said let's go approach  
17 Mr. Schwartz, right?

18 A. Yes.

19 Q. She raised money from many other people as  
20 well, didn't she?

21 A. Absolutely.

22 Q. While there may have been differences of  
23 opinion about how to run things, did you see that as  
24 any reason to try to destroy her legacy in  
25 connection with the school?

1 MR. FREER: Objection. That's  
2 argumentative, Your Honor.

3 MR. JONES: I will withdraw that, Your  
4 Honor.

5 BY MR. JONES:

6 Q. With regard to Exhibit 139, the letter, you  
7 really don't -- at least in your deposition, you  
8 didn't really recall any of the details of that  
9 letter, did you?

10 A. This is the one I signed.

11 Q. Yes?

12 A. Building the bridge that I referred to?

13 Q. Yes. Yes, Dr. Sabbath. Let me ask it a  
14 different way.

15 You didn't actually write this letter, did  
16 you, somebody else wrote this letter, somebody  
17 related to the board wrote the letter?

18 A. My best guess, it was a collaborative  
19 wording because these were my sentiments at the  
20 time.

21 Q. There is nothing -- now, Mr. LeVeque  
22 pointed out to the last paragraph -- second to the  
23 last paragraph of the letter but before you get  
24 there, Shane, if you look at that letter real  
25 carefully this is years after Mr. Schwartz has made

1 his donation to the school for whatever amount it  
2 was, this is, what, six years, seven years later,  
3 made it in '89, so this is like seven years later  
4 that he made this letter; is that right?

5 A. That's correct.

6 Q. This letter had nothing to do with the  
7 whatever naming rights agreement happened back in 89  
8 or 1990 this letter has nothing to do with that old  
9 naming rights agreement, does it?

10 A. I think the idea was to put his name back  
11 on the school so that --

12 Q. Bad question on my part. When I say that,  
13 I mean this is not a memorialization of what was  
14 agreed to back then, it's just simply what you are  
15 going to do for him now, right?

16 A. Memorialization. I thought it was a  
17 memorialization of what we had agreed on, that for  
18 the donation, his name would be on the school,  
19 whether it was a monument or the physical building.

20 Q. The reason I ask that question if you look  
21 at the second page --

22 A. Sure.

23 Q. Mr. LeVeque asked you this question about  
24 menschlackeit?

25 A. Yes.

1 Q. It certainly is my understanding that means  
2 something like you are an honorable person?

3 A. Yes.

4 Q. An honorable man?

5 A. Uh-huh.

6 Q. And menschlackeit is not, "You gave us the  
7 money," it's because you are an honorable guy and we  
8 got into a fight and we are going to make up, we are  
9 going to agree to do this. That's how I read your  
10 letter. Would that be correct?

11 A. Yes, that sounds --

12 Q. So there is nothing in this letter,  
13 whatsoever, that talks about in perpetuity, does it?  
14 The words "in perpetuity" are never used in this  
15 letter, are they?

16 A. That is correct.

17 Q. When you look at the paragraph that  
18 Mr. LeVeque talked about, it says you have our  
19 pledge, see down there, we are committed to I can ma  
20 the Milton I. Schwartz Hebrew Academy a source of  
21 honor and place of Jewish learning of which you and  
22 your family will always justly be able to take  
23 pride. It says it's a pledge to make the Milton I.  
24 Schwartz Hebrew Academy a place of honor. It  
25 doesn't say you have our pledge that we will put

1 your name on the school and everything and anything  
2 to do with the school in your name forever and ever,  
3 does it?

4 A. This paragraph does not say that. Doesn't  
5 say something like that earlier that we would put  
6 his name back up?

7 Q. Well, let's go to the first page. Look at  
8 the first one, it says restore the Hebrew cat  
9 academy name. So hard to see can you blow that up  
10 at all, Shane -- to the Milton I. Schwartz Hebrew  
11 Academy?

12 A. Yes.

13 Q. So it does talk specifically about the name  
14 but it doesn't say anything at all about in  
15 perpetuity, does it?

16 A. It does not.

17 Q. And if you look at the next paragraph amend  
18 the Hebrew Academy' articles of incorporation to  
19 restore its former name of the Milton I. Schwartz  
20 Hebrew Academy. Doesn't use the words in perpetuity  
21 there, does it?

22 A. It does not.

23 Q. And you could have used the words "in  
24 perpetuity" anywhere in that letter you wanted to?

25 A. That's true.

1 Q. But you didn't?

2 A. We didn't.

3 Q. And if we could go on and go on, and if you  
4 want to look, I don't want to belabor it. I  
5 understand your schedule. I believe you already  
6 said this, but there is no place in that letter it  
7 pledges to put Milton Schwartz's name anywhere in  
8 association with the school, in the stone, on the  
9 letterhead on the corporation, on the front of the  
10 school, anywhere at all; it never says you are going  
11 to do that in perpetuity, does it?

12 A. It does not, to my best recollection of  
13 this letter.

14 MR. JONES: Thank you Dr. Sabbath.

15 EXAMINATION

16 BY MR. LEVEQUE:

17 Q. Dr. Sabbath, do you believe Mr. Milton  
18 Schwartz loved the Hebrew Academy?

19 A. I do.

20 Q. Do you believe he tirelessly worked to make  
21 the Hebrew Academy a better place when he was  
22 around?

23 A. "Tirelessly" is a big word. He certainly  
24 worked toward that goal, as far as I know. I'm not  
25 a friend of the man. I'm not of the family. I was

1 on the other end.

2 Q. Were you a friend of Dr. Lubin?

3 A. Yes.

4 Q. How long were you friends with Dr. Lubin?

5 A. Probably as long as I was involved with the  
6 school, which were the years, those years my  
7 children went to the school and then up until the  
8 termination.

9 Q. Disagree with Mr. Jones characterization of  
10 a smear campaign. I'm not seeking to discredit what  
11 Dr. Lubin did with the school but you are agreeing  
12 with me there were sufficient issues with Dr. Lubin  
13 to warrant her termination, correct?

14 A. I believe that, yes. I believe it was our  
15 way of preserving her legacy by taking action.

16 Q. Terminating Dr. Lubin was a way of  
17 preserving her legacy?

18 A. The school is her legacy. It is to this  
19 day. And we still have the school.

20 Q. But the school terminated her for cause,  
21 correct?

22 A. Yes. Yes.

23 Q. If we could go to Exhibit 139, please.  
24 This is the letter that we were just talking about.  
25 It's your letter from 1996?

1 A. Yes.

2 Q. Now, I believe that you testified that this  
3 letter was intended to be a memorialization of the  
4 agreement the school had with Mr. Schwartz back in  
5 1989, correct?

6 A. It was a way of rebuilding a bridge that we  
7 felt had been broken.

8 Q. But your language just now when Mr. Jones  
9 was examining you was that it was a memorialization  
10 that the school had with Mr. Schwartz, correct?

11 A. Yes. I'm comfortable with that.

12 Q. And I believe you also testified when I  
13 examined you that when we were discussing the word  
14 always I think in this letter, that was intended to  
15 refer back to the perpetual naming rights that  
16 Mr. Schwartz had with the school, correct?

17 A. I think that could be a suggestion of that,  
18 yes. Was that in this next to the last paragraph?

19 Q. You know, I will show it to you. It was  
20 the second page, second to the last paragraph. I  
21 believe you testified in your direct examination of  
22 me?

23 A. Yes.

24 Q. That this was intended to refer back to  
25 that agreement with the perpetual naming rights,

1 wasn't it?

2 A. I think it could reasonably be suggested,  
3 yes.

4 Q. Now, Mr. Jones asked you some questions  
5 about the school resolving to name the elementary  
6 school after Dr. Lubin, do you remember that?

7 A. I do.

8 Q. Do you remember he showed you board meeting  
9 minutes in I think it was November of 1990 where  
10 both Mr. Schwartz was present and I believe you were  
11 present?

12 A. Yes.

13 Q. Do you remember that?

14 How many buildings comprised the Milton I.  
15 Schwartz Hebrew Academy back then?

16 A. What year was that?

17 Q. That would have been 1992.

18 A. So we had moved. So I believe there were  
19 two buildings. There was the main building and  
20 there was a gymnasium. I believe that had been  
21 built by then.

22 Q. If I showed you a picture, would it help?

23 A. Sure. Of the campus?

24 Q. Yes.

25 A. The whole campus.

1 Q. Hopefully you have a binder that has 174?

2 A. Yes, this looks like it has.

3 Q. If you could turn to that. Do you see the  
4 portion of the photo here that was the Hebrew  
5 Academy at the time that -- strike that.

6 Do you see the portion of the Hebrew  
7 Academy that existed in 1992, are you able to pick  
8 it out in that picture?

9 A. Well, of course, there is the main  
10 building. And then there is this building that's  
11 the gymnasium. And I can't swear when that building  
12 was built.

13 MR. JONES: Sorry do I have the same thing?

14 MR. LEVEQUE: Yeah.

15 MR. JONES: Okay. Thank you.

16 BY MR. LEVEQUE:

17 Q. Are you able to -- four use your finger are  
18 you able to point what the building is that was  
19 built in 1989, 1990?

20 A. In 1990?

21 Q. Yes?

22 A. It's the U shaped building with the  
23 central --

24 THE COURT: We aren't seeing anything.

25 MR. LEVEQUE: I haven't admitted it yet.

1 THE WITNESS: They have the red tile roof,  
2 sort of the mission-style red tile roof.

3 MR. LEVEQUE: Estate moves to admit  
4 proposed Exhibit 174.

5 THE COURT: Any objection?

6 MR. JONES: You Honor, I have no objection,  
7 other than we ought to get clarification of when the  
8 photograph was taken and what it depicts, because I  
9 think it's a little confusing otherwise.

10 MR. LEVEQUE: Hopefully we will get some  
11 clarification.

12 THE COURT: It will be admitted.

13 (Inaudible.)

14 BY MR. LEVEQUE:

15 Q. Let me use my laser pointer here. I have  
16 never tried it before. Is this the original  
17 building?

18 MR. JONES: Your Honor, again, I withdraw  
19 the question.

20 THE COURT: The orange or red dot with a  
21 little --

22 MR. LEVEQUE: Yes, my little laser pointer  
23 here. Do you see --

24 THE COURT: Because that other little  
25 pointer is not --

1 MR. LEVEQUE: Not this, but my little laser  
2 pointer.

3 BY MR. LEVEQUE:

4 Q. Do you see where I'm pointing to right now?

5 A. I do.

6 Q. Is this the original building?

7 A. It was all four in that cluster.

8 Q. Right. This one, this one, this one, and  
9 this one?

10 A. Yes.

11 Q. Do you know which building was the  
12 elementary school?

13 A. These were all considered the elementary  
14 school.

15 Q. But at that time, the school went up to 8th  
16 grade, correct?

17 A. Yes. And also included kindergarten, and  
18 then we also had -- I think we had a preschool after  
19 hours for some time. I'm not sure.

20 Q. What about all these buildings over here.  
21 Do you know what these are?

22 A. The one on -- right there. That would have  
23 been the auditorium. And I don't remember when that  
24 was built. But it was certainly there by the time  
25 that I became the interim director.

1 MR. JONES: Your Honor, may we approach?

2 THE COURT: Sure.

3 (Bench conference.)

4 THE COURT: We need some more  
5 clarification. My understanding is this is a  
6 current.

7 MR. LEVEQUE: Yes.

8 BY MR. LEVEQUE:

9 Q. Dr. Sabbath, this is a reasonably current  
10 aerial photograph of the school. I was just hoping  
11 you could identify what the original buildings were  
12 as of 1992. And I believe you said it was these  
13 four buildings right here; is that right?

14 A. That is correct.

15 Q. Okay. Thank you.

16 A. And I don't remember when that auditorium  
17 was built.

18 Q. I will represent that was built after your  
19 time.

20 A. No, it was present in 1996, I know that.

21 Q. Okay. Perhaps it was a building that was  
22 demolished I don't know but this was taken fairly  
23 recently.

24 A. This says 2018 on the bottom.

25 Q. Just for purposes of clarification

1 Dr. Sabbath how many buildings were there in 1996?

2 A. I thought five.

3 Q. So there might have been another building  
4 that we can't see?

5 A. No, these are -- I'm pointing to the four  
6 buildings with the red mission style roofs, one two  
7 three four, did also this building to the right with  
8 the white roof and the blue, I guess solar panels  
9 were added. That was constructed. I don't remember  
10 when, but I remember being in the building when I  
11 was there.

12 Q. So taking you back to Friday's testimony  
13 Dr. Sabbath, do you remember me asking you what your  
14 understanding of what the 1989, 1990 agreement  
15 encompassed and I believe you testified it was the  
16 campus, it was the buildings, it was pretty much  
17 everything do you recall that testimony?

18 MR. JONES: Objection. Your Honor this is  
19 all leading.

20 MR. LEVEQUE: The problem Your Honor is  
21 that we agreed to use the same witness for both  
22 cases, and because she is only being called once I  
23 should have the opportunity to ask the questions.

24 THE COURT: This is your -- instead of your  
25 redirect, this is your cross of her on Mr. Jones's

1 direct?

2 MR. LEVEQUE: Would be, I suppose.

3 MR. JONES: I was not going to call  
4 Dr. Sabbath. He can't cross his own witness.

5 THE COURT: So this is redirect. Okay. So  
6 fine.

7 MR. LEVEQUE: You weren't going to call  
8 Dr. Sabbath?

9 MR. JONES: No. I was going to examine her  
10 as part of your direct, after your direct. I do not  
11 intend to call her back.

12 MR. LEVEQUE: (Inaudible.)

13 THE COURT: Okay.

14 BY MR. LEVEQUE:

15 Q. Dr. Sabbath, regardless of whether your  
16 understanding of the promise that Milton made was a  
17 million dollars or \$500,000, did the school accept  
18 Milton's performance, whatever it was?

19 A. Performance?

20 Q. Yes?

21 MR. JONES: Object to the form of the  
22 question, Your Honor. Vague and ambiguous. Calls  
23 for a legal conclusion to the extent it's not.

24 THE COURT: I think performance, and I  
25 think that was Dr. Sabbath's question was probably a

1 term of art. So as a layperson.

2 BY MR. LEVEQUE:

3 Q. Did the school accept whatever he gave?

4 MR. JONES: Object to the form of the  
5 question.

6 THE COURT: Overruled.

7 THE WITNESS: We accepted the money, in my  
8 understanding.

9 BY MR. LEVEQUE:

10 Q. And by accepting the money, did the school,  
11 in turn, promise to name it after him in perpetuity?

12 A. That was in the bylaws that we saw and the  
13 letter -- in the bylaws any way.

14 Q. Okay. Thank you. Should be a binder with  
15 Exhibit 443. Can you turn to that, please. Do you  
16 remember Mr. Jones asking you questions about this  
17 document and whether it refreshed your memory as to  
18 whether the school -- the school agreed to name the  
19 elementary school after Dr. Lubin in perpetuity?  
20 Specifically he directed you, I think, Bates number  
21 402310. If you look at the bottom right, you will  
22 see some numbers, AC402310.

23 A. -310?

24 Q. Yes.

25 A. Oh. This is bylaws.

1 Q. Yes, do you remember him asking questions  
2 about that if it refreshed your memory with respect  
3 to whether the school agreed to name the elementary  
4 school in honor of Dr. Lubin in perpetuity?

5 A. Yes, I see that here.

6 MR. LEVEQUE: Estate moves to admit  
7 proposed Exhibit 443.

8 MR. JONES: No objection, Your Honor.

9 THE COURT: Admitted.

10 BY MR. LEVEQUE:

11 Q. Okay. These bylaws, the first paragraph  
12 states the name of the corporation shall be known as  
13 the Hebrew Academy, aka Milton I. Schwartz Hebrew  
14 Academy, hereinafter referred to as Academy, and  
15 should remain so in perpetuity. Do you see where I  
16 read that?

17 A. Yes.

18 Q. Then it also says: The elementary school  
19 shall be known as the Tamar Lubin Saposhnik  
20 Elementary School, and shall remain so in  
21 perpetuity. Do you see that?

22 A. I do.

23 Q. Were these ever signed?

24 A. I don't remember.

25 Q. Let me ask you this. Is this copy signed?

1 A. No. No.

2 Q. If you could go to Tab 17, please.

3 A. Are you talking to me?

4 Q. Yes. Tab 17?

5 MR. JONES: Tab 17 is an exhibit.

6 THE WITNESS: Exhibit 17.

7 THE COURT: It's a different book. It  
8 should be admitted joint exhibits.

9 THE WITNESS: Yes.

10 BY MR. LEVEQUE:

11 Q. Doctor, Exhibit 17, joint exhibit, has been  
12 admitted into evidence. Do you see that it is  
13 another version of bylaws?

14 A. Bylaws, yes.

15 Q. Do you see section 1.01 states: The name  
16 of the corporation is the Milton I. Schwartz Hebrew  
17 Academy, and will remain so in perpetuity?

18 A. I do.

19 Q. All right. If you could go down to the  
20 bottom of this document, do you see a date when  
21 these were signed?

22 A. Is this whole --

23 Q. Should be the last page of that document.

24 A. Okay. The date that it was signed.

25 Q. Yes.

1 A. April 13, 1999.

2 Q. So this is several years after that draft  
3 we just saw in the bylaws that weren't signed?

4 A. Yes.

5 Q. And in these bylaws, 1999, in article one  
6 do you see any mention whatsoever with respect to  
7 the Dr. Lubin elementary school and whether the  
8 school is going to name it after her?

9 A. I do not.

10 Q. Mr. Jones asked you a question about that  
11 1996 letter -- I'm sorry -- about board meeting  
12 minutes where at least according to the minutes, you  
13 consulted an attorney over removing certain things  
14 about the school, the name, the letterhead. Do you  
15 remember that?

16 A. Is that the one where you are saying that I  
17 thought it wise to consult an attorney.

18 Q. That could have been the language.

19 A. Okay.

20 Q. You thought it might be wise to speak to  
21 Scott Kantor I believe?

22 A. Scott Kantor.

23 Q. Do you remember actually speaking to him?

24 A. I do not.

25 Q. Is it fair to say you don't recall whether

1 he said it was advisable or not advisable?

2 A. I do not.

3 MR. JONES: Your Honor, I hope I can get at  
4 least a minute or two to recross Dr. Sabbath so she  
5 doesn't have to come back, and time is running out.

6 THE COURT: (Inaudible.)

7 MR. LEVEQUE: Thank you, Doctor. Thank  
8 you, Your Honor.

9 THE COURT: Thank you.

10 EXAMINATION

11 BY MR. JONES:

12 Q. I will get you out of here very quickly.

13 A. Thank you.

14 Q. Let me just start with this -- well, the  
15 naming rights, you said this letter 96 you thought  
16 memorialized things you thought were agreed to, but  
17 the only thing you have ever seen that says the name  
18 of the corporation would be in perpetuity, right?

19 A. Is that what the letter --

20 Q. I'm sorry, the bylaws. The bylaws say in  
21 perpetuity. That's the only thing he has shown you  
22 bylaws from 1990 that say in perpetuity and he just  
23 showed you some bylaws from 1999 that say in  
24 perpetuity?

25 A. Correct.

1 Q. And it says the corporation. And again I'm  
2 not going to belabor it and the jury has probably  
3 seen it 30 times so far so I don't know that I need  
4 to put it back up but it always says the  
5 corporation. It doesn't say and I can show it to  
6 you if you like but you don't recall any document  
7 before your letter in 1996 five years after the  
8 fact, that says or six years after the fact,  
9 actually, that says anything about we are going to  
10 name -- put the name on the school in perpetuity, we  
11 are going to put the name on the letterhead in  
12 perpetuity, we are going to put the name on the  
13 monument in perpetuity. All it says is two bylaws  
14 that say we are going to put the name of the  
15 corporation in perpetuity, right?

16 A. I will defer to your memory. That's fair.

17 Q. I appreciate that. I don't want to -- I  
18 want to get you out of here.

19 Doctor there was an air early photograph,  
20 174. Let's put this up, if you can. I think that's  
21 the aerial. If you could blow that up a little bit,  
22 Shane. I will represent to you it's their document  
23 it says Google either 2018. If you look on that  
24 behind you, that building if you look on the screen  
25 behind you?

1 A. Oh, sure.

2 Q. You said over to the right, that was the  
3 auditorium. I will represent to you and I think  
4 there will be witnesses that this is all built by  
5 the Adelsons. But I will represent to you, and let  
6 me show you if I can -- I would like to mark this as  
7 next in order -- Shane do you have that. Before we  
8 do this is what's been marked as 1122. I will  
9 represent that's an aerial photograph from 2002.  
10 You will see -- would you -- can you describe what  
11 that is?

12 A. Oh, I see.

13 Q. Does that look like more what you recall  
14 when you were there, the buildings from above?

15 A. That looks -- yes, that looks accurate.

16 MR. JONES: I move for the admission of  
17 Exhibit 1122.

18 MR. LEVEQUE: No objection.

19 THE COURT: Admitted.

20 BY MR. JONES:

21 Q. So let's put that up on the screen. Blow  
22 that up, if you can, Shane.

23 So if we go back, you will see, one two  
24 three, and then this building over here, that was  
25 the auditorium?

1 A. Yes.

2 Q. Does it refresh your memory, that in fact,  
3 originally, Dr. Lubin's name was right here at  
4 the -- well, first of all, is that the main entry of  
5 the school right where I'm pointing?

6 A. Yes, it is.

7 Q. And Dr. Lubin's name was there but when  
8 Milton Schwartz came back in 96 you took her name  
9 and put it over here on the auditorium and you put  
10 his name up in the front of the main entrance of the  
11 school.

12 A. Is that what we did.

13 MR. JONES: Objection.

14 BY MR. JONES:

15 Q. I'm just asking you I can't testify. Does  
16 that sound familiar?

17 A. It sounds -- I -- I'm sorry, I know his  
18 name went back on the front. I don't remember if or  
19 where we put her name.

20 Q. Okay. Fair enough. So let me just ask you  
21 one other question. Exhibit 17. So blow up that  
22 first paragraph, Shane. This is where again 1999 we  
23 will look back again but this is where it says the  
24 only other document that Mr. LeVeque showed you  
25 where the words "in perpetuity" used, and it

1 references the corporation. Do you see that?

2 A. Yes.

3 Q. Doesn't say the monument, doesn't say  
4 anything else, right?

5 A. Yes.

6 Q. Let's look at the last page again where he  
7 referred to the date. You were still on the board  
8 in 1999, right or still involved with the school?

9 A. I was still the interim director, I think.

10 Q. So now it's 1999. Let's go back up here.  
11 If you look at amendment to bylaws, the bottom of  
12 the page right before the signature, again it says  
13 these bylaws may be amended, altered -- altered,  
14 amended or repealed, and new bylaws may be adopted  
15 by vote of two thirds of the board of trustees with  
16 approval of two thirds of the members do you see  
17 that?

18 A. I do see that.

19 Q. So would you agree with me that even though  
20 the bylaws say in perpetuity, the bylaws also say  
21 the board on a two thirds votes of the members could  
22 take those words off?

23 A. I do see that.

24 Q. Yes. And at that time Milton Schwartz was  
25 actually on that board, wasn't he, 1999?

1           A.     I believe so.

2                   MR. JONES:  Thank you I have no further  
3 questions.  Thank you Dr. Sabbath.

4                   THE COURT:  Ladies before we let  
5 Dr. Sabbath leave you have a chance to ask  
6 questions.  Thank you.  I will talk to counsel up  
7 here.

8                             (Bench conference.)

9                   THE COURT:  In Nevada, Jurors can ask  
10 questions of a witness -- I will read you the  
11 question as written by the jurors.  The first  
12 question is from Juror 8, Giovana Corona-Drouaillet.  
13 Dr. Sabbath, how did you become involved in the  
14 board or the school?

15                   THE WITNESS:  My husband and I were part --  
16 should I address you or the jury.

17                   THE COURT:  The jury.

18                   THE WITNESS:  Sorry about that.

19                   My husband and I became involved in the  
20 Jewish community, part of the young leadership the  
21 Jewish Federation was educated and motivating young  
22 Jewish people to take action in the community to hem  
23 build a community.  We had moved to Las Vegas in  
24 1969.  Our first child was born in '76.  And part of  
25 the motivation of the school was it was expected

1 when Jewish kids went to school, there might be one  
2 or two Jews in a class. We came from the Washington  
3 D.C. area where schools were closed for I don't mean  
4 Kipper. Everybody was Jewish so it was either do  
5 something or maybe our kids wouldn't have the  
6 ability to become educated and to love their  
7 religion. So does that seem -- that answers the  
8 question.

9 THE COURT: Apparently so.

10 This question being from Juror No. 9, Sarah  
11 Langlois: In the letter from 1996, was it a  
12 conscious effort to keep the term, quote, in  
13 perpetuity, close quote, out of it?

14 THE WITNESS: I don't remember. That I do  
15 not remember.

16 THE COURT: Thank you. The next question  
17 then being from juror No. 2 Sarah Sam Alaska. In  
18 reference to the agreement that Mr. Schwartz and the  
19 school had, you mentioned in your testimony on  
20 Friday that it was a gentleman's agreement. What  
21 did you mean by, quote, gentleman's agreement, close  
22 quote?

23 THE WITNESS: Given the fact that I haven't  
24 seen or produced a contract -- I'm assuming this  
25 means the million dollars and the in perpetuity,

1 that may be it was in conversation that this promise  
2 was made. I can only conjecture that and so I used  
3 that phrase a gentleman's agreement between  
4 Dr. Lubin and Mr. Schwartz.

5 THE COURT: Thank you very much. Those are  
6 the questions from the jurors brief follow up from  
7 counsel.

8 MR. JONES: No, Your Honor.

9 MR. LEVEQUE: I do, Your Honor.

10 THE COURT: Okay. Okay.

11 EXAMINATION

12 BY MR. LEVEQUE:

13 Q. Dr. Sabbath with respect to the 1996 letter  
14 that you signed, do you recall if the spirit of the  
15 letter was to omit in perpetuity language?

16 A. I do not. As I had explained to the jury,  
17 I do not remember dealing with that specific piece  
18 in writing that letter.

19 Q. Thank you. And with respect to the third  
20 question, the gentleman's agreement, gentlemen's  
21 agreement I guess is a term of art. Do you believe  
22 that there was an enforceable agreement between the  
23 school and Mr. Schwartz concerning the naming  
24 rights?

25 MR. JONES: Your Honor I'm going to object

1 to that. That clearly calls for a legal conclusion.

2 THE COURT: Sustained.

3 MR. LEVEQUE: Can I rephrase the question?

4 THE COURT: Sure.

5 BY MR. LEVEQUE:

6 Q. In your capacity as a board member, did you  
7 believe that the agreement, the 1989-1990 agreement  
8 with Mr. Schwartz was something the school was  
9 required to be bound by.

10 MR. JONES: Really the same objection, Your  
11 Honor. It's also vague and ambiguous as to what the  
12 parameters or terms of the agreement were that he is  
13 referring to.

14 THE COURT: Sustained. I do think she can  
15 certainly explain what she means by the terms  
16 gentlemen's agreement but short of that, asking  
17 what -- I do think it's a legal conclusion.

18 MR. LEVEQUE: Then I have no further  
19 questions.

20 THE COURT: Dr. Sabbath you should leave so  
21 you can get back to UNLV. It's hard to get there  
22 any time of day.

23 THE WITNESS: Thank you. Thank you jurors.  
24 Thank you for your service. Thank you everyone.

25 THE COURT: We will reconvene at 1.

1 MR. JONES: That's fine Your Honor.

2 THE COURT: We will reconvene at 1:00 p.m.

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

13 Outside the presence of the jury. For the  
14 record, Mr. Jones notes they are not putting their  
15 juror number on it. I will remind them before the  
16 next time that we do need that jury number. I think  
17 Mr. Lee, you have gone back a couple times and  
18 gotten jurors to put their seat number down on their  
19 questions? Because some of these questions they  
20 just have their name, they don't have their seat  
21 number so we will remind them that they need to put  
22 their seat number down.

23 MR. JONES: Your Honor, would you mind,  
24 would it be okay if the court made copies for both  
25 sides of the questions that have been asked so far?

1 THE COURT: Certainly.

2 MR. JONES: Thank you.

3 THE CLERK: Today?

4 MR. JONES: Today and last week.

5 THE COURT: Thanks very much. I will see  
6 you guys after lunch.

7 (Off the record.)

8 THE MARSHAL: Court is back in session.

9 THE COURT: Give us a second, Mr. Lee.

10 THE MARSHAL: Yes, Judge.

11 THE COURT: Who is our next witness.

12 MR. FREER: Jonathan Schwartz.

13 MR. JONES: You are going to call him?

14 MR. FREER: Yes.

15 MR. JONES: Reason I ask is I thought it  
16 was Dorit.

17 MR. FREER: We got an e-mail from Dorit on  
18 Sunday saying she is not available until Friday now.

19 MR. JONES: That's fine. I just was  
20 expecting somebody else. But I understand the  
21 difficulty of scheduling witnesses.

22 MR. FREER: Then Rabbi Wyne I don't think  
23 is available until Thursday now because he is not  
24 available today as well. I apologize. I have to  
25 talk to my staff about communicating to you better.

1 MR. JONES: That's all right. You did say  
2 Jonathan today. I just thought Dorit was going to  
3 go ahead of them. That's not unexpected --  
4 completely unexpected.

5 THE COURT: So how is it looking for  
6 finishing up on Friday?

7 MR. JONES: I think that's unlikely, based  
8 on the pace we are going and with half days Tuesday,  
9 Wednesday, Thursday. I'm obviously thinking about  
10 Mr. Pettit [phonetic]. So it is what it is.

11 THE COURT: Monday being a holiday --

12 MR. JONES: Oh Monday is a holiday.

13 MR. LEVEQUE: Labor Day.

14 MR. JONES: I forgot about that. There is  
15 such a thing as a holiday, Your Honor?

16 THE COURT: There is. So I guess tomorrow,  
17 Mr. Adelson is coming in tomorrow.

18 MR. FREER: Yes.

19 MR. JONES: Mr. Adelson tomorrow and after  
20 that we had by agreement because Mr. Schiffman was  
21 not going to make himself available to anybody  
22 unless he got to come in on Wednesday. He lives in  
23 New York. He is not subject to subpoena power. So  
24 we agreed to split Mr. Schiffman's time equally.  
25 They are going to call him first. And then -- which

1 means he has apparently a wedding and he has made an  
2 agreement with us. I'm not -- he changed his  
3 flight, a red eye. He can stay late, but I'm not  
4 coming unless you guarantee I'm out of here.

5 THE COURT: So he is Wednesday.

6 MR. JONES: And then Thursday your guys.

7 MR. LEVEQUE: Thursday we have -- if  
8 Mr. Schwartz isn't finished today, we could recall  
9 him. We have got other witnesses.

10 MR. FREER: Just for buy agreement Randall  
11 and I talked over the weekend, Mr. Jones, I'm sorry.

12 MR. JONES: That's all right.

13 MR. FREER: About possibly, since we are  
14 calling Mr. Schiffman and Mr. Adelson out of order  
15 to accommodate schedules, even if we finish today,  
16 we may recall Jonathan because we had initially  
17 intended to have him last.

18 MR. JONES: I understand that, Your Honor.  
19 That screws up their strategy and it's an  
20 accomodation. I appreciate the accomodation for the  
21 witness.

22 THE COURT: So if we start tomorrow at 1,  
23 and Wednesday at 1.

24 MR. JONES: Can't hurt.

25 THE COURT: And tell the jury that we may

1 be staying how late.

2 MR. FREER: Finish up Adelson and Schiffman  
3 if we want to try to throw another witness or two on  
4 Wednesday or Thursday?

5 THE COURT: I'm trying to figure out how  
6 much time, given house loads.

7 MR. FREER: I don't think Mr. Adelson --

8 MR. JONES: He doesn't have that much  
9 testimony anything other than relative to the naming  
10 issue. Just after that I assume you are talking  
11 about.

12 MR. LEVEQUE: Yes.

13 MR. JONES: You guys -- I mean, if we could  
14 put -- well, part of the problem is Dorit Schwartz.  
15 I can't be here until later any way, right.

16 MR. FREER: I think we could do Wyne on  
17 Tuesday.

18 MR. JONES: Anybody else we can do, let's  
19 do. I agree. Let's get them in here.

20 Since it's their case -- and I don't mean  
21 this in the negative -- calling the witnesses out of  
22 order --

23 THE COURT: We can certainly tell the  
24 jury --

25 MR. JONES: If you know who else you are

1 going to call, let me know so I'm ready for them.

2 THE COURT: We will tell the jury make a  
3 note Mr. Adelson is being called in order to work  
4 out the schedules, he is being called in the  
5 school's -- are you calling him and you are going to  
6 question him first.

7 MR. JONES: I won't call him. I don't  
8 think I need to call him again. Actually they had  
9 subpoenaed him so I assume they wanted him in their  
10 case in chief any way so this may not have been the  
11 optimum way to call him?

12 MR. FREER: We have.

13 MR. LEVEQUE: Sam Ventura I can't imagine  
14 is going to take very long. Neville Pokroy who will  
15 take even less.

16 MR. FREER: Dorit.

17 MR. LEVEQUE: Dorit Schwartz.

18 MR. FREER: About a half hour.

19 MR. LEVEQUE: We got e-mail from Dorit --

20 MR. JONES: I know.

21 MR. LEVEQUE: Okay.

22 MR. JONES: My witnesses are the same kind  
23 of witnesses, Your Honor, to the extent that I call  
24 anybody I told them they should be pretty short  
25 witnesses, half hour, meaning that that will be at

1 least 45 minutes in lawyer time, but still.

2 THE COURT: I guess that's something I  
3 guess we could discuss is do we want -- we will  
4 start at one we are on to start at one all next  
5 week. Move to start earlier if we can. So one.  
6 And then maybe we want to see if we can -- people  
7 can stay until --

8 MR. JONES: Little later.

9 THE COURT: Five 30 or --

10 MR. JONES: If the court can have us go  
11 until five 30, every little bit will help. Based on  
12 what I'm hearing, the longest witness you are going  
13 to have is Mr. Schwartz.

14 THE WITNESS: Yes.

15 BY MR. LEVEQUE:

16 Q. So and I assume my cross will be  
17 commensurately as long or close to. Otherwise, all  
18 of the other witnesses I think are going to be  
19 relatively short. So at least it's theoretically  
20 possible and you all tell me if you disagree we have  
21 all day Friday. We might, if we get lucky finish  
22 the witnesses by Friday and then do closings on  
23 Tuesday, which shouldn't be a problem for  
24 Mr. Pedestrian difficult because his classes are  
25 Monday, Wednesday and Friday. And so he wouldn't

1 have to miss class on Monday because it's holiday.  
2 We can do closings on Tuesday. Then -- so I think  
3 the goal ought to be trying to get all of our  
4 witnesses done this week. My witnesses, again, I  
5 think Mr. Schiffman is the only other witness that's  
6 going to take a little bit longer than some of the  
7 other people that are pretty short. That would be  
8 my guess?

9 THE COURT: Of all of them, if we can't  
10 stay every night a little bit late, he is the one  
11 who if we need to we should warn him to stay late.

12 MR. JONES: That's correct.

13 THE COURT: Because he is only available  
14 and we will need to -- he is taking a red eye in  
15 order do this.

16 MR. JONES: Right.

17 MR. LEVEQUE: Four hours we will get him  
18 done.

19 MR. JONES: If each side could get two  
20 hours, then that takes us, you know, if we start at  
21 one, we can actually both go until five and take two  
22 hours. I think I could do mine in two hours.

23 MR. LEVEQUE: I'm pretty sure I can too.

24 THE COURT: Well, perhaps what we could do  
25 is when they come in here, we will tell them that we

1 are hoping that if we can stay maybe as late at  
2 5:30, no longer than 6 on Tuesday and Wednesday, we  
3 have Adelson, who we need to finish in one  
4 afternoon, one to whatever. Same with Mr. Schiffman  
5 who is traveling from out of state to do this.  
6 Those will be the only two nights for sure we will  
7 need to keep them but to be prepared and we would  
8 hope to be no later than. Our goal is 530 but if we  
9 can get it done before six we can do those  
10 particular people.

11 MR. LEVEQUE: Your Honor, between now and,  
12 I guess, Tuesday, if we are lucky, is settling the  
13 jury instructions and our verdict forms.

14 MR. JONES: We can do that on Tuesday  
15 morning, theoretically.

16 MR. LEVEQUE: It's if a half day.

17 MR. JONES: Half day. That's being  
18 optimistic. Sometimes settling juror instructions  
19 takes longer than -- we -- at least we have some  
20 time to do it I can it's going to be getting it  
21 ready in time.

22 MR. LEVEQUE: That's our problem.

23 THE COURT: As soon as you have them let me  
24 start looking through them. So we will let them  
25 know.

1           We will bring them in then, we will let  
2           them know the plan. Do we have the book that you  
3           need for Mr. Schwartz in front of him over here?

4           THE CLERK: They were going to check  
5           earlier. I think they do. Do you guys know what  
6           exhibits you are going to be using.

7           THE COURT: There is a book in front of him  
8           over here.

9           THE CLERK: That's the joint.

10          THE COURT: That's the joint.

11          MR. FREER: Book one.

12          THE CLERK: Volume I.

13          MR. FREER: So joint, the estate, and then.

14          THE COURT: Ladies and gentlemen, I hope  
15          you enjoyed the lunch break. We are back on the  
16          record. Counsel are present with their clients.  
17          Counsel stipulate to the presence of the jury.

18          (Stipulated.)

19          THE COURT: In talking to counsel before  
20          you came in there are two witnesses other than  
21          today's witness, two witnesses scheduled for Tuesday  
22          and Wednesday who have to be finished in that period  
23          of time. So starting at 1:00 p.m. we may run a  
24          little past 5:00 p.m. so we are going to give you a  
25          heads up Mr. Adelson is scheduled for tomorrow he

1 needs to be done tomorrow and then another witness  
2 Dr. Schiffman, another head of school who is  
3 traveling from out of state and taking a red eye I  
4 mean he has to be somewhere for a wedding. He is  
5 only available Wednesday. So we are going to try to  
6 get those two folks done in the time we have  
7 available but I'm giving you a heads up on those two  
8 particular witnesses. We are ready to start now.  
9 Mr. LeVeque or Mr. Free man.

10 MR. FREER: It will be me.

11 THE COURT: Mr. Freer is going to call his  
12 next witness.

13 MR. FREER: Your Honor, the estate calls  
14 Jonathan Schwartz.  
15 Whereupon --

16 JONATHAN SCHWARTZ,  
17 having been first duly sworn to testify to the  
18 truth, was examined and testified as follows:

19 THE WITNESS: I do.

20 THE CLERK: Please be seated. Please state  
21 and spell your last name for the record.

22 THE WITNESS: A. -- my legal first name,  
23 S-C-H-W-A-R-T-Z.

24 THE CLERK: Your first name is?

25 THE WITNESS: My legal name is A. Jonathan

1 Schwartz.

2 THE CLERK: Thank you.

3 EXAMINATION

4 BY MR. FREER:

5 Q. The A doesn't stand for anything; it's just  
6 A period?

7 A. Correct. Kind of like F. Scott Fitzgerald,  
8 that type of thing.

9 Q. Jonathan why don't we start with a little  
10 bit of background information to give the jury a  
11 chance to know you a little bit. How old are you?

12 A. I am 48 as of August 5th.

13 Q. What's your birth date?

14 A. August 5, 1970.

15 Q. You are Milton's son obviously. Do you  
16 have any children?

17 A. I have four.

18 Q. What are their ages?

19 A. I have twin boys who are identical twin  
20 boys who are four. I have a nine year old, and I  
21 have a 14 year old. Two girls, two boys.

22 Q. What's your current occupation?

23 A. I'm an executive.

24 Q. For what companies?

25 A. I own several companies, everything from

1 real estate investment and development to  
2 transportation companies, advertising, banking. I  
3 own small pieces of several businesses.

4 Q. Why don't we get into a little bit of a  
5 timeline of your relationship with your father.  
6 What was your relationship like with your father  
7 from the time you were born until the start of high  
8 school, which would be, what, 1984?

9 A. My parents were divorced when I was very,  
10 very young. My mom lived in Los Angeles. My father  
11 lived in Las Vegas. Despite that, my dad and I were  
12 extremely close. Either I traveled to Las Vegas or  
13 he traveled to Los Angeles at least once a month,  
14 sometimes several times a month. From the youngest  
15 age I can remember, my parents -- my mother would  
16 stick me on -- in those days what was a western  
17 airlines flight and I would travel by myself from  
18 Los Angeles to Las Vegas to spend time with my dad.  
19 For many, many years, my dad and I took a really  
20 long trip together at Christmas break. We would  
21 spend three or four weeks together traveling  
22 somewhere. In the summers, we would take another  
23 long trip. Even though my parents were divorced,  
24 they had sort of a very strange relationship. They  
25 were very, very close to one another. And it was

1 important to them that we remain close as a family,  
2 despite the fact that they were divorced. So -- and  
3 when I say strange, if my mother was planning a trip  
4 to go somewhere my dad would say yeah I'm going to  
5 come. And that's what would happen. So we would go  
6 as a family. Sometimes the trip would be my father  
7 with his then wife at the time, my mother with her  
8 then boyfriend at the time, and everyone got along.  
9 And it was to, you know, spend -- they wanted us to  
10 spend time together. So I spent a ton of time  
11 together with my dad growing up.

12 Q. For the four years of your high school,  
13 which would be '84 to '88, what was your  
14 relationship like with your father during that  
15 period of time?

16 A. It continued the same way. When I came to  
17 Las Vegas, I would spend literally the whole day  
18 with my dad. We would get up in the morning, we  
19 would do some sort of support activity really early  
20 in the morning. We are both early risers. We would  
21 be at Las Vegas Country Club as the son was coming  
22 up. We would be in the office by 8:30, 9:00 a.m.,  
23 and I would literally go everywhere with him. If  
24 there was. And I sat at his desk with him growing  
25 up. He had this massive L-shaped desk that he built

1 for a company that he was involved with in the 50s  
2 and he would want me to sit right there at the desk  
3 with him. And because most of the companies he was  
4 involved with he owned or he owned a portion of, no  
5 one could say it wasn't bring your kid to workday.  
6 Every day was bring your kid to workday. So I spent  
7 the whole day with him everywhere he went, from  
8 political meetings to negotiations, to union  
9 meetings to, you know, just sitting there hearing  
10 him do business every day. I literally grew up with  
11 him going to ever place with him from the time I was  
12 a little kid up to the time he passed away.

13 MR. JONES: Your Honor I want to interject  
14 I'm trying to avoid objections because I don't want  
15 to do that, but these questions are calling for a  
16 narrative answer and I believe they have gone far  
17 beyond the question asked. Because of the rules of  
18 evidence I want to --

19 THE COURT: Thank you.

20 MR. FREER: Your Honor we will speed this  
21 up I'm just trying to lay a foundation with respect  
22 to type of relationship they had and the close  
23 interaction they had because obviously that's going  
24 to become relevant later.

25 THE COURT: Mr. Jones point well taken

1 answers are beyond the scope of the question.

2 MR. FREER: All right.

3 BY MR. FREER:

4 Q. Jonathan, let's turn your attention to  
5 1989. What were you doing at that period in your  
6 life with respect to going to school and where you  
7 were living?

8 A. I was at UCLA at the time, and, again,  
9 traveling back and forth to Las Vegas.

10 Q. And you have sat here through the trial.  
11 You have heard that August of '89 Milton, your dad  
12 entered into a deal with the school. In 1989 during  
13 that period of time, what was your personal  
14 knowledge about that deal that your father had with  
15 the school?

16 A. From --

17 MR. JONES: I'm just going to -- I'm sorry,  
18 Mr. Schwartz.

19 THE WITNESS: I will wait for your  
20 objection, no problem.

21 MR. JONES: For the record my objection is  
22 the term is deal is vague and ambiguous as to what  
23 that means.

24 THE COURT: Okay. So I think you had  
25 defined it as --

1 MR. FREER: The agreement between.

2 THE COURT: And his donation.

3 MR. JONES: Yes Your Honor.

4 THE COURT: His personal knowledge.

5 MR. JONES: So it's clear for the record,  
6 and I'm sorry to interrupt Mr. Freer, I just don't  
7 want there to be a miscommunication or  
8 misunderstanding of course we can test what the deal  
9 was that's why I'm making the objection.

10 THE COURT: Just with respect to --

11 MR. JONES: Thank you.

12 THE COURT: His father's donations. That's  
13 our general topic. Thank you, Mr. Freer.

14 BY MR. FREER:

15 Q. Do you want me to rephrase the question?

16 A. Please.

17 Q. So in August of 1989 what was your personal  
18 knowledge about the donation that your father made  
19 and the naming rights that he may or may not have  
20 received with the school?

21 A. Specifically if you are asking me about my  
22 knowledge in August of 1989, in discussions with my  
23 dad at the time, my understanding was that my dad  
24 was making a large donation, and the school was  
25 moving from its location --

1 MR. JONES: I'm sorry, Mr. Schwartz, I  
2 apologize. Interpose an objection that the  
3 foundation for his testimony is all based on  
4 hearsay. The question was his personal knowledge.  
5 He has no personal knowledge. He has knowledge from  
6 a third party. And Your Honor, therefore, I would  
7 have to object and move to strike that answer as  
8 nonresponsive. And also, based on improper hearsay.

9 THE COURT: All right. So to the extent  
10 when you said personal knowledge, Mr. Freer.

11 MR. FREER: Correct. And I was going to  
12 get into what his personal knowledge was based on.

13 THE COURT: Lay that foundation.

14 MR. FREER: Okay.

15 BY MR. FREER:

16 Q. Jonathan, what was the basis of your  
17 personal knowledge?

18 A. I visited the land where the campus was  
19 being built with my father, and I had discussions  
20 with my father about it. I had personal knowledge  
21 from going to the building site of the school.

22 Q. What was your dad's mood with respect to  
23 his donation that he had entered into and the naming  
24 rights he was receiving from the school?

25 A. He was extremely proud that the school was

1 going to be known as the Milton I. Schwartz Hebrew  
2 Academy in perpetuity. It was other than his four  
3 kids, the most important thing in his life.

4 Q. Did your father at that time ever express  
5 to you what his understanding of the arrangement  
6 was?

7 A. In 1989, yes.

8 Q. What did he express to you?

9 MR. JONES: Your Honor I would have to  
10 object that calls for impermissible hearsay.

11 THE COURT: Yes.

12 MR. FREER: With respect to that, though,  
13 part of our claims are with respect to his  
14 understanding because that goes towards whether or  
15 not there was a mistake in gift and that end up.

16 THE COURT: Approach.

17 (Bench conference.)

18 THE COURT: Thank you very much, we are  
19 going to have that question rephrased, Mr. Schwartz.

20 MR. FREER: Thank you Your Honor.

21 BY MR. FREER:

22 Q. Now, Jonathan, what was your understanding  
23 of what your father believed the terms of his  
24 arrangement with the school were?

25 A. That the school was going to be named the

1 Milton I. Schwartz Hebrew Academy in perpetuity, and  
2 that with that agreement, there were naming rights  
3 over the entire campus on Hillpointe, that his name  
4 was going to be on the letterhead of the school, his  
5 name was going to be on the pediment of the  
6 building. His name was going to be at the entrance  
7 to the school. I specifically recall the former  
8 sign at the entrance of the school. And that the  
9 school was going to publicly be known as the Milton  
10 I. Schwartz Hebrew Academy forever.

11 Q. How did your father -- what is your  
12 understanding with respect to your father's  
13 dedication to the Milton I. Schwartz Hebrew Academy?

14 A. He was incredibility dedicated to the  
15 school. He was involved with the school on a daily  
16 basis. It wasn't just, you know, write a big check  
17 and get some naming rights. He was involved with  
18 the day to day operations of the school. I remember  
19 he had a speakerphone in his car. I remember being  
20 in the car with him and him getting phone calls  
21 about parents requesting scholarships, about hiring  
22 staff members, about raising money. He was  
23 constantly raising money for the school to keep it  
24 operating. These kind of schools never cover their  
25 operating expenses, so every single summer, the

1 school would be at a deficit and my dad would get on  
2 the phone and raise a bunch of money from people,  
3 and he would write a large check himself to keep it  
4 operating. So he was dedicated to it like it was  
5 one of his businesses. He was managing at times, on  
6 a daily basis.

7 Q. How did your father refer to the Milton I.  
8 Schwartz Hebrew Academy?

9 MR. JONES: Your Honor hate to say it but  
10 that is clearly directly hearsay.

11 THE COURT: Sustained.

12 THE WITNESS: I'm sorry, Your Honor I  
13 didn't hear you.

14 THE COURT: Sustained.

15 BY MR. FREER:

16 Q. Did you ever hear your father -- what was  
17 your understanding with respect to your -- the words  
18 in perpetuity with respect to the Milton I. Schwartz  
19 Hebrew Academy?

20 A. It was incredibly important to him. He  
21 would say it with emphasis, underlined. I can -- I  
22 can hear it in my head right now, he would always  
23 say this, Milton I. Schwartz Hebrew Academy --

24 MR. JONES: I'm sorry to cut you off but  
25 what your father said I would object to as being

1 hearsay.

2 THE COURT: I think that's again a good  
3 point with respect to time.

4 MR. FREER: Okay.

5 BY MR. FREER:

6 Q. So between '89 and '92?

7 MR. JONES: Thank you, Your Honor.

8 BY MR. FREER:

9 Q. How -- what was your understanding of how  
10 your father referred to the Milton I. Schwartz  
11 Hebrew Academy?

12 A. He would say, Milton I. Schwartz Hebrew  
13 Academy in perpetuity with emphasis added to in  
14 perpetuity.

15 MR. JONES: Your Honor just for the record  
16 and I apologize Mr. Schwartz I know you are just  
17 trying to do your best and I apologize I'm just  
18 trying to do my job. For the record, Your Honor, I  
19 have to interpose my objection so at least it's  
20 there on the record.

21 THE COURT: Sure of course.

22 MR. JONES: Thank you, Your Honor.

23 THE COURT: With respect to that --

24 THE WITNESS: Can I finish.

25 THE COURT: No, I think we are done.

1 THE WITNESS: Okay.

2 BY MR. FREER:

3 Q. Jonathan, let me draw your attention to  
4 1992. What were you doing in and around  
5 December 1992?

6 A. 1992, I was still in college so I was still  
7 in college I didn't graduate until 1993.

8 Q. Where did you go to school at?

9 A. UCLA.

10 Q. You have heard there is a lawsuit filed  
11 with respect to your dad and the other board. Do  
12 you have an understanding of that lawsuit that  
13 occurred in 1992?

14 A. My only understanding is that there was a  
15 dispute regarding two competing boards of the  
16 school. I also understand that there was some  
17 debate, I believe, about the naming rights at the  
18 time, but I do not have -- I was not directly  
19 involved.

20 Q. And that was my next question. Is what did  
21 you base that understanding on?

22 A. Something that Mr. Jones will probably  
23 object to. Discussions with my dad.

24 MR. JONES: Just so you are clear  
25 Mr. Schwartz, I don't object to information on that

1 you base it on but if you said what your dad said  
2 that's what I have to say.

3 THE WITNESS: I will wait for you to object  
4 I'm sorry.

5 MR. JONES: I'm certainly not trying to be  
6 rude.

7 THE WITNESS: I know you are not.

8 BY MR. FREER:

9 Q. We are just in a bizarre of probate where  
10 we talk about intent and we have people that aren't  
11 able to speak for themselves so we have to navigate  
12 that within the realms of evidence and talk about  
13 what your understanding is with respect to that.

14 Do you have any understanding as to what  
15 your father's mood was with respect to that  
16 litigation?

17 A. He was very upset about it. He was  
18 depressed and sad about the whole thing.

19 Q. Now, what were you doing in or around --  
20 let me call your attention to April 1994. What were  
21 you doing in April of 1994?

22 A. April of '94 I was in my first year of law  
23 school at Northwestern.

24 Q. And if you recall from the other testimony  
25 that we have heard around that time, the school

1 voted and removed your father's name. Do you have  
2 any understanding of that event?

3 A. I recollect that he was off the board, and  
4 that he was upset about it.

5 Q. What do you base that understanding on?

6 A. Visits I had with him at other schools and  
7 discussions I had with him at the time, other Jewish  
8 schools in town.

9 Q. Were there any event that occurred in 1994  
10 that changed your relationship with your father?

11 A. My father became very ill in the summer  
12 of 1994 between my first and second year of law  
13 school. He was diagnosed with bladder, prostate,  
14 and colon cancer. And we became even closer as a  
15 matter of necessity is the advice we got from his  
16 doctors was that he wasn't going to live a long  
17 time.

18 Q. And so after that diagnosis -- about when  
19 did that diagnosis occur?

20 A. I think August of 1994, July or August.

21 Q. And after that diagnosis, did anything  
22 change with respect to your relationship between you  
23 and your father?

24 A. We started working together much more  
25 closely. My dad had a lot of operating businesses.

1 And it became imperative that someone in the family  
2 know what was going on with all of those businesses.  
3 So if he didn't survive the surgery that he had to  
4 have that summer, or that someone knew what was  
5 going on. So I was sort of drafted into that role  
6 very, very fast. I started traveling to Las Vegas  
7 more. We just, you know, started having almost  
8 daily conversations.

9 Q. Now I think you just mentioned that you  
10 accompanied your father to another school in the  
11 period of 1992 to '96. Can you tell me about that?

12 A. When my dad was off the board of the Milton  
13 I. Schwartz Hebrew Academy, he continued to be  
14 devoted to Jewish education and wanted to be  
15 involved in another school, and started to do what  
16 he would refer to as due diligence on I think it was  
17 called the Jewish community day school on the east  
18 side of town because he wanted to be involved, and  
19 wanted to leave -- have an affiliation with another  
20 Jewish school, and was pursuing naming rights with  
21 another school.

22 Q. Do you know who your father met with during  
23 that period of time, during that visit?

24 A. My best recollection is that we went to  
25 visit the school on the east side of town, I believe

1 Sam Ventura was there. I believe we met with the  
2 director of the school at the time, whose name  
3 escapes me. It's a long time ago.

4 Q. Now we talked -- you have heard in this  
5 trial that in around May 1996, there was a  
6 reconciliation we just heard that with Dr. Sabbath.  
7 What were you doing in or around May of 1996?

8 A. May of 1996 would have been my last year of  
9 law school, and I remember it happening, if that's  
10 your question.

11 Q. Let's get a little background in terms of  
12 your relationship with your dad in May of 1996.  
13 Approximately how often were you talking to him?

14 A. So in May of '96, I had actually  
15 transferred -- I graduated from northwestern the  
16 university school of law which is in Chicago. But  
17 my last year of law school I did what's called  
18 visiting away. Jesuit schools have a relationship  
19 where you can transfer from one school to the other  
20 so I transferred to Loyola law school in Los Angeles  
21 so I could be closer to Las Vegas for the business  
22 because we were, again, I was conversing with him  
23 every day and traveling there as much as I could.

24 Q. Did you have any understanding of how your  
25 father felt in May of 1996 when he received the

1 Roberta Sabbath letter?

2 A. He was ecstatic? He was overjoyed to be --  
3 for that dispute to be resolved.

4 Q. Do you have any understanding of what your  
5 father believed that letter offered him?

6 MR. JONES: Your Honor, I object to  
7 relevance of that, relates to alleged naming rights  
8 agreements, context of other facts of this case.

9 THE COURT: Overruled. I will let him  
10 answer.

11 THE WITNESS: He believed it further  
12 spelled out or memorialized the terms of the  
13 agreement, what he was supposed to receive for the  
14 donation he made and the work that he had done and  
15 fundraising that he done.

16 BY MR. FREER:

17 Q. I'm pulling up Exhibit 139. We have seen  
18 this a couple times today. I just want to ask, do  
19 you have any understanding of the terms of those  
20 provisions on the basis of discussions with your  
21 father?

22 A. When?

23 Q. In or around 1996.

24 A. In 1996, I simply knew that he had resolved  
25 it and that he was back on the board and that they

1 had confirmed that it was going to be the Milton I.  
2 Schwartz Hebrew Academy in perpetuity in '96.

3 Q. Are you aware of any actions that your  
4 father took after receiving that letter?

5 A. He went back on the board, and he started  
6 resuming donations to the school.

7 Q. Now, I believe in the first day,  
8 Ms. Pacheco previously testified that your father  
9 would spend his afternoons working on items relating  
10 to Milton I. Schwartz Hebrew Academy. Do you agree  
11 with that testimony?

12 MR. JONES: Your Honor object lacks  
13 foundation, first of all as to time. Vague as to  
14 time and lacks foundation as to his presence.

15 MR. FREER: All right we can go ahead and  
16 establish that.

17 THE COURT: Thank you Mr. Freer.

18 BY MR. FREER:

19 Q. In 1996, you were in Loyola how often did  
20 you come to Las Vegas?

21 A. At least once a month.

22 Q. And when you were in Las Vegas, how  
23 often -- how long you would stay?

24 A. Sometimes a couple weeks; sometimes three  
25 days; sometimes a week. It varied depending on the

1 time of the year and what my school schedule was.

2 Q. And when you were in Las Vegas, did you  
3 work at your dad's office?

4 A. Yes, I would go to the office with him.

5 Q. Describe the family office that was in  
6 existence in 1996.

7 A. It was a very small -- in 1996, let me  
8 think, where would that have been? I believe that  
9 was on gold ring but regardless they were all pretty  
10 much the same. My dad owned -- used to own valley  
11 hospital, but even after he sold it in the  
12 early '80s, he continued to own a lot of the medical  
13 offices around the hospital, including some raw  
14 pieces of land with little houses on them from the  
15 40s and 50s and he would simply put his personal  
16 offices in one of these vacant houses. So the  
17 office was a very small building with my dad, his  
18 assistant, Susan, who everybody met the other day,  
19 and there was an office for me as well. I think in  
20 all that time there was one other person in the  
21 office briefly.

22 Q. When you were at the office, did you have  
23 the opportunity to observe your father working in  
24 the afternoons for the Milton I. Schwartz Hebrew  
25 Academy?

1 A. Yes.

2 Q. So as to your knowledge, and your  
3 experience, being at the office with your father, do  
4 you agree with Ms. Pacheco's statement that your  
5 father spent the afternoons working on the Milton I.  
6 Schwartz Hebrew Academy?

7 MR. JONES: Objection, Your Honor. This is  
8 all leading.

9 MR. FREER: I asked it opened ended. He  
10 wanted foundation. I was just trying to hurry  
11 things along.

12 THE COURT: Appreciate that. Try and  
13 figure out which way to go is challenging. So I  
14 will permit that.

15 THE WITNESS: Yes, I would agree to it --  
16 agree with her representation. I was in the office  
17 many afternoons. My father did most of his business  
18 on speakerphone. His hearing was not perfect, so  
19 that speakerphone was cranked way up. Everyone who  
20 was in the office could hear everything he was  
21 doing. He never closed the door. He spent a lot of  
22 afternoons working on Hebrew Academy stuff.

23 MR. JONES: Again, I'm sorry I have to  
24 object about going beyond the question asked of him.

25 THE COURT: That's a good point. If you

1 can just answer the question that's asked and maybe  
2 move along faster.

3 MR. JONES: Thank you Your Honor.

4 BY MR. FREER:

5 Q. Jonathan, let's talk -- before we talk  
6 about so from 1996 until 2004, did you continue that  
7 same type of relationship with your father where you  
8 were in the office for several days of the week?

9 A. Well, in 1996, when I graduated from law  
10 school, then I started business school, and it  
11 increased I started to come to Vegas weekly for at  
12 least three days a week. I was in an executive MBA  
13 program and so when I wasn't in school, I was in  
14 Vegas so I started to spend more time.

15 Q. Now directing your attention to 2004  
16 because obviously we are talking about a 2004 will  
17 so I'm going to focus your attention on 2004.

18 From your interactions with your father,  
19 did you come to an understanding of his thoughts and  
20 intentions regarding charitable giving?

21 A. Yes.

22 Q. And what is that understanding?

23 A. From what date are you talking about?

24 Q. In as of 2004.

25 A. In 2004, he drafted -- he dictated --

1 Q. Let me rephrase my question, Jonathan.

2 A. Uh-huh.

3 Q. In 2004, based on your interactions with  
4 your father, did you have an understanding of what  
5 your father -- his beliefs were with respect to  
6 giving to charity?

7 A. Yes.

8 Q. And what was that understanding?

9 A. He thought it was part of your duty as a  
10 member of the community to give to charity, and as  
11 an observant Jew given to a Jewish educational  
12 institute was the highest form of charity.

13 Q. What is that understanding based upon?

14 A. From my discussions with him, my  
15 understanding is that giving to a school elevates  
16 one's soul in the eyes of God. The highest form of  
17 charity, according to my father, was giving to a  
18 school that teaches little Jewish kids to be  
19 observant Jewish adults. To Mary other Jewish  
20 people. And quite frankly, to, you know, be  
21 fruitful and multiply and continue the Jewish  
22 culture. That's what this is all about. It's what  
23 et cetera all about in the end.

24 Q. There your interactions with your father as  
25 of 2004, did you have an understanding concerning

1 your dad's desire to be recognized for charity?

2 A. Yes. I mean, being recognized was  
3 extremely important to him. You just needed to walk  
4 into our office to see that and talk to him. Every  
5 major gift he gave was connected to naming rights or  
6 being recognized in some way.

7 Q. Now you just said walking into the office.  
8 What do you mean by just walking into the office?

9 A. In our office on Duneville -- again, this  
10 is another house that we converted to an office --  
11 there was a long hallway, maybe 30 feet long, 30,  
12 40 feet long. It was covered in plaques regarding  
13 my dad's charitable giving literally from the  
14 ceiling to the floor, hundreds of plaques with his  
15 name on it. Getting recognized for his charitable  
16 giving very, very important to him. You can call it  
17 vein, you can call it whatever you want. It was  
18 important to him.

19 Q. Are you aware of any time that your dad  
20 required his name to be associated with a donation?

21 A. I can't think of a time where he didn't.

22 Q. Do you have any specific recollections of  
23 donations tied with the names?

24 A. Numerous. How many would you like?

25 Q. Let's start with one.

1           A.     I would remember as a little kid at Temple  
2 Beth Sholom in Las Vegas, there was a list on the  
3 wall with brass placards and it would show knows who  
4 had given the most amount of money. And my dad was  
5 very proud. He would -- you know, go over and point  
6 to it, our name on the wall. I remember going to  
7 dedications at our temple for rooms when the temp  
8 was moved from its location on the east side of town  
9 to Summerlin where he -- his name was on one of the  
10 rooms in the temple. I remember going to another  
11 dedication of a room at Rabbi Wyne's temple on -- I  
12 think that's Sahara. He wanted his name connected  
13 to charitable giving, for numerous reasons.

14           Q.     So in 2004, did your father -- to your  
15 knowledge, did your father do any estate planning?

16           A.     Yes.

17           Q.     And what was that?

18           A.     He created a new will in 2004.

19           Q.     We are going to pull up Exhibit 22 which  
20 has already been preadmitted. As you can tell, Alex  
21 is running the technology because I'm ignorant when  
22 it comes to technology.

23           A.     It's a little blurry.

24           Q.     Are you able to enlarge that?

25           A.     Now I can see it. Could be me.

1 Q. Do you recognize this document?

2 A. It's his will.

3 Q. And by the way, you can turn to Exhibit 22  
4 if you want a clearer copy.

5 A. I'm just looking for his signature. Yes,  
6 this is his 2004 -- yeah, February 2004 will.

7 Q. Did you have any involvement with the  
8 drafting of this will?

9 A. He dictated it to me.

10 Q. Can you describe that situation where you  
11 were taking dictation?

12 A. He took the preexisting copy of his will  
13 and all of the codicils to it and studied it for  
14 several days and called me into his office and  
15 dictated what he wanted.

16 Q. Do you have an understanding as to why your  
17 father chose to dictate changes to his will to you  
18 as opposed to sending it to an attorney?

19 A. He did send it to an attorney -- outside  
20 attorney. He dictated it to me because it was  
21 easier, faster, and he had done it in the past, and  
22 had experience with doing it. Plus I did go to law  
23 school so I assume he wanted some return in his  
24 invested capital by having me do it.

25 Q. Did you provide any advice to your father

1 with respect to the drafting of the will?

2 A. I wouldn't call it advice. We discussed  
3 the terms of it, but I just didn't feel it was my  
4 place to tell him what to do in his will, so I --

5 Q. I'm going to draw your attention to  
6 paragraph 2.3 of the will which is the paragraph at  
7 issue in this litigation. Did you have discussions  
8 with your father about paragraph 2.3?

9 A. Yes.

10 Q. And what were those discussions?

11 MR. JONES: Your Honor, again, I'm going to  
12 have to Abbot as relates to the hearsay statements.  
13 I understand his understanding of things, but I  
14 think his specific statements are --

15 THE COURT: I think it's (inaudible) so I  
16 will overrule.

17 BY MR. FREER:

18 Q. I will rephrase the question.

19 A. Thank you.

20 Q. What were the discussions you had with your  
21 father concerning 2.3?

22 A. That he wanted \$500,000 to go to the Milton  
23 I. Schwartz Hebrew Academy, and that he didn't want  
24 it to go anywhere else.

25 Q. In drafting the will, what language did

1 your father use or not use to carry out that  
2 intention?

3 MR. JONES: Your Honor object to the form  
4 of the question. The will has been probated. It's  
5 in evidence. I would object to any testimony that  
6 contradicts the plain language of the will. What he  
7 intended in the will is in the will so I don't know  
8 how this witness could somehow or other dispute what  
9 they probated at the language in the will.

10 THE COURT: Right.

11 MR. FREER: My question was what language  
12 did he use or not use to exhibit that intent.

13 MR. JONES: There it is.

14 THE COURT: So with respect to his father?

15 MR. FREER: Yes.

16 THE COURT: I think Jonathan has said he  
17 didn't feel it was his place to tell him father and  
18 the will is dictated. Now you are asking Jonathan.

19 MR. FREER: Yes.

20 THE COURT: In those discussions what he  
21 explain why he was using certain language.

22 MR. FREER: Correct.

23 THE COURT: That's maybe a little easier.

24 MR. JONES: That's a different question  
25 Your Honor and there is a distinction.

1 THE COURT: I'm assuming what Mr. Freer to  
2 mean that's what I understood him to mean. To the  
3 extent we have a background, Milton dictated this so  
4 it's Jonathan's understanding based on talking to  
5 him about what language -- his choice of language.

6 MR. FREER: Absolutely.

7 THE COURT: Milt tonight's language.

8 Okay. We are good to go.

9 THE WITNESS: Thank you Your Honor.

10 With regard to the first sentence, I had a  
11 specific discussion with him as to whether or not he  
12 wanted a successor clause after the term Milton I.  
13 Schwartz Hebrew Academy, and he said no.

14 BY MR. FREER:

15 Q. And Jonathan, for the members of the jury,  
16 what is a successor clause?

17 A. It means that the gift would go to an  
18 organization that existed after the Milton I.  
19 Schwartz Hebrew Academy. If there was -- if the  
20 Milton I. Schwartz Hebrew Academy didn't --

21 MR. JONES: I'm sorry, Mr. Schwartz. I'm  
22 slow on the draw but I still want to get the answer  
23 out Your Honor that clearly calls for legal  
24 conclusion and that would be handled with jury  
25 instructions from the court so I would object to

1 Mr. Schwartz's understanding of a successor.

2 THE COURT: Because he is an attorney, I do  
3 have to agree on that one, Mr. Freer. He said he  
4 didn't give his dad legal advice. He specifically  
5 asked about a successor clause, dad said no.

6 BY MR. FREER:

7 Q. Did your dad use a successor clause in any  
8 other -- actually, let me do this. Pull up  
9 paragraph 2.7. Did injure father know what a  
10 secretary says sore clause was?

11 A. He absolutely did because he used it in  
12 other documents and instructed me to use it in other  
13 documents.

14 Q. Take a look at paragraph 2.7 of the will.  
15 Is this an example of where your father used a  
16 successor clause?

17 A. Yes.

18 Q. And the first sentence, "I hereby terminate  
19 and revoke any gift to the following Las Vegas  
20 Jewish Federation or any successor thereto." And  
21 then, "The Las Vegas Jewish Federation Day School in  
22 formation or any successor thereto."

23 So that's the language that successor there  
24 to is the language that your father specifically did  
25 not dictate to you in 2.3?"

1           A.     Not only did he not dictate it to me, he  
2     told me don't put it in.

3           MR. JONES:   I guess there is an exception  
4     to the rule so on that one, I will withdraw my  
5     objection.

6           THE COURT:   All right.

7     BY MR. FREER:

8           Q.     Do you have the -- may I approach, Your  
9     Honor?

10          THE COURT:   Sure.

11     BY MR. FREER:

12          Q.     Do you have the Adelson School exhibit  
13     binder?

14          THE COURT:   Which one.

15     BY MR. FREER:

16          Q.     Let's turn to the estate's exhibits.  Turn  
17     to 141.

18          THE COURT:   I think that's the joint book.  
19     So that's -- hopefully.

20          MR. FREER:   We were hoping Dorit Schwartz  
21     here to authenticate this but he can authenticate  
22     the last part of this.  I believe it's Page 5.  It  
23     starts with.

24          THE WITNESS:  I hope you shall not asking  
25     me to read this handwriting.

1 BY MR. FREER:

2 Q. No. It's Page 6?

3 THE COURT: Of 131?

4 MR. FREER: Yes.

5 THE WITNESS: The typewritten portion?

6 BY MR. FREER:

7 Q. Yes.

8 A. Okay.

9 Q. Take a second to flip through those  
10 typewritten pages.

11 A. I looked at it.

12 Q. Jonathan, have you seen that document  
13 before?

14 A. I have.

15 Q. What is that document?

16 A. It is the second codicil to the last will  
17 and testament and first codicil dated 19th day of  
18 August 1999 to my father's will.

19 Q. How do you recognize that document? How  
20 are you familiar with the document?

21 A. Again, he dictated it to me and I recognize  
22 it as being in the files of our office attached to  
23 my father's will. He distributed it to me and I  
24 distributed it to my family.

25 Q. Would you turn to the signature block on

1 that codicil. Do you recognize your father's  
2 signature?

3 A. I do.

4 MR. FREER: Move to admit the pages of the  
5 last codicil call it 141A.

6 MR. JONES: I have no objection, Your  
7 Honor.

8 THE COURT: 141A.

9 THE CLERK: What pages are those.

10 MR. FREER: 6 through 10.

11 MR. JONES: Do it by Bates number.

12 MR. LEVEQUE: 402085 through 402809.

13 MR. JONES: Agreed, Your Honor.

14 THE COURT: Admitted. That's 141A.

15 BY MR. FREER:

16 Q. If you look at section 2.5 of that codicil,  
17 what is that section?

18 A. Give me a minute, please, and let me read  
19 it. It's -- I haven't finished all of it, but it's  
20 a bequest to the Jewish community day school and the  
21 Milton I. Schwartz Hebrew Academy.

22 Q. And this is a predecessor gift to the one  
23 that you drafted in the 2004 version?

24 A. Correct.

25 Q. And I will draw your attention to paragraph

1 2.5C.

2 A. Yes.

3 Q. And so it says if either of the two named  
4 recipients shall have ceased to exist at the time of  
5 the bequest takes affect the sum of 2 auto thousand  
6 dollars shall go to the Jewish Federation of the  
7 Las Vegas or its successor organization to be used  
8 for the express purpose of educating Jewish  
9 children.

10 Did your father at the time he executed  
11 that have an understanding of the successor clause?

12 A. Yes.

13 Q. The question I have for you is obviously  
14 you have got -- looks like your father knew that --  
15 actually let's go back up to B. We are going to be  
16 jumping around between pages. So it says if the two  
17 named recipients have merged at the time that this  
18 bequest takes affect the entire sum of \$5,000,000  
19 shall go to the merged entity.

20 If you go to section 2.5, it looks like  
21 your father understood how to give money to charity  
22 or to charitable organizations if they cease today  
23 exist, did your father understand that at that time?

24 A. Yes.

25 Q. So in drafting paragraph of 2.3, do you

1 have an understanding why your father just chose to  
2 choose no successor clause or any alternate language  
3 in the Milton I. Schwartz Hebrew Academy didn't  
4 exist?

5 A. Now you are back to the 2004 one, correct?

6 Q. Correct?

7 A. Repeat the question.

8 Q. So given that your father understood how to  
9 draft language with respect to gifts and what  
10 happens if those entities cease to exist and having  
11 alternate gifts, why did your dad choose -- do you  
12 have an understanding as to why your dad chose not  
13 to include similar language in the 2004 will?

14 A. If the Milton I. Schwartz Hebrew Academy  
15 didn't exist as the Milton I. Schwartz Hebrew  
16 Academy, he didn't want it going to any other school  
17 on that land. It was only supposed to go to a  
18 school named the Milton I. Schwartz Hebrew Academy.

19 Q. After you typed the will for your father,  
20 do you know what your father did with it?

21 A. He sent it to our outside attorney, Marc  
22 Gordon for mark to review and bless it. And then my  
23 understanding is that he had a signing ceremony over  
24 at Marc Gordon's office.

25 MR. FREER: Court's indulgence. Just one

1 moment.

2 BY MR. FREER:

3 Q. Jonathan, if you will turn to Exhibit 22 in  
4 the very first paragraph, I just want to make sure  
5 we don't confuse the jury so I want to go over -- we  
6 talked about two different -- you know, a '99  
7 codicil and then a 2004 codicil. I just don't want  
8 to get them confused as to the operate tiff affect.

9 By executing -- or by drafting that first  
10 paragraph, was it your father's intention to revoke  
11 all prior wills and amendments to wills?

12 MR. JONES: Your Honor just for the record,  
13 I object that the will itself is the best evidence  
14 of the intent and that's stated right there on the  
15 will so I would first of all object on that grounds.  
16 Secondly, again, testator's intent or not these are  
17 all leading questions.

18 THE COURT: Understood. Overruled.

19 THE WITNESS: Do you want me to read it?

20 BY MR. FREER:

21 Q. Read it to yourself?

22 A. I have read it to myself. I'm just asking  
23 if you want me to read it out loud.

24 MR. JONES: By the way Your Honor I will  
25 stipulate what it is. This is not an issue in this

1 case. It is not a contested issue. I will  
2 stipulate that the will says what it says.

3 THE COURT: Done with that stipulation  
4 then?

5 MR. FREER: I don't want the jury to get  
6 confused that this will supercedes the 1999 will.  
7 That's the whole point of my question.

8 THE COURT: Understood. Okay. And  
9 Mr. Jones's agreed, not an issue. That's the  
10 understanding.

11 BY MR. FREER:

12 Q. In 2004, at the time Milton dictated his  
13 will, do you have an understanding whether Milton  
14 believed he had an enforceable naming rights  
15 agreement with the school?

16 MR. JONES: Object to form.

17 THE COURT: Did you finish your question.

18 BY MR. FREER:

19 Q. I will repeat the question.

20 At the time Milton dictated the will to  
21 you, in 2004, do you know or do you have an  
22 understanding of whether your father believed he had  
23 an enforceable naming rights agreement with the  
24 school to be called the Milton I. Schwartz Hebrew  
25 Academy in perpetuity?

1 MR. JONES: Your Honor, I would object on  
2 several grounds. One, is it calls for legal  
3 conclusion. Secondly, it is based on hearsay.  
4 Finally, it goes to the ultimate issue in this case,  
5 which is in the providence of the court. And also  
6 if it doesn't call for speculation, again, it's  
7 based upon a legal conclusion.

8 THE COURT: All right so to the extent that  
9 Mr. Schwartz is not being asked to opine -- to give  
10 his legal opinion about whether there was or wasn't  
11 an enforceable agreement, was it his understanding  
12 that that's what his father believed?

13 MR. FREER: Absolutely.

14 THE COURT: I think that's reasonable.

15 THE WITNESS: Yes.

16 BY MR. FREER:

17 Q. What do you base that understanding on up  
18 to the point of time in two thousand and --

19 A. Several discussions I had with him in  
20 providing documents that memorialize or confirmed  
21 the agreement that it was supposed to be the Milton  
22 I. Schwartz Hebrew Academy in perpetuity. We  
23 discussed it numerous times.

24 Q. Now let's turn your attention to 2006. In  
25 2006, did you ever become aware of a time that the

1 Adelson's agreed to donate money to build a high  
2 school to the -- on the Milton I. Schwartz Hebrew  
3 Academy property?

4 A. Yes.

5 Q. How did you become aware?

6 A. I went to certain functions at the school  
7 with regard to the high school being built. I had  
8 numerous discussions with my dad about it. It was a  
9 big deal.

10 Q. Do you have an understanding as to how your  
11 father felt about that, about the Adelsons building  
12 a high school on the property?

13 A. He was very happy about it.

14 Q. Do you have any understanding as to why  
15 your father was happy about it?

16 A. It was the vision of the school from the  
17 beginning that at some point there would be a high  
18 school on the campus, and this was realizing that  
19 vision.

20 Q. Do you have any understanding as to what  
21 the arrangement was between your father and the  
22 Adelsons regarding the high school coming on?

23 A. Yes.

24 Q. And what is the basis of that  
25 understanding?

1           A.     In discussions I had with my father, my  
2 understanding is that.

3           MR. JONES:   Your Honor, I'm going to  
4 object.   I understand he had discussions with his  
5 father that's fine.   But if his discussions with  
6 based solely on conversations with his father then  
7 it's inadmissible hearsay.

8           THE COURT:   Have we gone beyond 2004.

9           MR. JONES:   2006.   A not talking about the  
10 will.

11          THE COURT:   Mr. Freer.

12          MR. FREER:   Codicil was executed in 2006  
13 and maintained everything.

14          THE COURT:   Have we seen a codicil?

15          MR. JONES:   (Overlapping dialogue) it has  
16 nothing to do with why the Adelsons paid money to  
17 the school, which is what his question was.

18          THE COURT:   The 2006 codicil is attached to  
19 exhibit?

20          MR. FREER:   At the back of Exhibit 22.

21          THE COURT:   Exhibit 22.

22          MR. FREER:   Yes.

23          THE COURT:   Okay.   So he is not being asked  
24 about the Adelsons.

25          MR. FREER:   He is being asked his

1 understanding of his father's understanding was.

2 THE COURT: All right. So all we are  
3 discussing is Mr. Schwartz.

4 MR. FREER: Yes.

5 MR. JONES: Your Honor here is the question  
6 do you have any understanding as to what the  
7 arrangement was between your father and the Adelsons  
8 regarding the high school coming on? That is  
9 clearly by the witness's own testimony based upon  
10 hearsay.

11 THE COURT: So to the extent an arrangement  
12 with the Adelsons, I would agree, but.

13 MR. FREER: Do you have an understanding.

14 THE COURT: His father.

15 BY MR. FREER:

16 Q. Do you have understanding of what your  
17 father's understanding was?

18 A. Yes.

19 MR. JONES: For the record, Your Honor, my  
20 objection is the same. His understanding is still  
21 based on an out-of-court statement by a deponent who  
22 is being offered for the truth of the matter.  
23 Clearly hearsay.

24 THE COURT: Again, this is solely with  
25 respect to how it affected his father's estate

1 planning, if at all. That's the only context,  
2 right?

3 MR. JONES: That's not my understanding  
4 Your Honor. My understanding is it had nothing to  
5 do with estate planning whatsoever. It's a  
6 different subject. The subject is having to do with  
7 the agreement between the Adelsons and the school.

8 THE COURT: That's what I have said. If we  
9 are not talking about the Adelsons, we are not  
10 talking about the school. We are talking about  
11 Mr. Schwartz, senior Mr. Schwartz, who executed some  
12 more estate planning documents in 2006, so what was  
13 the elder Mr. Schwartz's understanding.

14 MR. FREER: Should we do a sidebar?

15 THE COURT: Let's do that.

16 (Bench conference.)

17 THE COURT: Give us a second here. I  
18 believe Mr. Freer is going to rephrase that question  
19 for you.

20 THE WITNESS: Thank you.

21 MR. CARLSON: Again, Your Honor, so I'm  
22 clear, I understand this is all connected with or  
23 tied back to something to do with the drafting of  
24 the second codicil, that's my understanding.

25 THE COURT: Only the second. There were

1 two.

2 MR. JONES: There were two.

3 MR. FREER: There were two codicils that  
4 were done in 2006.

5 THE WITNESS: Either of those if we clarify  
6 that there were two.

7 MR. JONES: Then that's fine Your Honor.

8 THE COURT: May be different.

9 BY MR. FREER:

10 Q. Go to Exhibit 22 and go to the first  
11 codicil?

12 A. You are sure you are right on the exhibit  
13 number because 22 is just the will in the book that  
14 I'm in.

15 Q. Both codicils are attached to the back of  
16 the will, all three of the --

17 THE COURT: Huh-uh.

18 THE WITNESS: No.

19 MR. FREER: Court's indulgence, Your Honor.

20 THE WITNESS: He see it on the screen, I  
21 just don't see it in the book.

22 THE COURT: It just may be a copying issue.

23 THE WITNESS: I can read it off the screen  
24 if you want me to.

25 THE COURT: It's not in the copy that

1 Mr. Schwartz has here.

2 MR. JONES: Here is the first -- clarify  
3 things, Your Honor, should we admit the first  
4 codicil as 22A and the second codicil as 22B.

5 THE COURT: It's just a copying error. It  
6 happens. Pages to be copied. So if that's  
7 agreeable. You all have it, Mr. Schwartz doesn't  
8 give them to her. She will mark them as A, B.

9 MR. FREER: May I approach, Your Honor.  
10 This is the more exciting part about  
11 practicing law.

12 MR. JONES: Just to catch up the first is  
13 22A, the second is 22B.

14 THE COURT: Correct. On the next break we  
15 will make sure they are in the book.

16 MR. CARLSON: Thank you.

17 BY MR. FREER:

18 Q. Jonathan, let's turn your attention to what  
19 is now Exhibit 22A, the first codicil. Are you  
20 there?

21 A. I'm there.

22 Q. Jonathan, when was this document executed?

23 A. January 27 of 2006.

24 Q. Did you have any involvement in the  
25 drafting of this document?

1 A. My father dictated it to me.

2 Q. So similar circumstances as to what  
3 occurred in the drafting of the will in 2004?

4 A. Correct.

5 Q. At the time you drafted or you received  
6 dictation from this and your father drafted it in  
7 January of 2006, do you have an understanding of  
8 what your father's understanding was with respect to  
9 the agreement or the arrangement that he had with  
10 respect to the naming rights of the Milton I.  
11 Schwartz Hebrew Academy?

12 A. Yes.

13 Q. And what was that understanding?

14 A. That he was to give a gift of 500,000 to  
15 the Milton I. Schwartz Hebrew Academy, and if the  
16 Milton I. Schwartz Hebrew Academy didn't exist, no  
17 gift was to be made.

18 Q. Do you have an understanding of your  
19 father's understanding at that time whether the  
20 construction of an -- of the high school by the  
21 Adelsons affected that belief as to your father?

22 A. His understanding was that there was going  
23 to be a high school on the grounds of the Milton I.  
24 Schwartz Hebrew Academy, and the high school was  
25 going to be known as the Adelson high school. End

1 of story.

2 Q. So at the time your father executed this  
3 codicil, did he have any concerns about amending his  
4 estate planning with respect to paragraph 2.3 of the  
5 will?

6 A. No. The school had been performing and  
7 complying with the terms of the agreement since the  
8 Sabbath letter for ten years.

9 Q. If you will turn to Exhibit 22B, that is  
10 that second codicil. What is the date of that  
11 second codicil?

12 A. July 21, 2006.

13 Q. So this was done about six months later,  
14 correct?

15 A. Correct.

16 Q. What was your involvement with this second  
17 codicil?

18 A. My father dictated it to me.

19 Q. Similar to the first codicil in the will?

20 A. Correct.

21 Q. And at the time in July of 2006, what was  
22 your understanding of your father's understanding  
23 with respect to the arrangement he had for naming  
24 rights with the Milton I. Schwartz Hebrew Academy?

25 A. That the campus on the land at Hillpointe

1 was going to be known as the Milton I. Schwartz  
2 Hebrew Academy in perpetuity and that the Adelsons  
3 were going to have a high school on the land named  
4 after them called the Adelson high school, and that  
5 his naming rights would not be affected in any way  
6 with the exception of the Adelsons having a high  
7 school named after them called the Adelson high  
8 school.

9 Q. So his understanding with respect to July  
10 of 2006, is that the same as his understanding in  
11 January of 2006?

12 A. Correct.

13 Q. Now, in -- prior to your dad's death in  
14 2007 but after July of 2006, did there come a point  
15 in time where your father started giving you  
16 documents relating to the Milton I. Schwartz Hebrew  
17 Academy?

18 A. Yes.

19 Q. And what did he do?

20 A. I remember several occasions where he walk  
21 into my office with a document in his hand and would  
22 give it to me and say you may need this, you should  
23 start a file on the Milton I. Schwartz Hebrew  
24 Academy, and I did. He maintained his own files. I  
25 remember several occasions over the course of

1 several months where he periodically walked in my  
2 office and said add this to the file.

3 Q. Do you recall any specific documents that  
4 your father handed to you during that period of  
5 time?

6 A. I do.

7 Q. What documents were those?

8 A. Various copies of bylaws over the years,  
9 copies of a quitclaim deed regarding the land, a  
10 copy of the Sabbath letter and several documents  
11 pertaining to the school over the years, copies of  
12 minutes.

13 Q. Do you have an understanding as to why your  
14 father gave you those documents?

15 A. As his executor and his personal  
16 representative, it was my duty to watch out for his  
17 interests when he wasn't around anymore so that's  
18 why he was giving them to me. And so it was no  
19 different than any of our businesses. Anything that  
20 he was connected to, he wanted me to know about it.

21 Q. Now in 2007, are you aware of an instance  
22 where the Milton I. Schwartz Hebrew Academy honored  
23 your father?

24 A. Yes. I was there.

25 Q. Tell me about that.

1           A.     They threw a massive party, they call it  
2     the gala, in honor of my dad. My dad received an  
3     award from the Adelsons. It was a massive party.  
4     It was in the newspapers. Most of my family was  
5     there.

6           Q.     What was your dad's mod with respect to  
7     being honored that night?

8           A.     He was extremely happy. He loved nothing  
9     more than a party in his own honor.

10          Q.     Do you recall how soon that event was  
11     before your dad passed away?

12          A.     Very soon. It was in the spring of 2007.  
13     He passed away in August of 2007. So it was  
14     literally about I think two months before he passed  
15     away, two, three months.

16          Q.     Tell me about the circumstances of your  
17     father's death.

18                 MR. JONES: Your Honor I'm going to object  
19     to the relevance of that. This is not a case  
20     where -- sympathy is not supposed to come into the  
21     discussion, and I'm not quite sure why the jury  
22     needs to hear the particular circumstances of  
23     Mr. Schwartz's death. I have never heard of that.

24                 MR. FREER: Just walking through the  
25     timeline, Your Honor. I will move on.

1 THE COURT: Do we have a date?

2 August 2007. Do we have a date.

3 MR. JONES: August 9.

4 MR. FREER: We have an exhibit.

5 Exhibit 38.

6 MR. JONES: I have no objection to the  
7 testimony. I understand that. I just didn't think  
8 that was appropriate.

9 THE COURT: Understood. We just need to  
10 confirm the date of approximately. Okay. August 9.  
11 Thank you.

12 MR. FREER: I need a little foundation to  
13 establish.

14 BY MR. FREER:

15 Q. Jonathan, what was the cause of your  
16 father's death?

17 A. On his death certificate it says pneumonia,  
18 but he slipped and fell at home.

19 MR. JONES: Your Honor again, this is  
20 simply been gone into and I'm trying to be patient  
21 but I'm trying to get sympathy interest this jury  
22 which this court knows is completely inappropriate.

23 THE COURT: I appreciate that, Mr. Jones.

24 MR. FREER: I'm just trying to establish --  
25 let me ask this question.

1 THE COURT: Okay.

2 BY MR. FREER:

3 Q. Jonathan, did your dad have any downhill  
4 health issues or was it sudden?

5 A. It was sudden.

6 Q. Did your dad have any mental problems or  
7 anything prior to his death?

8 A. Absolutely not. The man was sharp as a  
9 tack until the day he died. Talked to him the day  
10 he died. I was in the hospital with him. He was  
11 sharp as can be.

12 Q. Exhibit 41. If you will -- I will draw  
13 your attention to Exhibit 41. It's a joint exhibit.  
14 Now this is a petition for probate of will. Do you  
15 recognize this document?

16 A. Forgive me, I'm trying to find what I  
17 assume I may have signed.

18 Q. Turn to the fourth page, actually.

19 A. I recognize it petition for probate of will  
20 and codicils and for issuance of letters  
21 testamentary to document that was filed shortly  
22 after my dad passed away regarding probate and the  
23 administration of his estate.

24 Q. Now if you remember in Mr. Jones's opening,  
25 he turned his -- he hold up what to be the third

1 page of this document at the very top of the page,  
2 Milton I. Schwartz Hebrew Academy. Here it lists  
3 Milton I. Schwartz Hebrew Academy as a beneficiary  
4 of the estate on the initial petition. Why did you  
5 list Milton I. Schwartz Hebrew Academy as a  
6 beneficiary in your petition?

7 A. At the time I filed this on October 15, of  
8 2007, I had absolutely no reason to believe that I  
9 wouldn't be giving a gift of -- that the estate  
10 window not be giving a gift of \$500,000 to the  
11 Milton I. Schwartz Hebrew Academy.

12 THE COURT: We will note there is a typo.

13 MR. FREER: That's where I get to say I  
14 didn't draft that.

15 MR. JONES: Your Honor we now know why.

16 THE WITNESS: I should get a credit for  
17 middle point instead of hill point. It won't  
18 happen.

19 BY MR. FREER:

20 Q. Now, as we have heard on December 13, 2007,  
21 the school passed a resolution to change the  
22 corporate name from the Milton I. Schwartz Hebrew  
23 Academy to the Miriam and Sheldon G. Adelson  
24 Educational Institute. Do you remember hearing that  
25 in this trial?

1 A. What's the date again.

2 Q. December 13, 2007. Pull up Exhibit 43. I  
3 just have a couple questions for you on it.

4 A. Okay.

5 Q. When did you first learn about this action  
6 taken by the school?

7 A. Many years later during this litigation.  
8 It was either produced during discovery or I got a  
9 copy of it in a pleading or something in, I think,  
10 2014.

11 Q. Were you ever notified prior to this  
12 litigation were you ever notified by the school of  
13 this name change?

14 A. Absolutely not.

15 Q. Exhibit 51. Take a look at Exhibit 51.  
16 That's the amendment to the articles of  
17 incorporation that were filed on March 21, 2008. I  
18 have the same questions for you on that. When did  
19 you first learn about this filing?

20 A. During the litigation in 2014, I think.

21 Q. Did anybody from the school notify you  
22 about this change?

23 A. No.

24 Q. Did you ever go online to see if this --  
25 see in the name change had occurred?

1           A.    I didn't. I trusted conversations I had  
2 with people from the school.

3           MR. FREER: With the court's indulgence, we  
4 are going to need Adelson binder that has Tab 205 in  
5 it.

6           THE COURT: Four for our afternoon  
7 recess --

8           MR. FREER: We could go ahead and take a  
9 break right now.

10          THE COURT: So ladies and gentlemen, we  
11 will take a brief recess. We will come back at 10  
12 till.

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.

23           (Off the record.)

24          THE COURT: Mr. Freer do you have the  
25 correct book.

1 BY MR. FREER:

2 Q. Do you have the Adelson exhibits? Turn to  
3 205?

4 THE COURT: Exhibit 205.

5 MR. JONES: By the way Your Honor stipulate  
6 to the presence of the jury.

7 MR. FREER: So do I.

8 THE COURT: Presence of the jury.

9 BY MR. FREER:

10 Q. Jonathan, will you turn to Tab 205.

11 A. Okay.

12 Q. Do you recognize that document?

13 A. I do.

14 Q. What is it?

15 A. It's what's called an internal revenue  
16 section 706 return. It's a tax return that you are  
17 required -- that an estate is required to file when  
18 it's subject to the estate tax.

19 Q. Did you cause this document to be prepared?

20 A. I did.

21 Q. And who prepared the document?

22 A. Garrity and associates.

23 MR. FREER: Move to admit Exhibit 205.

24 MR. JONES: No objection, Your Honor.

25 THE COURT: It will be admitted.

1 BY MR. FREER:

2 Q. Let's turn the page to that document. I  
3 will call your attention to line 21 down there.

4 A. Yes.

5 Q. Now, Jonathan let's back up real quick.  
6 What is the purpose of -- what is your understanding  
7 of why you needed to file 706?

8 A. To pay tax to the federal government on the  
9 value of my dad's estate.

10 Q. And if you look at line 21, it shows that  
11 you have taken a deduction of \$500,000; is that  
12 correct.

13 A. Correct.

14 Q. What was that deduction taken for?

15 A. For a prospective bequest to the Milton I.  
16 Schwartz Hebrew Academy.

17 Q. And if you will turn the page to Schedule  
18 O, and look at item number 1. So that's the gift to  
19 the Milton I. Schwartz Hebrew Academy filed on the  
20 706, correct?

21 A. Correct.

22 Q. Now, when was this -- when did you file the  
23 706?

24 A. That's what I'm looking for. Perhaps I'm  
25 not looking --

1 Q. I will call your attention down at the  
2 bottom if you want to look at the screen?

3 A. Oh, sorry, sorry, sorry. November 10,  
4 2008.

5 Q. Okay. So in November 10, 2008, filed the  
6 706 you claimed a \$500,000 deduction based on this  
7 gift; is that correct?

8 A. Correct.

9 Q. Obviously since then in this litigation you  
10 have taken the position that this gift should not be  
11 honored; is that correct possibly could not be?

12 A. Correct.

13 Q. Have you amended 706 to reflect the  
14 position that it may not go to charity?

15 A. No.

16 Q. Why not?

17 A. Regardless of how this litigation ends,  
18 it's still going to go to charity. It just may not  
19 be the school on Hillpointe if it's not known as the  
20 Milton I. Schwartz Hebrew Academy. It's going to go  
21 to another school known as -- another Jewish school  
22 in Las Vegas that properly honors the name of Milton  
23 Schwartz.

24 Q. Now after becoming the personal  
25 representative of your father's estate, at some

1 point did you hear rumors about disrespecting your  
2 father's name with respect to the Milton I. Schwartz  
3 Hebrew Academy?

4 A. I heard two rumors from sources that had --  
5 that were not on the board of the school and I had  
6 no reason to believe that they were accurate. They  
7 were rumors.

8 Q. What did you do about it once you heard  
9 those rumors?

10 MR. JONES: Objection vague as to time we  
11 don't have a time on here.

12 BY MR. FREER:

13 Q. Do you recall when -- about when you heard  
14 those rumors?

15 A. I don't specifically.

16 Q. Would there be anything that would refresh  
17 your recollection as to when you heard those rumors?

18 A. There might be, but not that I can think of  
19 off the top of my head.

20 Q. Did you visit the campus in 2008?

21 A. I did.

22 Q. What was the purpose of that visit?

23 A. I met with Paul Schiffman who was the -- I  
24 don't know what his title was, whether it was head  
25 of school or director of the school. Basically he

1 was in charge of the school. And I met with him to  
2 have a little tour of the school. I hadn't seen the  
3 high school yet. So I wanted to see that. And he  
4 gave me a tour of the entire facility. And we sat  
5 down in his office and had a conversation about the  
6 purpose of my father's gift. And there were other  
7 discussions that came up during the tour.

8 Q. Did Mr. Schiffman show you your father's  
9 name on any buildings at that time?

10 A. When we were touring around the facility,  
11 he made a point of showing my father's painting in  
12 the hallway. He made a point of showing a statue of  
13 my dad in the building. He made a point of pointing  
14 out my dad's name above the entry doors to the  
15 school.

16 Q. Did Mr. Schiffman tell you anything about  
17 the school changing its name -- corporate name?

18 A. No. Nothing.

19 Q. Did you discuss anything else with  
20 Mr. Schiffman during that visit?

21 A. I wanted to make certain that my dad's  
22 intent was properly carried out so I had a copy of  
23 the will with me -- with me and he discussed the  
24 fact that the will says -- may I refer to it?

25 Q. Why don't we turn -- you want the will?

1 A. The will.

2 Q. Turn to Exhibit 22. Paragraph 53. We will  
3 follow along?

4 A. What's the exhibit number?

5 Q. Exhibit 22. Paragraph 2.3.

6 A. The part I was concerned with is the last  
7 sentence. May I read it?

8 Q. Yes. Go ahead and highlight that last  
9 sentence.

10 A. In the event that no mortgage exists at the  
11 time of my death the entire 500 amount shall go to  
12 the Hebrew Academy for the purpose of funding  
13 scholarships to educate Jewish children only. So I  
14 wanted to make sure that the school understood that  
15 that's what was supposed to happen.

16 Q. And what was Mr. Schiffman's response?

17 A. He expressed a slight doubt that that might  
18 be difficult because the school had both Jewish and  
19 nonJewish children, and that was it.

20 MR. JONES: Is this when the tour was done?  
21 I'm sorry, vague as to time.

22 MR. FREER: Yes.

23 MR. JONES: Thank you.

24 BY MR. FREER:

25 Q. Did Mr. Schiffman offer or talk to you

1 about anything else during that meeting?

2 A. We had a brief discussion, which at the  
3 time I didn't think was significant, but I now  
4 recall it. We had a brief talk about Tamar Lubin  
5 which I think was important at the time but I recall  
6 it.

7 Q. What did Mr. Schiffman tell you?

8 A. Just that he had some discussion with her  
9 or someone from her family about her and her  
10 connection to the school, and sort of expressed it  
11 as an annoyance.

12 Q. Did you have any discussions with  
13 Mr. Schiffman during that meeting about being  
14 offered an important position?

15 A. Yes. They offered me a board position, and  
16 I declined it.

17 Q. Why did you decline?

18 A. My plate was full. It was full and  
19 overflowing. Let me think. 2007. I had a three  
20 year old daughter, and my wife and I expected to  
21 have more, and my plate was full.

22 Q. Just so you don't get confused, I know we  
23 are going through some time, this was in August  
24 of 2008.

25 A. Okay, so she was four. Same answer.

1 Q. In response to the meeting you had, did you  
2 do anything?

3 A. I wrote a letter to Mr. Schiffman shortly  
4 thereafter to confirm the part of the conversation  
5 that I thought was important.

6 Q. And if you turn to Exhibit 52. What  
7 paragraph -- when you read that letter to yourself,  
8 what paragraph in that letter responds to the  
9 discussion that you were having with Mr. Schiffman?

10 A. The second one -- well, the second one and  
11 the third one.

12 Q. Let's take a look at the third paragraph.  
13 What about that third paragraph discusses or follows  
14 up with your discussion with Mr. Schiffman?

15 A. Starting at the -- do you want me to read  
16 it?

17 Q. Yeah, read the section --

18 A. Starting on the secretary line I'm asking  
19 the Milton I. Schwartz Hebrew Academy to send me a  
20 letter acknowledging that the anticipated gift  
21 utilized to fund annual skips in perpetuity at the  
22 Milton I. Schwartz Hebrew Academy for the purpose of  
23 educating Jewish children only which is what my  
24 father's will said. Just wanted to make certain  
25 that my father's intent was properly followed the

1 way he wanted it followed.

2 Q. And to resolve that, you requested that the  
3 board of the Milton I. Schwartz Hebrew Academy send  
4 the letter?

5 A. Correct because of what Mr. Schiffman said  
6 in the meeting, I wanted them to confirm it in  
7 writing.

8 Q. So at that time, obviously, you didn't know  
9 that there was no board of Milton I. Schwartz Hebrew  
10 Academy?

11 A. Absolutely not.

12 Q. In 2008 did you receive any correspondence  
13 from the school?

14 A. I probably received some receipts for  
15 donations that I made.

16 Q. Why don't we turn to Tab 157 and the  
17 estate's binder. Let me know when you are there.

18 A. I don't know if I'm looking at the right  
19 one.

20 MR. FREER: May I approach, Your Honor.

21 THE COURT: Certainly.

22 MR. FREER: It's binder number -- no, 157.

23 THE WITNESS: That's 157.

24 MR. FREER: Looks like we have another  
25 copying issue, Your Honor.

1 BY MR. FREER:

2 Q. So turn to 158.

3 A. I'm there.

4 Q. Do you recognize this document?

5 A. I do. It's a letter that Paul Schiffman  
6 wrote me on April of 2008.

7 Q. And you received this document?

8 A. I did.

9 MR. FREER: Move to admit Exhibit 157 --  
10 158. I'm sorry, Your Honor.

11 THE COURT: Any objection? If not, then we  
12 will admit 158.

13 MR. JONES: I'm sorry. I was writing, Your  
14 Honor.

15 THE COURT: No problem.

16 MR. JONES: No, no objection.

17 THE COURT: It's admitted. 157 is also,  
18 there is no objection there?

19 THE CLERK: 157 and 158.

20 MR. FREER: Just 158.

21 BY MR. FREER:

22 Q. What is this letter?

23 A. It's a letter that Mr. Schiffman wrote me  
24 after I made a gift to the school in and around the  
25 2008 gala, which was the year after my dad passed

1 away. And the letter speaks for itself.

2 Q. Did receiving this letter raise any  
3 concerns with respect to your understanding of what  
4 your father's rights were with respect to the naming  
5 of the Milton I. Schwartz Hebrew Academy?

6 A. Let me take a moment and read the whole  
7 thing. The answer to your question is no. This, in  
8 my opinion, would have complied with the terms of  
9 the agreement as I understood them, at least from  
10 what's said in this letter. There is nothing in  
11 this letter that I find objectionable.

12 Q. Okay.

13 A. In this letter.

14 Q. All right. And so what was your  
15 understanding?

16 A. Number one, the letterhead properly  
17 identifies the Milton I. Schwartz Hebrew Academy, it  
18 properly identifies the Adelson School. If you read  
19 through the body of the letter, it refers to the  
20 Dr. Miriam and Sheldon G. Adelson School and the  
21 Milton I. Schwartz Hebrew Academy separately. That  
22 was my understanding of -- and my father's  
23 understanding of what the agreement was between the  
24 Adelsons and my father.

25 Q. If you turn to Exhibit 159 --

1 MR. FREER: Do you mind if I approach to  
2 make sure the exhibit he is on?

3 THE COURT: Sure.

4 MR. JONES: 159?

5 MR. FREER: Yes.

6 BY MR. FREER:

7 Q. Do you recognize this letter?

8 A. It's receipt for a gift that my family's  
9 trust made to the school.

10 Q. Were you the recipient of this letter?

11 A. I was.

12 MR. FREER: Move to admit Exhibit 159.

13 MR. JONES: No objection, Your Honor.

14 THE COURT: Thank you. It will be  
15 admitted.

16 BY MR. FREER:

17 Q. As you said, it's a receipt for the money  
18 donated to the school. Is there anything in this  
19 letter that would raise your concerns about your  
20 understanding of your father's naming rights  
21 agreement with respect to the school?

22 A. Not from this letter. Again, it properly  
23 identifies in the heading the Milton I. Schwartz  
24 Hebrew Academy. It separately identifies the  
25 Adelson School. In the first paragraph, again, it's

1 separately identifies the Dr. Miriam and Sheldon G.  
2 Adelson School and the Milton I. Schwartz Hebrew  
3 Academy. There is nothing that I see that's  
4 objectionable in this May 28, 2008, document.

5 Q. Moving forward a little bit, from the time  
6 you met with Schiffman in 2008 until early 2010, did  
7 you receive anymore information from the school, to  
8 your knowledge?

9 A. Sitting here right now, my recollection is  
10 the whole matter just went dark. I just didn't hear  
11 anything from them.

12 Q. Let me draw your attention to 2010. In  
13 early 2010, had you heard anything that led you to  
14 believe anything was wrong with your understanding  
15 of your father's naming rights agreement with  
16 respect to Milton I. Schwartz Hebrew Academy?

17 A. There was a flurry of activity in the  
18 beginning of 2010. I had meetings with some of the  
19 board members. I had lunch with two or three of  
20 them, various discussions beginning of 2010 and  
21 meetings.

22 Q. Do you recall any meetings that occurred in  
23 February of 2010?

24 A. I think I had lunch, could be February or  
25 March. I had a lunch with Sam Ventura. I had a

1 lunch -- the lunch was at Paymon's. I had a  
2 lunch --

3 Q. Let's slow down now. Who is Sam Ventura?

4 A. Sam Ventura was a board member of the  
5 Milton I. Schwartz Hebrew Academy. He is, today, a  
6 long standing figure in the Jewish community. He  
7 has been connected to several Jewish schools in  
8 town. I believe at the time he was on the board I  
9 believed he was on the board of the Milton I.  
10 Schwartz Hebrew Academy.

11 Q. Then moving on, what other meetings did you  
12 have?

13 A. A lunch at this French restaurant with  
14 Victor Chaltiel who was on the board of the school  
15 and with Paul Schiffman. That was followed up later  
16 by a meeting at the school.

17 Q. Let's stop at that luncheon. Do you recall  
18 what you discussed at that meeting with Paul and  
19 Victor Chaltiel?

20 A. Broadly yes.

21 Q. What was that?

22 A. It was a very cordial lunch to talk about  
23 me completing the gift, about the status of my dad's  
24 estate. It was a cordial sort of, you know, lunch.  
25 We talked about some of Chaltiel's business

1 interests. That's what it was about.

2 Q. Did you have any other discussions with  
3 anybody in February of 2010?

4 A. I had a phone call from Sheldon Adelson  
5 around that time.

6 Q. What was that discussion?

7 A. He called me up. I was in LA that day. It  
8 was on the cell phone. I was in the car. I pulled  
9 over on the side of the road and we had a discussion  
10 about me completing the gift in my dad's will and  
11 him asking for more money than what was in my dad's  
12 will.

13 Q. What did you say in response?

14 A. I told him that I didn't have the authority  
15 to give anymore than what was provided for in my  
16 father's will.

17 Q. Did Mr. Adelson respond after you made that  
18 statement?

19 A. He insulted me. He said that what my  
20 father gave was, quote, a paltry sum of money  
21 compared to what he gave, and that if I didn't give  
22 him more money, he was going to take my dad's name  
23 off the school. He threatened me.

24 Q. After that discussion, what happened?

25 A. I had a series of meetings with board

1 members at the school who told me that what Sheldon  
2 threatened wasn't going to happen.

3 Q. Do you remember specifically what those  
4 school board members told you?

5 A. The lunch I had with Victor -- with Sam  
6 Ventura at Paymon's. He told me that what Sheldon  
7 Adelson wanted to do was wrong and he wasn't going  
8 to let it happen.

9 Q. Now, did you meet with Paul and Victor  
10 again in March of 2010?

11 A. That's the lunch I had with them at Marche  
12 Bacchus, which is the northwest section of  
13 Las Vegas. I don't know if it's still there or not.  
14 It's the only time I ever went there.

15 Q. Did you have a meeting with them at the  
16 school around that time?

17 A. After the lunch meeting at Marche Bacchus,  
18 I had a meeting with Paul Schiffman, Victor  
19 Chaltiel, and Sam Ventura at the school, and we also  
20 had another tour of the school. We walked around  
21 the school.

22 Q. What did you discuss at that meeting?

23 A. I brought a draft -- because of the  
24 discussion I had with Sheldon, I brought a draft  
25 agreement that would confirm the terms of the

1 agreement that I thought my father had with the  
2 school. And we went through it point by point  
3 asking them is this okay with you is that okay with  
4 you is the next thing okay with you.

5 Q. What was the response to that?

6 A. We got --

7 MR. JONES: Objection. Your Honor I would  
8 like to know, first of all, who was responding.  
9 Vague as to who. I would like to know who.

10 THE COURT: Is this the same Sam Ventura  
11 Victor Chaltiel meeting.

12 MR. JONES: He said there was two people.

13 THE COURT: Names?

14 BY MR. FREER:

15 Q. Do you remember who was present at that  
16 meeting on campus?

17 A. The meeting on campus, I got there, I did a  
18 tour with both Victor Chaltiel and Paul Schiffman.  
19 When the tour was finished, we went into a meeting  
20 room and then Sam Ventura arrived. So there were  
21 three people in the meeting, in the room at the  
22 school.

23 THE COURT: Thank you.

24 BY MR. FREER:

25 Q. And when you say "they," let me back up let

1 me make sure I understand. So you went through the  
2 settlement agreement that you had brought with you,  
3 the proposed settlement agreement and you walked  
4 through those terms?

5 A. I started -- correct. I started to go  
6 through the terms of the settlement agreement one by  
7 one asking them, all three of them, are you okay  
8 with this? And all three of them had an opportunity  
9 to say yes or no, and they discussed it amongst  
10 themselves and we proceeded through the document.

11 Q. What was the result -- what was the  
12 conversation at the end of that meeting? What did  
13 Paul Schiffman say?

14 A. Well, I was really hopeful going through  
15 about 3 quarters of the agreement because they kept  
16 on saying yes, this isn't a problem, no, it's not a  
17 problem, and I was very hopeful. And at one point,  
18 Victor Chaltiel said to me oh, no we are not going  
19 to sign anything. And I said that's the reason we  
20 are here is to come to an agreement and sign  
21 something so that I can complete this gift. And  
22 then he said something insulting and the meeting  
23 ended.

24 Q. What did you do after the meeting ended?

25 A. I walked out. I walked out, and I think a

1 couple months later I wrote a follow up letter to  
2 the entire board. I copied every member of the  
3 board because I was concerned that the people I was  
4 talking to, meaning Chaltiel, Schiffman, and  
5 Ventura, might not be clearly communicating my  
6 attempts to settle the disagreement to the board.  
7 And I knew ultimately it was the board's decision,  
8 not Sheldon Adelson all by himself, not Victor  
9 Chaltiel all by himself, it was the board's  
10 decision. So I wrote a letter to the entire board  
11 and attached a settlement agreement to it.

12 Q. If you will turn to Exhibit 55. Is this  
13 the letter you sent?

14 A. It is.

15 Q. And this copy is addressed to Mr. Sheldon  
16 Adelson. Did you send it only to Mr. Sheldon  
17 Adelson?

18 A. No, I sent it to every single board member.  
19 I recall I had my office call and confirm the names  
20 of the board members and a separate letter went to  
21 every single board member.

22 Q. So let's walk through this. Let's go  
23 through the first paragraph of the letter. If you  
24 will read that to yourself momentarily?

25 A. Okay.

1 Q. What was your purpose in drafting that  
2 first paragraph?

3 A. To let them know I have been trying to  
4 resolve this and I want to complete my father's gift  
5 to the Milton I. Schwartz Hebrew Academy. I mean  
6 what my dad wanted was the most important thing in  
7 my life.

8 MR. JONES: I'm going to have to --

9 THE WITNESS: That's why I wrote it.

10 THE COURT: Overruled.

11 MR. JONES: Thank you.

12 BY MR. FREER:

13 Q. Look at paragraph two, please. It states  
14 you met with Paul and Victor multiple times  
15 regarding the gift. Were those meetings the ones  
16 that you testified to earlier?

17 A. Correct.

18 Q. Now you have a statement in there that says  
19 that the board ignored your attempt.

20 A. Wrote a letter in 2008. They never  
21 responded to it. I had these conversations with  
22 certain board members but I never got any feedback  
23 or any response from the board. I thought that the  
24 people I was talking to represented the board. But  
25 as this started to progress in 2010, I became

1 concerned that there wasn't complete communication  
2 between myself and the whole board.

3 Q. When you said you wrote a letter in 2008  
4 that's the letter we just reviewed a little bit ago?

5 A. Correct, the one I wrote to Paul Schiffman  
6 about the purpose of the funds that were provided  
7 for in the bequest.

8 Q. Let's turn to paragraph three. Take a  
9 moment to read that to yourself.

10 What was the purpose of you drafting that  
11 paragraph?

12 A. In reading through the names of the board  
13 members, I realized that some of them were not  
14 around during the original founding of the school.  
15 I was concerned that they didn't know the history of  
16 the school. They didn't know the history of my  
17 dad's involvement. They just didn't have the facts  
18 to make a decision so I was trying to educate them.

19 Q. And do you believe that the school would  
20 not have been in existence in 2010 but for your  
21 father's assistance?

22 A. Absolutely, it wouldn't have been.

23 Q. Let's take a look at paragraph four.  
24 That's the paragraph on the next page. That's just  
25 a continuation of what you were discussing in

1 paragraph three?

2 A. Correct.

3 Q. What did you mean by your statement,  
4 "Without Milton I. Schwartz there would be no  
5 school"?

6 A. There wouldn't have been. I mean, we have  
7 heard testimony during this trial that, but for his  
8 gift, the Howard Hughes Corporation wouldn't have  
9 completed the gifting of the land. Without his  
10 gift, the school wouldn't have been built. It would  
11 have died.

12 Q. Let's turn to paragraph five. Now, there  
13 you talk about a fiduciary duty. What is -- what  
14 are you referring to in terms of your word fiduciary  
15 duty in that paragraph?

16 A. I was the executor of my dad's estate. I  
17 was the personal representative of his estate. By  
18 fiduciary duty, I'm referring to my responsibility  
19 to carry out my dad's wishes.

20 Q. At the time you wrote that letter what did  
21 you believe those wishes were?

22 A. To give \$500,000 to a school named the  
23 Milton I. Schwartz Hebrew Academy.

24 Q. Let's speed things up here. Take a look at  
25 paragraph nine. Actually, let's go back and take a

1 look at paragraph eight for a minute. In paragraph  
2 eight, you discuss violations of the agreement; is  
3 that correct?

4 A. Right.

5 Q. What violations were you referring to?

6 A. When I took the tour in March with Chaltiel  
7 and Schiffman, in walking through the halls of the  
8 school, I saw a sign that said Adelson Middle  
9 School. And Schiffman was about 40 or 50 feet ahead  
10 of us and we were darting in and out of rooms. We  
11 were looking at things and Schiffman was talking to  
12 teachers and he just happened to be 40, 50 feet in  
13 front of us down the hall. I was right next to  
14 Chaltiel and I turned to him and said, What's this?  
15 Pointing to the sign that said Adelson Middle  
16 School. And he said, Well, the middle school is now  
17 named after the Adelsons. And I turned to him and I  
18 said, That's a violation of my dad's agreement with  
19 the school. I said, What are you doing? And he  
20 turned to me, and he said, Sheldon gave \$65 million  
21 he can do whatever he wants.

22 Q. Let's take a look at paragraph nine again.

23 MR. JONES: Your Honor, may we approach for  
24 a minute? I have a question.

25 THE COURT: Sure.

1 (Bench conference.)

2 THE COURT: Ladies and gentlemen, Mr. Jones  
3 brought up a good point that it's not been made  
4 clear on the record yet. The reason why you are not  
5 going to hear from Mr. Chaltiel, unfortunately, he  
6 passed away. We will hear a little bit more about  
7 that tomorrow from Mr. Adelson. Just for the record  
8 why you have not heard about Mr. Chaltiel coming in  
9 and testifying.

10 BY MR. FREER:

11 Q. We will hear from Mr. Schiffman on  
12 Wednesday?

13 THE COURT: The other folks you will hear  
14 from, just not Mr. Chaltiel himself.

15 BY MR. FREER:

16 Q. Jonathan, if you will indulge me do you  
17 remember what paragraph we were talking about?  
18 There we go. What was your intent with respect to  
19 providing this paragraph?

20 MR. JONES: Just for the record I believe  
21 that the document or the intent is expressed in the  
22 paragraph so it's redundant.

23 THE COURT: Overruled.

24 THE WITNESS: I'm just -- can I answer now  
25 Your Honor.

1 THE COURT: You may.

2 THE WITNESS: I'm just stating my firm  
3 desire to get an agreement done and complete my  
4 father's gift and move on.

5 BY MR. FREER:

6 Q. Now, the next paragraph -- turn the page on  
7 the second to the last paragraph. Take a moment to  
8 read that to yourself. What was that paragraph --  
9 what was the -- what was that paragraph drafted in  
10 response to?

11 A. Specifically Sheldon Adelson's telephone  
12 call to me and the attempt to get me to give more  
13 money than what was provided in my father's will.

14 Q. If you look at the last paragraph,  
15 paragraph eleven?

16 A. Go ahead.

17 Q. Was there something else you wanted to say?

18 A. Mr. Adelson's attempt to attempt to give me  
19 more money was not --

20 MR. JONES: Your Honor, that's clearly out  
21 of -- move to strike.

22 THE COURT: Rephrase.

23 BY MR. FREER:

24 Q. Let's take a look at paragraph eleven.

25 A. Uh-huh.

1 Q. Why did you state "I hope we can conclude  
2 this matter amicably as I frankly find the whole  
3 issue to be distasteful"?

4 A. Speaks for itself, it is distasteful. I  
5 think it's bad for the community, for our Jewish  
6 community to be having a dispute regarding the  
7 naming rights of the school. I wanted to resolve  
8 it. I didn't want to be here.

9 Q. Now back to paragraph ten, you drafted  
10 that, at the time you drafted that, did you have  
11 concerns about Sheldon's request or demand, as you  
12 put it, to provide more than \$500,000?

13 A. Yes.

14 Q. How did that demand -- how did you feel  
15 about that demand?

16 MR. JONES: Objection relevance about how  
17 he feels about that demand is not at issue in this  
18 case. It's irrelevant.

19 THE COURT: Yes, but -- as to part, but not  
20 as to the will. So on that issue, I think it is  
21 admissible, given his official capacity.

22 MR. JONES: To be clear just so I'm clear  
23 in other words as to whether or not he was going to  
24 honor the bequest is relevant but not as to any  
25 alleged contract that they claim?

1 THE COURT: Correct. He says he has the  
2 official capacity.

3 MR. JONES: All right.

4 THE WITNESS: It was insulting to my  
5 father's legacy with regard to the school. It's  
6 insulting.

7 BY MR. FREER:

8 Q. Now turn the page to the draft settlement  
9 agreement. I will just call your attention to the  
10 first paragraph of that.

11 A. I'm sorry, the very --

12 Q. The very top, yes.

13 A. Okay.

14 Q. I will just draw your attention to Milton  
15 I. Schwartz Hebrew Academy being a party to that.

16 A. Uh-huh.

17 Q. Why did you list Milton I. Schwartz Hebrew  
18 Academy as a party to that settlement agreement?

19 A. Because that's who my father left the gift  
20 to, and that's the institution that I thought I was  
21 dealing with.

22 Q. So at that time you still believed Milton  
23 I. Schwartz Hebrew Academy was a legal entity?

24 A. Yes.

25 Q. Now, in the settlement agreement, if you

1 want to take a moment to review it, made some  
2 requests regarding signage and letterhead in the  
3 interior. Why did you include those terms?

4 A. I thought it was consistent with the  
5 Sabbath letter, largely, and my understanding of the  
6 agreement with my father.

7 Q. So your intent was to kind restore the  
8 Sabbath letter?

9 A. Largely, and you know, part of it was to  
10 enter into a settlement with the Adelsons. I mean,  
11 in some of this, I'm actually reducing or  
12 compromising what my father was entitled to under  
13 the naming rights agreement that he thought he had  
14 with the school. Some of this was less than my  
15 father was entitled to in an attempt to settle this  
16 matter, complete the gift and move on.

17 Q. In the terms of this were you giving up the  
18 middle school?

19 A. Yeah.

20 Q. And why were you doing that?

21 A. Because I wanted a settlement. I wanted to  
22 complete the gift and move on.

23 Q. Now turning your attention --

24 A. Which I had no obligation to do and I have  
25 no obligation to do it right now.

1 Q. But that's what you wanted to do to arrive  
2 at the settlement?

3 A. Correct.

4 Q. Now, in 2013, did there come a time when  
5 the estate was finally in a position to start  
6 closing?

7 A. I'm sorry say that again.

8 Q. In 2013 had you administered the estate,  
9 your father's estate to a point where he could begin  
10 to close?

11 A. I believe so.

12 Q. Did you have any meetings or discussions  
13 with anyone in 2013 prior to the litigation?

14 A. Prior to the litigation. I had some  
15 meetings -- I can't recollect precisely whether it  
16 was 13 or 14. I had a meeting with Sheldon Adelson.  
17 At one point I had a meeting with his wife. At one  
18 point I had a meeting with another former board  
19 member of the school trying to resolve this.

20 Q. But it didn't get resolved?

21 A. Correct, it did not.

22 Q. Obviously we have seen that on May 31,  
23 2013, the Adelson School filed its petition  
24 demanding you pay the gift of 500,000. Did you  
25 object to the assertions made in that lawsuit?

1 A. Yes.

2 MR. JONES: Objection counsel did you say  
3 May 31 or May 3.

4 MR. FREER: May 3. I apologize.

5 MR. JONES: That's all right I just want to  
6 be clear.

7 BY MR. FREER:

8 Q. Why did you object to the Adelson's  
9 position?

10 A. There is a long list of why I objected to  
11 the Adelsons position they violated the terms of my  
12 dad's agreement. They violated it in numerous  
13 different ways.

14 Q. So their petition requests the distribution  
15 of a \$500,000. Did you have any other reasons why  
16 you objected to their request to have the money --  
17 the gift paid?

18 A. For all of the reasons that we have been  
19 discussing. It just wasn't clear to me at that  
20 point that they were going to perform on the  
21 agreement that the school be known at the Milton I.  
22 Schwartz Hebrew Academy in perpetuity. They had  
23 already changed the name of the middle school, and  
24 it was just -- it was apparent to me that they  
25 weren't going to perform the way they were supposed

1 to.

2 Q. And you filed a petition on May 28, 2013,  
3 that's the petition for declaratory relief we have  
4 shown. Ultimately what is the estate's contention  
5 as the representative of the estate, what is the  
6 estate's contention?

7 A. The estate's contention is that the school  
8 is to be known at the Milton I. Schwartz Hebrew  
9 Academy in perpetuity, that's supposed to apply to  
10 grades K through 8. My dad's name is supposed to be  
11 on the letterhead. My dad's name is supposed to be  
12 at the entrance of the school. My dad's name is  
13 supposed to be on the pediment of the billing as you  
14 enter the school. This whole notion of Adelson  
15 Educational Campus and something that was made up  
16 after my dad passed away. Sheldon Adelson took  
17 advantage of my dad dying and did whatever he wanted  
18 to do which was in violation of my dad's agreement  
19 with the school. My father would have never  
20 accepted it. I could go on and on, but that's  
21 basically it.

22 Q. How does the building of the high school  
23 prior to your dad's death affect what the estate is  
24 requesting?

25 A. The one thing my dad consented to was eye

1 dad -- there was to be a school called the Adelson  
2 high school on the campus of the Milton I. Schwartz  
3 Hebrew Academy. And Sheldon flipped that to the  
4 Adelson Educational Campus. There is no document  
5 prior to my dad's death that I'm aware of that  
6 refers to the Adelson Educational Campus or the  
7 Adelson middle school, which tells you what the  
8 agreement was.

9 MR. FREER: Court's indulgence.

10 BY MR. FREER:

11 Q. Now, Jonathan, nobody like a lawsuit. Why  
12 are you involved in a lawsuit on behalf of your  
13 dad's estate?

14 MR. JONES: Your Honor I'm sorry, I just  
15 have to object. That questionable is inappropriate  
16 for either side to say why we are involved in a  
17 lawsuit. There may be certain circumstances, but my  
18 concern is that we don't -- he has already stated  
19 why he is involved in a lawsuit.

20 THE COURT: I believe he talked about it in  
21 the context of the letter that he wrote, but I don't  
22 believe he talked about it in the context of once  
23 the litigation was filed. Probably the same answer.  
24 So again, to the extent it has to do with the estate  
25 and his role -- his official capacity with the

1 estate.

2 MR. JONES: Thank you Your Honor.

3 THE COURT: I will allow that. I think  
4 it's relevant.

5 BY MR. FREER:

6 Q. Jonathan with respect to your capacity as  
7 your father's personal representative, why are you  
8 involved in this lawsuit?

9 A. I have got a duty to enforce the terms of  
10 my father's will and make certain that his intent is  
11 properly carried out. I don't have a choice. This  
12 is not -- this has nothing to do with me. This is  
13 about my father and what he wanted, and that's all  
14 that it's about.

15 Q. When you toured the school in 2013 was your  
16 father's name still up on the school building?

17 A. Correct.

18 Q. Did you become -- ever become aware after  
19 the start of this litigation in 2013 that your  
20 father's name was removed?

21 A. Yeah, that's an interesting question. I  
22 received a call from Paul Schiffman saying that they  
23 were doing some stucco work on the building where my  
24 dad's name appeared, and he told me don't worry, as  
25 soon as the stucco work is done, it's going to go

1 right back up, referring to my dad's name. It never  
2 did.

3 Q. Do you recall when that phone call  
4 occurred?

5 A. I don't specifically. I would have to  
6 search through depositions or declaration that I  
7 need to pinpoint it. It's been a long time.

8 Q. They were we will hear from Mr. Schiffman  
9 on Wednesday but during Mr. Schiffman's deposition  
10 he stated that --

11 MR. JONES: Your Honor, again,  
12 Mr. Schiffman is not a representative of the school.  
13 He was the school head. They can't have everybody  
14 that represents the school be considered to be an  
15 adverse party they have identified Mr. Schiffman as  
16 a party --

17 THE COURT: So --

18 MR. FREER: We will reserve and call  
19 Jonathan after Mr. Schiffman's testimony.

20 THE COURT: That's agreeable.

21 MR. JONES: I'm fine with that.

22 MR. FREER: We will save Mr. Schiffman's  
23 testimony. Let me check one other thing.

24 Thank you, Jonathan.

25 I will pass the witness.

1 THE COURT: We will switch our technology  
2 and we will be ready to go.

3 MR. JONES: Thank you.

4 EXAMINATION

5 BY MR. JONES:

6 Q. Good afternoon, Mr. Schwartz. Again, don't  
7 take offense my job is to make objections where I  
8 think I'm supposed to. It's not my intent to be  
9 rude.

10 A. Not at all.

11 Q. Obviously the parties have strong emotions  
12 on both sides about this. Would you agree with  
13 that?

14 A. 100 percent.

15 Q. This phone call that you said you had with  
16 Mr. Schiffman after the tour that you had of the  
17 school in 2013 about the name coming down off the  
18 school but it's going to go right back up, do you  
19 recall that?

20 A. I said I didn't remember the date.

21 Q. Well, I thought you said -- I thought you  
22 told the jury it was after your tour though?

23 A. It was after a tour. I said I couldn't  
24 remember the date.

25 Q. There was only two tours that I think you

1 told the jury about. One was in 2008, and then --  
2 oh, you said in 2010, you did a tour?

3 A. Uh-huh.

4 Q. Well, we know, don't we, I mean, we have  
5 got photographs that I believe your office produced  
6 from 2010 that show your dad's name still on the  
7 school. So it had to have been after that, right?

8 A. Correct.

9 Q. And so then I guess maybe we will put it  
10 another way. You can't tell this jury that your  
11 dad's name wasn't still up there until after you  
12 filed your claim against the school, correct?

13 A. I don't know.

14 Q. Okay. And you talked about this agreement  
15 that your dad had that's been violated. Tell the  
16 jury exactly what the agreement was that your dad  
17 was going to do, what your dad was going to do for  
18 the agreement?

19 A. My understanding is that he made a large  
20 gift to the school, raised a lot of money, and they  
21 agreed to name the school the Milton I. Schwartz  
22 Hebrew Academy in perpetuity, broadly.

23 Q. But I think you testified you have never  
24 seen a written contract to that effect, have you?

25 A. I have seen a series of documents that form

1 a contract.

2 Q. Let me just try to make sure I get this  
3 right. You have never seen -- well, you are a  
4 lawyer, right?

5 A. Uh-huh.

6 Q. I'm sorry that's a yes or no?

7 A. Yes.

8 Q. In fact you went to a very -- what is  
9 considered to be a very good law school,  
10 northwestern, right?

11 A. It's not bad.

12 Q. Listen, you are hum link yourself. That is  
13 I think considered to be one of the top law schools  
14 in the country?

15 A. Top ten.

16 Q. Top ten. So I would consider that to be  
17 pretty good. Then you went to UCLA?

18 A. I barely got through, Mr. Jones.

19 Q. All it takes is as long as you got through  
20 and you got the diploma?

21 THE COURT: Even if he was last in his  
22 class.

23 BY MR. JONES:

24 Q. I assume you weren't last in your class by  
25 any means?

1 A. I was kind of in the middle.

2 Q. As was I by the way, although I think my  
3 law school wasn't nearly as prestigious as yours.  
4 You also went to UCLA undergrad, correct?

5 A. Correct.

6 Q. Then you also got an MBA?

7 A. Correct.

8 Q. Can you tell the jury what an MBA is?

9 A. Masters business administration.

10 Q. After law school you went and got a second  
11 degree basically studying in depth business, right,  
12 and how businesses workings, and business  
13 transactions, et cetera, right?

14 A. Correct.

15 Q. And one of the classes you take in law  
16 school is called contracts, right?

17 A. Uh-huh.

18 Q. I'm sorry, you have to say yes?

19 A. Yes. Sorry.

20 Q. And contracts requires -- or in your  
21 contract class, you learn what the elements of a  
22 contract are, don't you?

23 A. Yes.

24 Q. And as you sit here today -- you are  
25 licensed to practice law though you don't practice

1 law, isn't that true?

2 A. Debatable.

3 Q. You were licensed to practice law at one  
4 point in time?

5 A. I'm currently licensed.

6 Q. I think in the state of Arkansas?

7 A. Correct.

8 Q. By the way, just out of curiosity, why  
9 Arkansas?

10 A. For a really small brief window of time, I  
11 was going to work on -- do some government work  
12 there and it just never happened. I got too  
13 involved in my dad's businesses.

14 Q. And so you actually had to take the  
15 Arkansas bar exam?

16 A. Correct.

17 Q. And I -- obviously you passed it?

18 A. Yep.

19 Q. And you keep up your license it sound like?

20 A. Yes.

21 Q. That means you have to do certain things  
22 every year to take certain number of continuing  
23 education classes in Arkansas to keep your license  
24 current?

25 A. I'm in compliance.

1 Q. Does that mean you have to continue to take  
2 compliance classes?

3 A. No, not necessarily.

4 Q. Okay. Because in Nevada, you have to, you  
5 have to take so many hours every year. Fair enough.

6 I guess getting back to this point about  
7 contracts, you, of all people, understand what it  
8 takes to create an enforceable written agreement,  
9 don't you? You know what that is, right?

10 A. Yes.

11 Q. And that requires consideration, right?

12 A. Yes.

13 Q. And the consideration is essentially the  
14 money that has to be paid as part of the contract,  
15 right?

16 A. Right.

17 Q. And there has to be, as Mr. Schwartzer told  
18 us, there has to be a meeting of the minds, right?

19 A. I don't recall if he said that.

20 Q. Well, let's -- I believe I specifically  
21 asked him that question, and I believe he said yes.  
22 But irrespective of what Mr. Schwartzer said, who  
23 also happens to be a Nevada lawyer, you would agree  
24 with me that you have to have a meeting of the minds  
25 between the parties before you can form an

1 enforceable contract, right?

2 MR. FREER: Objection. Calls for legal  
3 conclusion. Your Honor, he is not an expert.

4 THE COURT: So understanding that, while  
5 Mr. Schwartz is not testifying as an expert witness,  
6 nevertheless, as an attorney, when he was working  
7 with his father, he may have had certain  
8 understanding based on his legal training. I think  
9 he can testify so long as it's his personal belief  
10 and he is not claiming to be an expert.

11 MR. JONES: That's the reason I'm asking.  
12 The reason I'm going down this line is because  
13 Mr. Freer asked him repeatedly, and he testified  
14 repeatedly, that his father had an agreement.

15 BY MR. JONES:

16 Q. And by "agreement" you meant a legally  
17 enforceable contract; isn't that true?

18 A. Correct.

19 Q. So to have a legally enforceable contract,  
20 you know of your own experience and your own  
21 education that you got, that a required element of a  
22 contract is a meeting of the minds, right?

23 A. It's not always that simple.

24 Q. I don't know that that answered my  
25 question. And I will also say that your lawyer has

1 a right to come after me, I think as you know, on  
2 redirect. If you think I'm asking you something  
3 that is inappropriate or misleading, I certainly am  
4 not trying to, but your lawyer can clean that up.

5 A. You are not asking me the question in a way  
6 that allows me to answer fully.

7 Q. Well, I am certainly not trying to. I  
8 think my question was pretty simple, that under  
9 standard contract law, you learn in law school that  
10 to form an enforceable contract, the parties have to  
11 agree as to what the contract terms are?

12 A. In the most basic terms, but there are  
13 exceptions.

14 Q. Okay. So you agree that in the most basic  
15 terms, to form a basic contract, the parties have to  
16 agree to what the basic terms are, right?

17 A. Or the other party has to accept the  
18 performance that's been provided.

19 Q. Well, that's something else isn't it?  
20 That's -- by the way, with respect to a written  
21 contract, there has to be a meeting of the minds  
22 with respect to the terms of the written contract,  
23 doesn't there?

24 A. In a very basic way, that's what one is  
25 taught in the first year of law school.

1 Q. Thank you. Okay. With that in mind, one  
2 of the things the parties have to agree about in any  
3 contract situation that involves money is how much  
4 money is going to be paid in exchange for, in this  
5 case, naming rights. Would you agree with that,  
6 sir?

7 A. In a very basic way, yes, but there are  
8 exceptions.

9 Q. Well in this case there is no exception  
10 that the school had to agree what it was your father  
11 was going to pay in order to have a valid naming  
12 rights contract, right?

13 A. Or they had to accept his performance.

14 Q. Well, would you agree with me,  
15 Mr. Schwartz, that Judge Sturman is ultimately going  
16 to tell the jury what the law is about contracts?

17 A. Yes.

18 Q. Would you defer to her and what she tells  
19 this jury is Nevada law as to what is required with  
20 respect to a meeting of the minds?

21 A. Yes.

22 Q. Thank you. Going back to this issue of  
23 terms, if you don't have any agreement as to what  
24 the terms are, in writing -- well, let me go back  
25 for a second.

1           If you make a contract today and you pay  
2 the money today, the agreement is of -- as of that  
3 day, would you accept that contract?

4           MR. FREER: Objection calls for improper  
5 hypothetical.

6           THE COURT: Maybe an incomplete  
7 hypothetical. He can answer it if he can.

8 BY MR. JONES:

9           Q. Let me ask you it a different way can you  
10 tell this jury the date that your father allegedly  
11 entered into this naming rights contract?

12          A. Not the specific date, I believe it was  
13 sometime in 1989.

14          Q. But it wasn't in 1990, right?

15          A. No.

16          Q. It wasn't in 1996, right?

17          A. No.

18          Q. It wasn't in 1999, right?

19          A. All of the dates in the documents that you  
20 are referring to demonstrate the agreement. They  
21 demonstrate the contract. It's a series of  
22 documents that, together, form a contract. It  
23 doesn't have to be in a single document.

24          Q. That's according to your idea of what it  
25 takes to create a contract?

1 A. That's what I learned in law school.

2 Q. To answer my question I don't think you  
3 actually answered it the contract that your father  
4 entered into for these naming rights that you say  
5 exist wasn't entered into in 1999, right? I don't  
6 think you ever actually answered that question.

7 A. If you are referring to a document, a set  
8 of bylaws from 1999, like I said there is a series  
9 of documents that demonstrate what the agreement  
10 was.

11 Q. I'm just asking you a question, sir.

12 A. I don't know.

13 Q. You don't know? So --

14 A. I would have to have a document in front of  
15 me that you are referring to.

16 Q. Are you aware -- I will withdraw.

17 Just to be clear too, we have been talking  
18 about the will today. Some of the things we talked  
19 about was the will. But your confident, as you sit  
20 here today, that your father's will is not  
21 ambiguous, right?

22 A. I don't believe it is.

23 Q. And that's what I'm asking, your opinion,  
24 sir.

25 And again, we can agree that ambiguous

1 means it's clear -- excuse me, ambiguous means it's  
2 not clear and you could have two possible meanings  
3 for the words, right; would you agree with that?

4 A. I'm sorry, say that again.

5 Q. The word ambiguous could be defined as a  
6 situation where a document is possibly could be  
7 interpreted two different ways?

8 A. Correct.

9 Q. And your opinion, this will provision of  
10 your dad's, 2.3, paragraph 2.3 of the will, it  
11 cannot be read two different ways it's not ambiguous  
12 at all to you?

13 A. It was clear to me and it was clear to him.

14 Q. It said at the time of your father's death  
15 under paragraph 2.3 of the will, at the time of your  
16 father's death, that your father bequeathed, gave,  
17 gave a gift of \$500,000 to the Milton I. Schwartz  
18 Hebrew Academy, right?

19 A. Correct.

20 Q. And just so -- I don't think your counsel  
21 got into it, but to be clear, it also went on to say  
22 if there was a mortgage on the property where the  
23 building sat then that \$500,000 would go to pay off  
24 any mortgage, right?

25 A. Correct.

1 Q. And if there was no mortgage, then the  
2 money would go to the Hebrew Academy to pay for  
3 scholarships for Jewish students, right?

4 A. Correct.

5 Q. And that is absolutely clear on -- as far  
6 as you are concerned?

7 A. Correct.

8 Q. Now, you talked a little bit early on about  
9 some of the businesses that you own. You have at  
10 this point a real estate development company, a  
11 banking company, and transportation, advertising,  
12 all those things, correct?

13 A. Correct.

14 Q. Those are all businesses your father  
15 started or are those businesses that you started?

16 A. Some are and some are not.

17 Q. So tell the jury which ones are the ones  
18 your dad started.

19 A. My dad started Yellow Checker Star cab  
20 company. I separately started bank of George in  
21 Las Vegas. It has two branches. I have started  
22 numerous LLCs that represent different development  
23 projects that I have started after my dad died.

24 Q. I think you told the jury, your dad  
25 actually, I guess, built Valley Hospital?

1 A. Correct.

2 Q. So he actually built and owned Valley  
3 Hospital, right?

4 A. Along with several other people, yes, but  
5 he was the chairman of the board of Valley Hospital.

6 Q. Was he the largest owner?

7 A. I don't know.

8 Q. But that was -- tell the jury when that was  
9 sold.

10 A. In the early '80s.

11 Q. And your father -- let me put it this way.  
12 Your father made a very successful investment with  
13 Valley Hospital, right?

14 A. He did.

15 Q. And he was smart enough to not only sell  
16 the hospital but he kept the land?

17 A. He wouldn't agree with that statement.

18 Q. Is your father's estate still the landlord  
19 of Valley Hospital?

20 A. No.

21 Q. So it doesn't own that land anymore?

22 A. No.

23 Q. The reason I ask that question is miss PAC  
24 seemed to say it still does?

25 A. No. It did at one time. It was sold

1 before -- long before he passed away, but we owned  
2 other properties.

3 Q. And your father owned lots of -- or had  
4 different other corporations and things during his  
5 lifetime is that true?

6 A. Correct.

7 Q. And and he -- would you agree with me your  
8 father who again this is incredibly small town, but  
9 I have been here my whole life, but I grew up in a  
10 neighborhood not far from where Valley Hospital was,  
11 so my understanding is your father also in the  
12 course of his career, he signed many, many  
13 contracts, didn't he?

14 A. Yes.

15 Q. And in fact, you testified under oath that  
16 your father was a genius, right?

17 A. He was.

18 Q. In fact, if you could put it in your dad's  
19 case what we might call a certifiable genius?

20 A. He was it's not a description. He was  
21 certified as a genius. Took a test and certified  
22 it.

23 Q. That's the MENSA that I was referring to in  
24 my opening statement?

25 A. Correct.

1 Q. So your dad has the distinction of being  
2 one of those people that took that MENSA quiz which  
3 I wouldn't even try to take because I probably know  
4 what the answer would be and I'd rather keep myself  
5 in the dark that I might possibly be a genius rather  
6 than being proven wrong. But your dad was able to  
7 prove that he was a certifiable genius?

8 A. Correct.

9 Q. Ms. Pacheco testified that he was  
10 meticulous about his business would you agree with  
11 that?

12 A. Yes.

13 Q. And he was -- I think she testified he  
14 actually enjoyed negotiating bank loans with banks.

15 A. He enjoyed negotiating everything.

16 Q. And I think she even testified that he  
17 wasn't going to sign anything that he didn't agree  
18 with. Would you agree with that too?

19 A. Yes.

20 Q. And while your father was -- would you  
21 agree with me, your father was a very wealthy man?

22 A. Relatively. Relatively. I don't  
23 understand -- I don't know very wealthy.

24 Q. Respect that maybe the jury can relate to.  
25 Your dad was worth tens of millions of dollars,

1 wasn't he?

2 A. Yes.

3 Q. I would call that very wealthy. You  
4 wouldn't necessarily call that very wealthy?

5 A. I consider Mr. Adelson extremely wealthy,  
6 not my father.

7 Q. I don't disagree with you. You will get no  
8 argument from me, Mr. Adelson is extraordinarily  
9 wealthy.

10 A. Yes.

11 Q. That doesn't take away from the fact that  
12 your father was very wealthy too?

13 A. He didn't do too badly.

14 Q. By the way, which is certainly needs to be  
15 applauded for that, nothing wrong with that. That's  
16 what we all try to do in this country.

17 You would agree with me that by the time  
18 1989 rolls around, your father was how old?

19 A. Born in 21, so.

20 Q. Do the math?

21 A. Whatever that is.

22 Q. I went to law school I didn't go to become  
23 an accountant because I can't do the math he was  
24 probably in his 60s or so?

25 A. Right.

1 Q. Or late '60, maybe?

2 A. Uh-huh.

3 Q. All right. So by that time, he had  
4 probably signed hundreds of contracts in his career?

5 A. Probably.

6 Q. And would you agree with me, Mr. Schwartz,  
7 your father understood what it took to create an  
8 enforceable contract by 1989?

9 MR. FREER: Objection. Argumentative.

10 THE COURT: Overruled.

11 THE WITNESS: I don't know for certain. I  
12 didn't have a first year law school conversation  
13 with him about the elements of a contract, so I  
14 don't know.

15 BY MR. JONES:

16 Q. He had been in some litigation over  
17 contracts before 1989, hadn't he?

18 A. Yes.

19 Q. So he certainly had been in lawsuits where  
20 contracts had been the issue before he got -- he did  
21 this so-called deal with the school. So you would  
22 agree with me it's fair to assume that he understood  
23 what it took to create a contract?

24 A. In a basic way, yes.

25 MR. JONES: Your Honor, counsel said I get

1 tied up in what I'm doing I don't see what time it  
2 is if it's a good time to take a break.

3 THE COURT: We already did one and it's 415  
4 unless somebody needs a break.

5 MR. JONES: Anybody want a break? Jury  
6 good. I'm ready to go, Your Honor.

7 BY MR. JONES:

8 Q. You even testified to this jury that you  
9 attended negotiations with your father, right?

10 A. Correct.

11 Q. So you saw what a great negotiator he was,  
12 right?

13 A. Yes.

14 Q. I think you testified before, just a few  
15 minutes ago, your dad loved to negotiate, he  
16 negotiated everything.

17 A. He did.

18 Q. And did you ever once in all of your  
19 dealings with your dad watching him negotiate  
20 contracts did you ever see anybody get the better of  
21 your dad in negotiations?

22 A. Yes.

23 Q. You did?

24 A. I did.

25 Q. And what did he do about that?

1           A.     In the one instance I can think of, he did  
2 nothing about it because he didn't think he could.

3           Q.     Okay. So what was that one instance?  
4 Could you tell the jury about that one instance  
5 where somebody got the better of him in  
6 negotiations?

7           A.     It's difficult to explain in the way that  
8 you are asking the question. But long and short of  
9 the deal was he sold a piece of land and the buyer  
10 of the land turned around very quickly, flipped it  
11 to somebody else for substantially more, millions of  
12 dollars more. And my dad was not aware of some of  
13 the facts that led to the subsequent owner being  
14 able to sell the land for a lot more money.

15          Q.     Of all of the negotiations you saw, you saw  
16 one guy who did a deal with him that ended up  
17 selling that property for more money pretty quickly  
18 after he bought it from your dad?

19          A.     Correct. That's the one I can think of.

20          Q.     Now, tell this jury, if you would, we are  
21 going to go back and talk about agreements and  
22 contracts. Tell the jury, in 1989, what your dad  
23 agreed to pay for the naming rights that you claim  
24 that he got in 1989?

25               MR. FREER: Objection. Lacks foundation.

1 THE COURT: Yeah, with that context, again,  
2 it's if he knows.

3 THE WITNESS: Half a million dollars.

4 BY MR. JONES:

5 Q. Okay. That's it?

6 A. That's not it. He gave half a million  
7 dollars, and as a practical matter, in order to get  
8 the school built, he either individually raised or  
9 helped to raise another half million dollars.

10 Q. So I want to be clear about this as clear  
11 as I can I have heard so many different things so  
12 let me ask you again. What was the agreement, the  
13 actual agreement of how much money did he have to  
14 pay himself?

15 MR. FREER: Objection. Lack of foundation.  
16 Asked and answered.

17 MR. JONES: I represents the state that's  
18 trying to enforce this contract.

19 THE COURT: Exactly. So again in the  
20 context, if he knows, either from personally or from  
21 something his dad may have given him. He said his  
22 dad gave him stuff about this.

23 THE WITNESS: My understanding is a broad  
24 one, that he made a large gift and the school -- the  
25 school agreed to be known as the Milton I. Schwartz

1 Hebrew Academy in perpetuity. I have received a lot  
2 of education just like you have just like the jury  
3 has and hearing from these witnesses over the past  
4 couple years.

5 BY MR. JONES:

6 Q. So my question to you, again, Mr. Schwartz,  
7 is tell me the dollar amount that your father paid  
8 in 1989 in order to secure all of the naming rights  
9 that you contend on behalf of the estate he got?

10 MR. FREER: Same objections Your Honor.

11 THE COURT: Overruled.

12 THE WITNESS: That my father paid \$500,000.

13 BY MR. JONES:

14 Q. Not a penny more not a penny less, right?

15 A. That my father paid \$500,000.

16 Q. In total, right?

17 A. Correct.

18 Q. And he didn't have to do anything else,  
19 raise any money from anyone else or give anymore  
20 money or anything else in exchange for those naming  
21 rights, is that your testimony?

22 A. No.

23 Q. I just want to be clear.

24 A. No.

25 MR. FREER: Objection. Lack of foundation.

1 THE COURT: Overruled.

2 BY MR. JONES:

3 Q. So no. So now he did have to do something  
4 else?

5 A. It's not that he had to do it. It's as a  
6 practical matter the school had to have a million  
7 dollars, whether it came from my dad or other  
8 people. And my understanding is my dad gave a half  
9 a million dollars and either he raised or a group of  
10 people raised another half million dollars. To  
11 aggregate the entire million dollars that was  
12 necessary to build the school so that the Howard  
13 Hughes Corporation would complete the gift of the  
14 land they didn't have the money to build a school on  
15 the land, Howard Hughes was unwilling to complete  
16 the gift of the land. That's my understanding. I  
17 don't know if I can explain it any better I'm really  
18 trying.

19 Q. I appreciate that.

20 This is obviously a very, very important  
21 question in this case. So if your father had not --  
22 let's just say hypothetically he hadn't done  
23 anything else to help raise more money, is it your  
24 testimony to this jury that he would still be  
25 entitled to all of the naming rights that you

1 contend?

2 MR. FREER: Objection. Calls for  
3 speculation.

4 THE COURT: Overruled again.

5 THE WITNESS: I'm sorry can you repeat it?

6 BY MR. JONES:

7 Q. I would be happy to?

8 THE COURT: Not as an expert, his personal  
9 belief or understanding.

10 MR. JONES: His statement on behalf of the  
11 estate Your Honor which is claiming that they have  
12 this naming rights agreement.

13 THE COURT: Okay.

14 MR. JONES: Just trying to pin down the  
15 position of the estate. And I believe -- my  
16 understanding is he is the representative of the  
17 estate with respect to that. He has filed a  
18 petition under oath.

19 BY MR. JONES:

20 Q. So with that in mind, Mr. Schwartz, as the  
21 representative of the estate, if your father didn't  
22 help raise another penny over \$500,000 that he gave  
23 U because we aren't contesting he gave that money,  
24 would he still be entitled to all of the naming  
25 rights that you contend he is entitled to?

1           A.    I can't answer that as a yes or no answer  
2 because the other half million dollars was necessary  
3 to build the school.  If my father had only given  
4 \$500,000 and either my father and no one else had  
5 raised another penny, the school wouldn't have been  
6 built because they would not have had enough money.  
7 If my father had pledged a half million dollars and  
8 not another cent was raised the money would have  
9 just been returned to him.

10           Q.    I appreciate that but that's not my  
11 question.  My question is -- and I understand if  
12 they had to raise more money.  I'm not talking about  
13 the school being built or not being built.  I'm  
14 talking about an agreement.  And just so we are  
15 clear, you understand there is a difference between  
16 an enforceable agreement that your -- you are  
17 contending your father had and whether or not the  
18 school got built I'm not asking about whether the  
19 school got built I'm asking about the terms, what  
20 you claim to be the actual material terms of that  
21 contract.  What were they?  Did he have to raise a  
22 half million dollars or not, pursuant to his  
23 agreement?

24           A.    Did he specifically need to do it?  I just  
25 know that he did.

1 Q. What is the estate's position -- in this  
2 court in front of this jury, what's the estate's  
3 position? Was he required to do that? Whether he  
4 did or not, was he required, as a material term of  
5 that agreement, to do it?

6 A. The estate's position was he gave a half  
7 million dollars and the school agreed to be called  
8 the Milton I. Schwartz Hebrew Academy.

9 Q. So the answer to my question to this jury  
10 sir is no, he didn't have to?

11 A. Mr. Jones I don't want you to put words in  
12 my mouth I'm going to answer it the way I would  
13 answer it.

14 MR. JONES: Your Honor, I would ask that  
15 the witness answer the question. I have asked him  
16 about three times. I don't want to argue with him,  
17 but I have yet to get an answer. And I can read  
18 back the transcript, and I think it's quite clear  
19 what my answer [sic] is. And Mr. Schwartz has  
20 failed to answer my question.

21 THE COURT: What your question is.

22 And so again, to the extent that he can  
23 answer it, he should answer it. So read it back to  
24 him.

25 THE WITNESS: Fire away again, and I will

1 do my best. I just don't want to give you an answer  
2 that's incorrect.

3 BY MR. JONES:

4 Q. This is a question that I think I said at  
5 least a third time, if not a fifth time.

6 What is the estate's position in this  
7 court, in front of this jury, was your father  
8 required to raise any money in addition to the  
9 \$500,000 as a material term of his alleged  
10 agreement?

11 A. Sitting here today, I'm not 100 percent  
12 certain that he was required to raise any additional  
13 money. I just know that he did.

14 Q. Let me ask this way, sir. You are not  
15 quite sure, then, as you sit here today, would you  
16 agree with me then you are not quite sure of one of  
17 the material terms of your father's agreement?

18 MR. FREER: Objection. Argumentative.

19 THE COURT: Overruled.

20 THE WITNESS: No. You are making a  
21 statement that it a material term. I don't know  
22 that it is.

23 BY MR. JONES:

24 Q. Well, \$500,000 is certainly a lot of money.  
25 You would agree with that?

1 A. Mr. Jones, the money was raised,  
2 regardless.

3 Q. Mr. Schwartz, I don't want to argue with  
4 you?

5 A. You are trying to throw whatever you can at  
6 this agreement.

7 THE COURT: Mr. Schwartz wait for the  
8 question answer only the question that's on the  
9 floor, nothing else.

10 MR. JONES: Thank you Your Honor.

11 BY MR. JONES:

12 Q. You would agree with me that \$500,000 is a  
13 lot of money to most of it?

14 A. It is to me and my family. It still is.

15 Q. Hopefully everybody in the room can agree  
16 on that. \$500,000 is a lot of money.

17 Again, you went to law school, you  
18 understand reference to a material term, don't you?

19 A. Uh-huh.

20 Q. I'm sorry, yes?

21 A. Yes. Yes, yes, yes.

22 Q. "Material" means a critical or a primary or  
23 significant term of the contract. Would you agree  
24 with that?

25 A. Yes.

1 Q. So if we are talking about \$500,000 in the  
2 context of a contract, you would agree with me that  
3 whether or not \$500,000 was due or not due would be  
4 a material thing, wouldn't it?

5 A. Yes.

6 Q. There so we got past that.

7 MR. JONES: Court's indulgence.

8 THE COURT: Certainly.

9 BY MR. JONES:

10 Q. Sorry, Mr. Schwartz, I just want to find my  
11 place. I'm also sorry to all of you. Thank you for  
12 your patients. So you said to this jury a minute  
13 ago that you weren't sure whether or not your father  
14 had to give a half million dollars -- I'm sorry, had  
15 to raise a half million dollars as part of his  
16 agreement, right?

17 A. In the way you are asking the question, I'm  
18 not sure. It was done.

19 Q. Well, again, I don't want to get into this  
20 whole debate again.

21 A. It's a matter of semantics.

22 Q. I would disagree with you, sir?

23 A. That's why we are here.

24 THE COURT: Okay. Okay. Please. If there  
25 is a question pending answer that question.

1 Otherwise let's cut off the colloquy.

2 MR. JONES: Thank you Your Honor.

3 BY MR. JONES:

4 Q. Would you agree with me, Mr. Schwartz, we  
5 are trying to give information to this injure I have  
6 so they can determine whether or not your dad had an  
7 agreement, an enforceable agreement with the school  
8 for naming rights? That's part of this case, right?

9 A. Correct.

10 Q. And we -- would you agree with me that it's  
11 important for this jury to get evidence about what  
12 the terms of the agreement were?

13 A. Correct.

14 Q. The jury can't figure out whether there was  
15 an agreement or not unless they can get the evidence  
16 about what the terms were, would you agree with  
17 that?

18 A. Correct.

19 Q. So I'm not asking you about anything other  
20 than what the terms of the agreement were. And so I  
21 need to know if a term of the -- let's try to make  
22 this easier. Break it down.

23 We know your father gave \$500,000 in 1989  
24 to the school, right?

25 A. Right.

1 Q. And nobody disputes that, and, by the way,  
2 that was an incredibly wonderful thing to do at a  
3 critical time for the school. So that's not a  
4 debate. Nobody is fighting over that. Everybody is  
5 glad that happened. It's a wonderful thing your dad  
6 did. We know about that. And I believe you  
7 testified that clearly was part of the agreement,  
8 right?

9 A. Right.

10 Q. So I just want to find out clear and  
11 unequivocal so this jury will know what your  
12 position is for the estate as to whether or not  
13 there was any other part of the agreement that had  
14 to do with money. So with that in mind, your dad's  
15 500,000 he gave away that's fine we already got that  
16 on the agreement side. Let's talk about the other  
17 side of the agreement.

18 Was your dad required as part of an  
19 agreement for naming rights to raise another  
20 \$500,000 from other people?

21 A. Sitting here today, I'm not 100 percent  
22 certain.

23 MR. JONES: Your Honor could we publish  
24 Mr. Schwartz's deposition.

25 THE COURT: Yes.

1 MR. JONES: I would like to publish from  
2 July 28, 2016.

3 Your Honor would you mind explaining that  
4 to the jury.

5 THE COURT: I think we did last week. All  
6 we are doing is opening a sealed document and make  
7 it available to be used in court.

8 MR. JONES: Not like publishing Harry  
9 Potter.

10 MR. FREER: Randall which deposition are  
11 you publishing?

12 MR. JONES: July 28, 2016.  
13 May I approach the witness.

14 THE COURT: You may.

15 BY MR. JONES:

16 Q. Mr. Schwartz, I'm handing you your  
17 deposition from July 28, 2016. I would like you to  
18 refer -- to refer you to page 14 of your deposition,  
19 starting at line 17, ending on line 1 of page I'm  
20 sorry, ending at line three of Page 15. Actually,  
21 yeah, let's just stop it there. Have you read that,  
22 sir?

23 A. I have.

24 MR. JONES: Your Honor we have a video  
25 deposition. I would like to play that for the jury

1 with the court's approval.

2 THE COURT: Again, all this is at the same  
3 time Mr. Schwartz was deposed and they made a  
4 transcript, this is on videotape so you can see it.

5 (Videotape played.)

6 MR. JONES: Thank you Shane.

7 BY MR. JONES:

8 Q. All right. So perhaps you can see my  
9 confusion, because clearly in your deposition -- by  
10 the way, in that deposition, you were under oath,  
11 correct?

12 A. Correct.

13 Q. It's the same oath you take -- that you  
14 took in front of this jury, right?

15 A. Correct.

16 Q. And in that deposition, it looked to me  
17 that you were very clear. You said, No, here is  
18 what the agreement was. The agreement was my father  
19 was to give 500,000 and raise 500,000. That's how  
20 the million was arrived at. And that's what he did.  
21 He personally gave half a million and then he raised  
22 another half a million dollars to a total of a  
23 million. Right? Is that what you said?

24 A. Right.

25 Q. So which one was it? Was it part of the

1 agreement that he did do both or he only had to do  
2 the one?

3 A. Mr. Jones, I think we are splitting hairs  
4 over something that's not significant. It happened.  
5 He raised the money, whether it was part of the  
6 agreement or it wasn't part of the agreement, he did  
7 it.

8 Q. Let me ask you about that. Well, he did  
9 it?

10 A. He or the school did it. The money was  
11 raised.

12 Q. Did he have to raise it or did somebody  
13 else have to raise it?

14 A. The money was raised.

15 Q. My question, sir, is did he?

16 A. I don't know.

17 Q. You don't know?

18 A. Sitting here today, I'm not 100 percent  
19 certain. I just know it happened.

20 Q. Do you know -- let me rephrase that.

21 You have never -- well, let me rephrase  
22 that. Let me go back here for a second.

23 As you sit here today in front of this  
24 jury, you don't know how much money, if any, your  
25 father was responsible for raising, do you?

1 A. I know what my father told me.

2 Q. You would defer to your father? You would  
3 agree he would know better about how much he raised  
4 than you?

5 A. Mr. Jones I would love to defer to him,  
6 right now.

7 Q. I bet you would. And I can appreciate. I  
8 have sat in that position before myself. And I  
9 apologize. I'm not trying to make you  
10 uncomfortable?

11 A. I'm not uncomfortable. Just your question  
12 was amusing to me. I would love to defer to him and  
13 have him be dealing with this.

14 Q. I think it would be good for all of us to  
15 have his input. Unfortunately we can't ask him.  
16 All I can do is ask you because there is nobody else  
17 from your estate I can ask. With that in mind, if  
18 your dad did say how much he raised, would you defer  
19 to him?

20 A. Yes.

21 Q. You would concede he would know that?

22 A. Yes.

23 Q. Have you seen the videotape of the gala  
24 that was put on in his honor in 2007?

25 A. I was there. It's been a long time.

1 Q. So fair enough. So just to go back and  
2 talk about that for a minute so the jury knows what  
3 we are talking about, in fact you talked about it on  
4 examination with your lawyer, Mr. Freer. There was  
5 a gala in 2007 honoring your dad, right?

6 A. Right.

7 Q. And that was a great thing to honor his  
8 contributions to the school over 25 years, right?

9 A. Right.

10 Q. And as part of that gala, the Adelsons  
11 actually commissioned a videographer to do a video  
12 commemorating your dad and honoring your dad, right?

13 A. Right.

14 Q. And you will actually saw that video at the  
15 time because you were there?

16 A. It's been a long time since I have seen it,  
17 but yes, I have seen it.

18 Q. Sure. Sure. Have you seen any parts of it  
19 since?

20 A. Honestly no. It's very emotional for me to  
21 watch that. So I saw it once, years ago.

22 Q. I can appreciate that, how that would be  
23 emotional for you to do.

24 And in the video it's actually Dr. Adelson  
25 who is off camera asking him the questions, right?

1 A. Right.

2 Q. That's Mr. Adelson's wife?

3 A. Correct.

4 Q. And are you aware of the fact -- do you  
5 remember the video of your dad talking about what he  
6 claims his agreement was in terms of his agreement?

7 A. I vaguely recollect it, yes.

8 Q. Do you recall that in the video he talks  
9 about a couple people he says he raised the money  
10 from?

11 A. I will accept your representation that he  
12 did. I can vaguely recollect him talking about it  
13 in the video.

14 Q. By the way, in the deposition testimony we  
15 just read and saw, you said that's how the million  
16 dollars was raised. So would you agree with me  
17 that -- you understood at least at the time of your  
18 deposition was taken that the agreement was your dad  
19 had to either -- he had to come with a million  
20 dollars, half of it in money from him and half of it  
21 from other people?

22 A. That was my recollection at the time.

23 Q. If your dad's agreement was to raise a half  
24 million dollars, half he gave and half from other  
25 people that the agreement to be valid, he would have