

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADMINISTRATION OF
THE SSJ'S ISSUE TRUST,

IN THE MATTER OF THE ADMINISTRATION OF
THE SAMUEL S. JAKSICK, JR. FAMILY TRUST.

TODD B. JAKSICK, INDIVIDUALLY AND AS CO-
TRUSTEE OF THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST, AND AS TRUSTEE OF THE SSJ'S
ISSUE TRUST; MICHAEL S. KIMMEL,
INDIVIDUALLY AND AS CO-TRUSTEE OF THE
SAMUEL S. JAKSICK, JR. FAMILY TRUST; KEVIN
RILEY, INDIVIDUALLY AND AS A FORMER
TRUSTEE OF THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST, AND AS TRUSTEE OF THE
WENDY A. JAKSICK 2012 BHC FAMILY TRUST;
AND STANLEY JAKSICK, INDIVIDUALLY AND AS
CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST,

Appellants/Cross-Respondents,

vs.

WENDY JAKSICK,

Respondent/Cross-Appellant.

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Case No.: 81470

Appeal from the Second
Judicial District Court,
the Honorable David
Hardy Presiding

**RESPONDENT/CROSS-APPELLANT WENDY JAKSICK'S
APPENDIX, VOLUME 15**

Marquis Aurbach Coffing

Chad F. Clement, Esq. (SBN 12192)
Kathleen A. Wilde, Esq. (SBN 12522)
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
cclement@maclaw.com
kwilde@maclaw.com

Spencer & Johnson, PLLC

R. Kevin Spencer (pro hac vice)
Zachary E. Johnson (pro hac vice)
500 N. Akard Street, Suite 2150
Telephone: (214) 965-9999
Facsimile: (214) 965-9500
kevin@dallasprobate.com
zach@dallasprobate.com

Attorneys for Respondent/Cross-Appellant, Wendy Jaksick

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Dated this 14th day of June, 2021.

MARQUIS AURBACH COFFING

By /s/ Chad F. Clement

Chad F. Clement, Esq. (SBN 12192)
Kathleen A. Wilde, Esq. (SBN 12522)
10001 Park Run Drive
Las Vegas, Nevada 89145

SPENCER & JOHNSON, PLLC

R. Kevin Spencer (pro hac vice)
Zachary E. Johnson (pro hac vice)
500 N. Akard Street, Suite 2150
Dallas, Texas 75201
Attorneys for Respondent/Cross-
Appellant, Wendy Jaksick

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RESPONDENT/CROSS-APPELLANT WENDY JAKSICK'S APPENDIX, VOLUME 15** was filed electronically with the Nevada Supreme Court on the 14th day of June, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kent Robison, Esq.
Therese M. Shanks, Esq.
Robison, Sharp, Sullivan & Brust
71 Washington Street
Reno, NV 89503

Donald A. Lattin, Esq.
Carolyn K. Renner, Esq.
Kristen D. Matteoni, Esq.
Maupin, Cox & LeGoy
4785 Caughlin Parkway
Reno, NV 89519

Phil Kreitlein, Esq.
Kreitlein Law Group
1575 Delucchi Lane, Ste. 101
Reno, NV 89502

Adam Hosmer-Henner, Esq.
McDonald Carano
100 West Liberty Street, 10th Fl.
P.O. Box 2670
Reno, NV 89505

/s/ Leah Dell
Leah Dell, an employee of
Marquis Aurbach Coffing

1 Is that your understanding?

2 A Yes.

3 Q Wendy is a beneficiary of the issue trust?

4 A She is.

01:35PM 5 Q Do you believe that it was beneficial for Wendy, in
6 Wendy's best interests, to have that money invested in the Tahoe
7 house?

8 A Yes, it allowed her to be able to continue, you know,
9 utilizing the house.

01:36PM 10 Q And the investment was in 2013?

11 A Yes. And it was -- you know, it was a good investment
12 for the issue trust. So, you know, that would, you know, benefit
13 our future generations.

01:36PM 14 Q So Wendy has an interest in the issue trust. Because of
15 the appreciation of the Tahoe house, that interest has increased?

16 A Yes.

17 Q And so she has, financially, with respect to the terms
18 of the issue trust, been in a better position now than she was in
19 2013 when those funds were invested?

01:36PM 20 A Yes.

21 Q Do you think that the investment of the issue trust into
22 Incline TSS, which then owns the Tahoe house, was a way to allow
23 Wendy to use the Tahoe house without exposing it to her creditors?

24 A Yeah.

01:37PM 25 Q Was that a way to let her own an interest in that

1 valuable asset without exposing it to her creditors?

2 A Yeah, I don't really know how she owns -- you know, it's
3 not like she can -- she'll financially benefit if it was to sell,
4 but she -- it helps the overall issue trust, and it does allow her
5 to have access and utilize the house.

6 Q It increases the value of whatever interest she has in
7 the issue trust?

8 A Yes.

9 Q There's been some discussion of Bronco Billy's or
10 Pioneer Group. Can you tell me a little bit about the family
11 trust's interest in a company called Pioneer Group and what
12 Pioneer Group is.

13 A Pioneer Group was a casino back in Cripple Creek,
14 Colorado. And my father had a 37 percent interest, I want to say,
15 in that casino.

16 I think you've all heard discussions about how Todd and
17 I had to get our gaming licenses. So after my dad passed away and
18 we both were gifted a 6 percent interest in the Pioneer Group or
19 Bronco Billy's, we had to get our gaming licenses. And those
20 licenses are very involved and we spent a lot of time doing that.

21 Finally, after we got approved by Colorado Gaming for
22 our licenses, which took years, we told the board of directors --
23 you know, we had one of the largest interests in that company and
24 we wanted to get on the board.

25 And so just after that, they decided to sell it.

1 Q Just before the judge reminds you, could you pull the
2 microphone a little closer to you. And, no, we didn't have any
3 coffee over lunch, but if you could just speak a little bit
4 louder, I'd appreciate it, and I'm sure the judge would as well.

01:39PM

5 So Pioneer Group owned a casino called Bronco Billy's,
6 and your dad at one time had a 30 percent interest in
7 Pioneer Group.

8 A Yes.

01:39PM

9 Q 6 percent of that went to Todd so he could get a gaming
10 license?

11 A Yes.

12 Q And 6 percent went to you so you could get a gaming
13 license?

14 A Right.

01:39PM

15 Q And those 6 percent gifts are reflected in the second
16 amendment to the family trust?

17 A Yes.

01:40PM

18 Q That left -- I apologize for leading on math, Your
19 Honor -- but 25 percent of an interest in Pioneer Group in the
20 family trust?

21 A That's correct, yeah.

22 Q Were you ever on the board of directors of
23 Pioneer Group?

01:40PM

24 A No. So as I said, just after we inquired about that,
25 they told us that they were actually looking to sell the company.

1 Q And that decision -- to be clear, Todd was never on the
2 board of directors either?

3 A No.

4 Q That decision to sell the company was made by people in
5 Colorado or wherever the board of directors was located?

6 A Yes.

7 Q Not by any Jaksick?

8 A No.

9 Q Then, because this transaction seems a little bit
10 complicated during the original direct examination, it doesn't
11 sound like you really understood it. That 25 percent was sold to
12 a third party?

13 A Yes. I'm sorry. Yes.

14 Q It's my fault. All of the entity was sold?

15 A The company was sold.

16 Q And those proceeds from the sale went back to the sub
17 trusts that you and Todd had under the family trust?

18 A Correct.

19 Q And that was about \$6 million?

20 A Yes.

21 Q Why was the transaction structured in a way that it went
22 to your and Todd's sub trusts?

23 A Because you had to have a gaming license to own an
24 interest in the casino, and -- or to get any distributions.

25 Q And was the original plan that you and Todd would get

1 the proceeds from the sale and Wendy would receive the same share
2 out of other assets, since she didn't have a Colorado Gaming
3 license?

4 A That was the original plan, yes.

01:41PM 5 Q And that plan changed once the casino sold and there was
6 no obligation to have a gaming license?

7 A That's right.

8 Q And what was that next plan, or rather than have the two
9 sub trusts and then to equalize, what was the new plan?

01:42PM 10 A The new plan was to put the money back into the family
11 trust, which we both did, other than I held back \$400,000.

12 Q Why did you hold back those \$400,000?

13 A Because I wanted to set aside some funds. I wasn't
14 sure, you know, with -- because Wendy was no longer being
01:42PM 15 equalized and I wanted to set aside some money for her.

16 Q Did you set aside any of those funds for yourself?

17 A No.

18 Q Have you taken any of those 400,000 bucks?

19 A I have not.

01:42PM 20 Q Have you used any of that for any other purpose other
21 than to transfer those funds to Wendy on a monthly basis?

22 A I have not.

23 Q The 25 percent proceeds from the sale have now all gone
24 back to the family trust, except for that 400,000?

01:43PM 25 A It's now down to 325,000 because I advanced Wendy about

1 75,000 of that.

2 Q And that money is family trust money, it's just in your
3 sub trust?

4 A Yes.

01:43PM 5 Q So of that 6 million, there were some taxes, I assume?

6 A There were. We saw the taxes earlier today that were
7 paid from the -- from the sale. It was -- you know, a lot of
8 money went in taxes. And those were the two -- I think it was
9 like a million 2 from both Todd and myself.

01:43PM 10 Q And those taxes weren't paid so that you could keep the
11 rest of it, were they?

12 A No, that was just taxes paid on the sale of an asset.

13 Q No beneficiary could get a distribution of those funds
14 until the taxes were paid?

01:43PM 15 A Correct.

16 Q So \$6 million in proceeds, about 2 and a half million in
17 taxes?

18 A Yeah.

01:44PM 19 Q Of that amount, everything has gone back in the family
20 trust to either stay in the family trust bank accounts or be used
21 to pay down family trust debts, with the exception of 325,000 or
22 400,000; is that right?

23 A Yes.

01:44PM 24 Q So is it fair to say that the only person, you, Todd or
25 Wendy, who has received any cash out of the Pioneer Group or

1 Bronco Billy's sale is Wendy?

2 A Yes.

3 Q Is it fair to say that you've received zero dollars,
4 Todd has received zero dollars, and she has received \$75,000?

01:44PM

5 A Yes.

6 Q There's another entity involved in this case. It's
7 called Jackrabbit. Could you describe a little bit about what
8 Jackrabbit is.

01:44PM

9 A Jackrabbit is a ranch north of Pyramid Lake. I'm not
10 exactly sure how many acres, but somewhere in the 10,000 range. A
11 beautiful piece of property and has some very valuable water
12 rights on it.

13 Q Is that a very valuable entity as a whole?

14 A It is.

01:45PM

15 Q And at some point, the family trust had a block of
16 interest in Jackrabbit?

17 A Yes.

18 Q And then was that interest ever distributed out to you,
19 Todd and Wendy?

01:45PM

20 A Yes, it was.

21 Q So now, Wendy's interest in Jackrabbit is held in what
22 entity or vehicle?

23 A In her sub trust.

24 Q And that belongs just to her?

01:45PM

25 A Yeah.

1 Q Do you know the approximate value of Wendy's interest in
2 Jackrabbit that's held in her sub trust?

3 A Well, she has, I think, like, 7-something percent, and
4 then her son has another 2 percent. So the combination of the
5 two, they are probably worth around a million dollars.

6 Q So hers would be whatever fraction of that,
7 seven-ninths --

8 A Yes.

9 Q -- sound right to you?

10 A More like -- probably more like 900 -- a hundred
11 thousand a share.

12 Q So that interest of about 900,000 or a million is in
13 Wendy's sub trust?

14 A It is.

15 Q Has the family trust made any payments on behalf of
16 Wendy's sub trust to Jackrabbit?

17 A I know of one, yes.

18 Q So Jackrabbit is a valuable piece of property, right?

19 A Yes.

20 Q But does it also have expenses, annual expenses?

21 A Yes. I'm not involved in the day-to-day or management
22 of that entity, but, you know, yes, it's a business. Obviously,
23 if they are requiring capital calls, then it's still not making
24 money. So --

25 Q And those capital calls, are they for things like debt,

1 property taxes and the like?

2 A Yes.

3 Q Do you believe that Wendy has sufficient funds to pay
4 those capital calls?

01:47PM 5 A No, I don't know how she would have paid for those.
6 So -- I think it was good that the -- you know, the trust did pay
7 for her interest.

8 Q And what would have happened to her interest if the
9 trust had not paid those capital calls?

01:47PM 10 A I'm not really sure. I assume at some point, she'd lose
11 it, but I don't know exactly.

12 Q Is there a chance her interest could have been diluted?

13 A Yes.

14 Q So it would have been worth less than a million?

01:47PM 15 A Yes.

16 Q And there's a chance it could have been lost altogether?

17 A Possibly.

18 Q The family trust, when it's distributed, does it have to
19 be distributed all in cash to each of the beneficiaries?

01:48PM 20 A No.

21 Q Could it be distributed in noncash assets?

22 A Yeah, absolutely.

23 Q And how would that work?

01:48PM 24 A So, yeah, if we have -- the trust has an interest in
25 Buckhorn, for instance, 25 percent interest. So those shares

1 would be distributed equally between Wendy, Todd and I, an
2 ownership interest.

3 Q And then each of you would have to bear the costs of
4 owning that real property or those entities?

01:48PM 5 A Yeah, if -- if there's a capital call required,
6 whatever.

7 Q Has Wendy ever told you that that's what she wants?

8 A I think Wendy would prefer having cash, you know.

01:48PM 9 Q Is it your understanding that her interests are that her
10 trust -- is that she get cash out of the trust, rather than
11 assets?

12 A I think for the most part, she would rather have cash
13 than interest.

14 I know she wants -- wanted to stay in Jackrabbit.

01:49PM 15 Q Right. With respect to the second amendment to the
16 family trust, is that your understanding of what you have been
17 using to -- as the rule book for the family trust, since 2013?

18 A Yes.

19 Q And that was told to you by Pierre Hascheff?

01:49PM 20 A No, not from Pierre, but from Maupin Cox LeGoy.

21 Q From the attorneys for the trust and trustees?

22 A Yes.

23 Q Told you that that was the operative document?

24 A Yes.

01:49PM 25 THE COURT: Hold on. Let's all stand for a minute.

1 (Pause in proceedings.)

2 BY MR. HOSMER-HENNER:

3 Q Are the terms of the second amendment consistent with
4 what you understood your dad wanted to do with the family trust?

01:50PM

5 A Yes.

6 Q Do you attend meetings of the family trust cotrustees?

01:51PM

7 A Prior to this litigation, yes, we would typically meet a
8 couple of times a month, mostly -- I mean, we typically had a
9 standing call on Monday at 1 o'clock. And sometimes, we had
10 nothing to go over, and other times, we did.

11 Q Do you believe that you have always acted in the best
12 interest of the beneficiaries of the family trust?

13 A Yes, I do.

01:51PM

14 Q Do you believe that you have protected Wendy's
15 interests?

16 A I do believe I have protected Wendy's interests.

17 Q Have you communicated to Wendy about trust matters?

18 A I have.

01:51PM

19 Q Have you ever kept anything about the family trust from
20 her?

21 A No.

22 Q Fair to say that she --

23 THE COURT: Excuse me just a second. Let's stand.

01:51PM

24 Ladies and gentlemen, during this recess, please do not
25 discuss this case amongst yourselves. Please do not form or

1 express any opinion about this matter until it's submitted to you.

2 I'm going to clear the courtroom of all people except
3 counsel and Juror Number One.

01:51PM

4 You may be excused, first to the jury, and then members
5 of the public.

6 (The jury and members of the public left the courtroom.)

7 THE COURT: Have a seat.

01:52PM

8 I just want to make sure that, if you have a medical
9 condition that you are reluctant to share, that I give you that
10 opportunity to do so in some private way. Your jury service is
11 required, but heroism beyond your physical abilities is not
12 required.

13 JUROR NUMBER ONE: It doesn't seem to bother me in any
14 other room but here. When I'm in the jury room, I'm okay.

01:53PM

15 MR. ROBISON: I'll second that.

16 THE COURT: So in the evenings, when you are at home,
17 you are okay?

18 JUROR NUMBER ONE: Yeah.

01:53PM

19 THE COURT: Do you have any cause to see a physician or
20 to acquire medicine? I'm not trying to embarrass you in any way,
21 I want to respond to your convenience.

22 JUROR NUMBER ONE: I always seem to have a problem in
23 here. If I go in and take my inhaler, I should be fine when I
24 come back.

01:53PM

25 THE COURT: Are you taking the inhaler throughout the

1 day?

2 JUROR NUMBER ONE: Usually, it's only the mid afternoon
3 I have to take it. It does it to me every time in the afternoon
4 here.

01:53PM

5 THE COURT: Do you have your inhaler here now?

6 JUROR NUMBER ONE: Yeah, it's in the jury room.

7 THE COURT: Why don't you go ahead. Thank you.

8 (Juror Number One left the courtroom.)

01:54PM

9 THE COURT: I just want our record to reflect that Juror
10 Number One is chronically coughing. It's a deep cough. It's
11 certainly annoying the person she's sitting next to, who, if you
12 have not noticed, keeps her shirt over her nose.

13 And I just want to invite any concerns or comments you
14 may have.

01:54PM

15 MR. CONNOT: What do you think about the possibility --
16 and I don't know if it will alleviate it for her or not -- if she
17 can have her inhaler here, and if it starts, we can take a
18 standing break and she can try? It's just a suggestion.

19 THE COURT: I can hear her coughing now.

01:54PM

20 MR. CONNOT: But I understand the Court's concern.

21 MR. ROBISON: Nothing to add, Your Honor. Hopefully,
22 the inhaler works.

01:55PM

23 MR. LATTIN: Maybe we could go to the end of the day and
24 then see how the afternoon goes. And then if it persists, we can
25 reassess in the morning and discuss it.

1 MR. CONNOT: Your Honor, I just put it out there. I
2 don't know, if you suggest to the bailiff, maybe she bring her
3 inhaler in. Just a suggestion.

01:55PM

4 THE COURT: I'll do that, in your presence, at some
5 point. I'm just so nervous about any communications with the jury
6 outside of our control and knowledge.

7 MR. CONNOT: Understood.

8 THE COURT: Can you please have Stan's lawyer speak into
9 a mike.

01:57PM

10 You have a very quiet voice, Mr. Hosmer.

11 Let's get that mike, and we'll just put on the -- we'll
12 mark that and make it part of the court's record.

13 Just speak up.

14 (The jury entered the courtroom.)

01:58PM

15 THE COURT: Please be seated.

16 Could you please -- upon the jury's convenience, you may
17 proceed.

18 MR. HOSMER-HENNER: We can go back just a little bit.

19 BY MR. HOSMER-HENNER:

01:58PM

20 Q Do you believe that you have protected Wendy's interests
21 as cotrustee of the family trust?

22 A Yes, I do.

23 Q Have you communicated to Wendy and disclosed trust
24 matters to her?

01:59PM

25 A I have.

1 Q Have you ever kept anything from Wendy?

2 A I have not.

3 Q Is it fair to say that she knows what you know about the
4 family trust?

01:59PM

5 A Yes.

6 Q Stan, does Wendy currently owe you any money?

7 A A little bit.

8 Q And when we talk about "a little bit" in relation to the
9 family trust, that's one thing. "A little bit" in relation to
10 other families -- she owes you about \$10,000 for some personal
11 expenses you've advanced her?

01:59PM

12 A Yes.

13 Q And you provided her \$10,000 for attorney's fees?

14 A I did.

01:59PM

15 Q And could you -- and that's not these attorneys, right?

16 A No.

17 Q Can you describe that transaction a little bit and why
18 you provided those \$10,000 to her.

01:59PM

19 A Yeah, my dad, one time, told me that if Wendy needed any
20 legal help, professional help to -- you know, he wanted me to help
21 her out.

22 Q And did she ask you for help concerning the family
23 trust?

02:00PM

24 A She did. And I thought she was at a point where she
25 needed some legal advice.

1 Q Because these are pretty complicated matters?

2 A Yes.

3 Q Did you also, through one of your entities, pay for the
4 lease payments on her vehicle?

02:00PM

5 A I did.

6 Q And what happened after the lease expired on that
7 vehicle?

02:00PM

8 A The -- Audi was the company that the lease was through,
9 and they were contacting us, you know, and wanting to know what we
10 were going to do, are we going to turn the car in.

11 At one point in time, we were going to turn the car in.
12 And so that went over a few months.

13 I was actually trying to get Wendy to turn the car in,
14 and we were looking at other options.

02:01PM

15 As a matter of fact, Wendy had another vehicle that she,
16 you know, thought that would work. And so -- but we kept getting
17 calls from Audi. And we owed them about -- oh, I don't know, we
18 were, like, three months behind.

02:01PM

19 And I was getting concerned about -- my name was on the
20 title, and so I didn't want it affecting my credit. And so I
21 finally just ended up paying for it.

22 Q Approximately how much was that?

23 A 40,000.

24 Q And has Wendy promised to pay that back to you?

02:01PM

25 A I think we've had discussions with her counsel about,

1 yeah, you know, get that resolved.

2 Q Have any of these amounts ever been paid back to you?

3 A No.

4 Q You've transferred her about \$75,000 from your sub

02:02PM 5 trust; is that right?

6 A Yes.

7 Q And is it your understanding that she intends to pay
8 that back?

9 A That was, yes, my understanding.

02:02PM 10 Q And, all told, you and the other trustees, what's the
11 approximate number of advances that you have provided to her from
12 the family trust?

13 A Since my father passed away?

14 Q Correct.

02:02PM 15 A I've heard the number 500-something thousand. I don't
16 know if that's totally accurate because there is money in there
17 that was for her son's schooling and other things, you know,
18 health -- healthcare, stuff like that. So I'm not sure if that
19 stuff should have been charged against her or not.

02:03PM 20 Q But you've wanted the family trust to pay for her son's
21 schooling?

22 A Yes.

23 Q And you wanted the family trust to pay for her
24 healthcare and Luke's healthcare?

02:03PM 25 A Correct.

1 Q And if you include all of those amounts, is it about 5-
2 or \$600,000?

3 A I think so.

02:03PM

4 Q And in that same period, have you received any cash
5 distributions from the trust?

6 A Just some nominal executive fees, less than probably
7 \$20,000.

02:03PM

8 Q Has Todd received any -- anything -- is that about the
9 same amount that Todd has received from the family trust in the
10 same period?

11 A He got a little bit more.

12 Q But still in the nominal range?

13 A Yeah.

02:03PM

14 Q After all of that help and support, do you have any idea
15 why Wendy is suing you today?

16 A I don't know why Wendy is suing me today.

17 Q Do you know what she's suing you for?

18 A I don't know what she's suing me for.

02:03PM

19 MR. HOSMER-HENNER: Pass the witness.

20 THE COURT: Mr. Robison.

21 MR. ROBISON: Thank you, Your Honor.

22

23 CROSS-EXAMINATION

24 BY MR. ROBISON:

02:04PM

25 Q Good afternoon, sir.

1 A Good afternoon.

2 Q Wendy is suing you for fraud. Have you made any false
3 statements to Wendy about your father's estate?

4 A I have not.

02:04PM

5 Q Wendy is suing you for fraudulently concealed material
6 information. Stan, have you concealed material information from
7 your sister Wendy?

8 A No.

02:04PM

9 Q Have you done your best to disclose to her all the items
10 and ramifications of administering this trust that you and Todd
11 have been administering for almost six years?

12 A I have.

13 Q Have you done your best to keep her advised?

14 A Yes, I have.

02:04PM

15 Q She's also suing you for breaching fiduciary duties.
16 Are you aware of that, sir?

17 A Yes.

18 Q And she claims that you failed to disclose material
19 terms or information that might be material to her interests.

02:05PM

20 Have you done that?

21 A No.

22 Q Have you worked constructively with cotrustee
23 Kevin Riley while he was cotrustee of the family trust?

24 A Yes.

02:05PM

25 Q Are you aware of him concealing anything from Wendy?

1 A No.

2 Q Are you aware of Kevin Riley making any fraudulent
3 misrepresentations to Wendy?

4 A No.

02:05PM 5 Q Are you -- you've been on board with Mike Kimmel since,
6 I think, January of 2017.

7 A That's correct.

8 Q And there's been three cotrustees since that time, sir?

9 A Yes.

02:05PM 10 Q Yourself, Todd and Mr. Kimmel.
11 Have you seen Mr. Kimmel commit fraud on Wendy?

12 A No.

13 Q Have you entered into an agreement with the other
14 cotrustees to damage -- to cause Wendy financial harm?

02:06PM 15 A No.

16 Q Do you expect this estate to wind down in the near
17 future?

18 A Yes.

19 Q You are hopeful?

02:06PM 20 A I hope so.

21 Q And then distributions can be made?

22 A Yes.

02:06PM 23 Q Do you believe that Wendy is entitled to any more than
24 what will be distributed to you from the family trust after all
25 the debts are paid?

1 A No.

2 Q And are you going to work hard to make sure that she
3 gets her fair share once this trust -- once this estate can be
4 distributed?

02:06PM

5 A Yes.

6 Q You mentioned that neither you, nor Todd have really
7 received any substantial sums of money from the family trust,
8 although it reflects as though on the accounting that you may have
9 got as much as a million 2, a million 9.

02:07PM

10 You didn't really receive that money, did you, sir?

11 A No, we did not.

12 Q That went to Uncle Sam?

13 A It went to Colorado Division of Gaming, yes.

14 Q All right. And that was for payment of taxes?

02:07PM

15 A Yes.

16 Q All right. And do you believe that was done in
17 accordance with your fiduciary duties owed to Wendy as a
18 beneficiary of the trust?

19 A Yes.

02:07PM

20 Q Stan, you, too, are a beneficiary of the trust, correct,
21 sir?

22 A Yes, I am.

23 Q And you are entitled to the same fair consideration as
24 Wendy is?

02:07PM

25 A Correct.

1 Q Todd is a beneficiary of the trust, the family trust,
2 correct?

3 A Yes, he is.

4 Q And he's entitled to the same fair consideration with
5 respect to his taking as Wendy is?

6 A Yes.

7 Q But yet, Wendy has already received -- estimates have
8 been anywhere from 500- to \$600,000. Why has she been the
9 preferential beneficiary?

10 A You know, because I don't know that -- she really didn't
11 have any other way at that time of getting money. I mean, she has
12 nominal jobs here and there, but nothing to really sustain, you
13 know, her monthly expenses.

14 Q But the advances that you and the family trust have made
15 for Wendy, they were not required to be made, were they?

16 A I don't think so.

17 Q Lakeridge has been a source of some of the funding to
18 Wendy; is that correct, sir?

19 A It has.

20 Q And while it was a viable entity, was that something
21 that you managed?

22 A Yes.

23 Q And as a result of Lakeridge advancing money to Wendy,
24 did Lakeridge then have a debt owed to it by the family trust?

25 A It did.

1 Q And has that debt from the family trust been repaid to
2 Lakeridge?

3 A It has.

02:09PM

4 Q So the family trust actually is the one that paid that
5 money to Wendy, because Lakeridge got paid back?

6 A That's correct.

7 Q Thank you.

02:09PM

8 Now, you indicated in your testimony today that you
9 weren't really too intensely involved in your father's estate
10 planning in 2012?

11 A I was not.

12 Q And did you and he sit down and formulate plans for the
13 trust or the estate plan during the latter months of 2012, sir?

02:09PM

14 A I mean, we certainly had discussions about different
15 things, but I wasn't -- I wasn't involved with him and Pierre and,
16 you know, putting together the second amendment or -- just I
17 wasn't -- we talked about it, but I wasn't actually the one doing
18 the work.

02:10PM

19 Q All right. But you had faith in your father to do what
20 was fair for the siblings, correct, sir?

21 A Yes.

22 Q Now, going back to 2010, when Incline TSS, LTD, was
23 created, were you aware back in 2010 of its creation?

24 A I do not recall that back then, no.

02:10PM

25 Q Do you understand that with the first filing with the

1 Secretary of State, you were shown as a comanager of Incline TSS?

2 A Yes.

3 Q And that was consistent with your understanding that you
4 would be involved then or ultimately in the ownership of

02:10PM 5 Incline TSS, correct, sir?

6 A Yes. I just didn't recall it going back that far.

7 Q All right. I understand.

8 But then, the unfortunate divorce situation happened and
9 you, more or less, had to be iced, correct?

02:10PM 10 A Right.

11 Q And then the divorce ended -- correct me if I'm wrong --
12 April 7th, 2013?

13 A April 4th.

02:11PM 14 Q April 4th, a little more than two weeks before your
15 father's passing?

16 A Correct.

17 Q And did that, then, open kind of the -- Sam's intent to
18 fulfill his desire to gift you some property or some interest in
19 the company?

02:11PM 20 A It did, yes.

21 Q And what happened as a result of the divorce ending, in
22 that respect?

23 A So my dad had talked to me even back in 2012 about, you
24 know, he wanted to get me an interest in Montreux Development

02:11PM 25 Group. His interest was owned in a company called

1 Toiyabe Investments.

2 Q Your father's interest?

3 A My father's interest. Yes.

4 Q Thank you.

02:11PM 5 A Anyway, he wanted to -- you know, I had been working on
6 that company for 20-plus years with him and he wanted to reward me
7 for that. And so --

8 Q And -- I'm sorry. Go ahead.

9 A Obviously, with the divorce, he wanted me to get that
02:12PM 10 resolved and taken care of so he could do that.

11 Q Was that a gift, sir?

12 A Yes.

13 Q All right. Throughout the trial, there has been mention
14 of Toiyabe and Montreux Holding, Montreux Development and Montreux
02:12PM 15 Golf. Can you tell the jury, please, how they interconnect.

16 A So Montreux Development Company is the developer of
17 Montreux, the community.

18 Within the community, there is a golf course, Montreux
19 Golf Club. So you've got those two separate entities.

02:12PM 20 The memberships that we were selling out there were
21 owned by -- or, we were selling them through Montreux Golf Club.
22 However, Montreux Golf was owned by Jaksick family.

23 Q Jaksick Family, LLC?

24 A Yes.

02:13PM 25 Q All right. Now please tell the jury what that entity

1 is, because that may be the first time we've really mined into
2 this one.

3 A Yes. It is very confusing, I understand. But Jaksick
4 family was a third-third-third, you know, myself, Wendy and Todd.
02:13PM 5 And the trust had a 1 percent interest in that.

6 But over the years, actually, back in 2016, we
7 transferred the club to the members. It was always set up that
8 way, that we would turn the club over to them. They have an
9 equity interest.

02:13PM 10 So in 2016, we dissolved Montreux Golf Club, LTD. And
11 at that point in time, we had to put -- we had to form another
12 company to let the memberships continue on, and that was --
13 Montreux Holding Company was the company that came out of that.

14 Q So is there memberships left over now that money could
02:14PM 15 be generated from the sales of?

16 A There are memberships.

17 Q And are they -- I guess, for lack of a better term, are
18 they salable under the right conditions?

19 A Yes.

02:14PM 20 Q And conceivably, someone like me to buy one is a pretty
21 hefty price?

22 A They are, indeed. The members are currently redoing the
23 clubhouse right now. And once that's done, which they are saying
24 may be mid summer, they are going to increase the price back to
02:15PM 25 50,000. So they are -- there's some value there.

1 Q So now who then holds the memberships that can be sold
2 to the public at, hopefully, around 50,000 a pop?

3 A Well, the club still handles that process.

02:15PM 4 Q But will money flow to Jaksick Family, LLC, in the event
5 those memberships are sold?

6 A Yes. We only have a certain amount. We have,
7 basically, an agreement with them, with the club, two-plus years
8 almost, to resolve. But the club is, basically, contending that
9 we didn't have any memberships left. So we had to actually
02:15PM 10 involve an attorney in that, and we ended up getting about 50
11 memberships.

12 Q All right. If those 50 memberships were sold, say, in
13 2019, would the proceeds wind up in Jaksick Family, LLC?

14 A In Montreux Holding.

02:16PM 15 Q And then does Jaksick Family, LLC, have an interest in
16 that?

17 A Yes.

18 Q And is Wendy a one-third owner of Jaksick Family, LLC?

19 A Yes.

02:16PM 20 Q So if those memberships are sold, she will derive
21 revenue from that event, correct, sir?

22 A That's correct.

23 Q As well, you and Todd?

24 A That's correct.

02:16PM 25 Q Equally, one-third, one-third, one-third on the LLC?

1 A Yes.

2 Q Thank you.

3 MR. ROBISON: Now, Mark, could you please show the jury
4 and the witness, 23.3.

02:16PM 5 Let me know if you need the reading glasses. I've got
6 several pair.

7 43.23, Mark.

8 Mark, 23.23.

9 BY MR. ROBISON:

02:16PM 10 Q You recall some examination concerning this rental
11 agreement --

12 A Yes.

13 Q -- here today when you were examined by Mr. Connot.

02:17PM 14 We go to the central page, please -- actually, the first
15 paragraph, Mark, before we get there.

16 Did your father charge you with getting the Lake Tahoe
17 house rented?

18 A He did.

02:17PM 19 Q And then this document, basically, is an agreement
20 between Incline TSS, LTD, and whom?

21 A And Tahoe Luxury Properties.

22 Q And what were their duties under this agreement, sir?

23 A To rent the house.

02:17PM 24 Q So they would go out and find tenants for a weekend or a
25 week or whatever?

1 A Uh-huh.

2 Q And they would get paid for renting it?

3 A They would get a fee for renting it, yes.

4 Q Okay. Now, when you executed the document, you

02:17PM 5 understood that you were doing so on behalf of Incline TSS, LTD?

6 A I did, yes.

7 Q Now, is this the same limited liability company that you
8 were originally designated as manager of, correct?

9 A Yes.

02:18PM 10 Q All right. So back, again, in 2010 when Incline TSS,
11 LTD, was created, you understood, as a comanager, the ownership
12 structure of that entity that you managed, correct?

13 A Back in 2012?

14 Q Back in 2010.

02:18PM 15 A I understood our plans at that time. But we had
16 numerous different options, I mean everything from renting the
17 house, selling the house, Todd and I, you know, getting involved
18 in investing and tried to pay the debt down, you know, selling
19 lots at Montreux.

02:19PM 20 There was just -- there really was no plan, as far as I
21 was concerned, that we had established.

22 And then once my divorce, you know, occurred, I was just
23 kind of out of the loop.

24 Q I understand. But when you were manager back in 2010 of
02:19PM 25 Incline TSS, LTD --

1 A I don't think I was manager then. I don't know if I was
2 or not. I don't recall when I was a manager, per se.

3 Q Was it your understanding that was pre divorce?

4 A Yeah.

02:19PM 5 Q And your divorce, I think, started in November of 2010?

6 A Well, again, actually, I take that back, because I
7 remember seeing a document that, I think, Pierre's office had
8 produced, and it showed me as having, like, a 49 percent interest
9 in that and I was a manager.

02:19PM 10 Q Back when, in 2010, sir?

11 A No, in 2013.

12 Q Okay.

13 A And so, you know, I didn't pay much attention to that.
14 But I was not a manager of Incline TSS, even though I signed this
02:20PM 15 document that way.

16 Q But are you aware that there's a Secretary of State
17 filing in 2010 that shows you as a comanager of Incline TSS?

18 A I was not aware of that, no.

02:20PM 19 Q Well, in any event, going forward, then, to the date of
20 this document, when you signed this rental agreement on behalf of
21 Incline TSS, you knew what Incline TSS was, correct?

22 A Yeah, I did.

23 Q And you knew that was the entity that once your divorce
24 was completed, that you would be entitled to an interest on?

02:21PM 25 A Correct.

1 Q And how did it come about that you are signing documents
2 here in early 2013 on behalf of Incline TSS, the actual owner of
3 the Lake Tahoe house?

4 A I'm sorry, say that last part.

02:21PM

5 Q I'm sorry, bad question.

6 How did it come to be that you, sir --

7 A Yes.

8 Q -- were signing the rental management agreement on
9 behalf of Incline TSS?

02:21PM

10 A Because my dad asked me to take care of that.

11 Q All right. And you thought you were doing the correct
12 and appropriate thing, following your father's instructions?

13 A Yes.

14 Q All right. Then now, if we can go to the signature
15 page, please.

02:21PM

16 Did your father and you discuss the fact that Todd's two
17 trusts, at that time, were the sole owners of Incline TSS?

18 A We did not.

19 Q Do you have any belief that he didn't know that?

02:21PM

20 A I don't know. I just know, my understanding at that
21 point in time, was my dad was still the owner of the house.

22 Q But that wouldn't get it out of the way of creditors if
23 that were true, correct?

24 MR. CONNOT: Object, calls for legal conclusion, Your
25 Honor.

02:22PM

1 THE WITNESS: Well, I --

2 THE COURT: Hold on. Hold on.

3 MR. ROBISON: May I lay some foundation?

4 THE COURT: Yes you can.

02:22PM 5 BY MR. ROBISON:

6 Q You indicated there were some discussions with you and
7 your father about asset protection there in 2012, correct?

8 A Correct.

9 Q And part of the asset protection plan was to get the
02:22PM 10 Lake Tahoe house out to what you referred to as "the other
11 entity"?

12 A Correct.

13 Q SSJ, LLC?

14 A That's correct.

02:22PM 15 Q Now, did you talk to your father -- Mark, highlight the
16 signatures, please -- about whether you were signing a management
17 agreement on behalf of the company that actually owned the house?

18 A Really didn't get into those discussions. I mean, I
19 thought that the house had been transferred into -- or, my dad's
02:23PM 20 interest had been transferred into Incline TSS, and he was still
21 the manager, owner manager.

22 So I -- I didn't understand that Todd had an interest in
23 the house at that time.

24 Q And is that partially because you weren't involved in
02:23PM 25 those estate planning discussions there at the end of 2012?

1 A Very possibly, yes.

2 Q But nonetheless, you do acknowledge that that's your
3 signature and you were signing on behalf of the owner of the
4 house, Incline TSS, LTD?

02:23PM

5 A Correct.

6 Q All right. And then when the decision was made to use
7 the insurance proceeds to allow the SSJ Issue Trust to buy into
8 Incline TSS, you were in favor of that, correct?

9 A Yes.

02:24PM

10 Q Now, Exhibit 14 you don't recall seeing.

11 MR. ROBISON: Would you show that to the witness and
12 jury, please.

13 Blow the first paragraph up, if you will.

14 BY MR. ROBISON:

02:24PM

15 Q And, Stan, let me know if you can't read that, please,
16 and I'll bring you the book.

17 A Yeah, I've got it.

18 Q All right. This is one of the -- well, this is actually
19 the first ACPA in terms of chronology. And who was that entered
20 into by and between or among?

02:24PM

21 A Do you want me to read it?

22 Q Well, just tell us from that first paragraph, or read
23 it, whatever.

24 A Todd Jaksick as trustee under the SSJ Issue Trust.

02:24PM

25 Q Now, you knew that he was the sole trustee of the issue

1 trust at that time, sir?

2 A I did.

3 Q And did you know that he was the sole trustee of the
4 issue trust since its creation in 2007?

02:24PM

5 A Yes.

6 Q And so the issue trust is a party to this agreement,
7 correct?

8 A Yes.

9 Q All right. And then who else are the parties?

02:25PM

10 A Todd Jaksick, Stan Jaksick and Wendy Jaksick.

11 Q As?

12 A Beneficiaries, primary beneficiaries.

13 Q All right. And then there's one more party. Who is
14 that party?

02:25PM

15 A And Incline TSS, a limited liability company.

16 Q All right. So this is dated, I believe, June 5th, 2013.
17 Still your understanding at that time, sir, that your father was
18 the owner of Incline TSS?

02:25PM

19 A At this time, again, I didn't see this document. So I
20 believed, actually, that Todd, Wendy and I owned the house
21 equally.

22 Q Did you see yourself on a deed?

23 A I did not. I thought Todd was actually handling that.

24 Q All right.

02:25PM

25 A Because I thought that's where the life insurance funds

1 were going, into the Tahoe house, to pay it off.

2 Q I get it.

3 But when you signed the rental agreement, you knew that
4 Incline TSS was sole and exclusive owner of the Lake Tahoe house,
5 correct?

02:26PM

6 A Correct.

7 Q And then we fast-forward to your father passing and the
8 insurance proceeds are available. And was there a consensus, as
9 far as you are concerned, Stan, that those proceeds be used to
10 allow the issue trust to buy in to the Incline house?

02:26PM

11 A It was not explained to me that way.

12 Q You knew that the insurance proceeds were 6 million?

13 A I did, but I did not know that -- or, the issue trust
14 was the holder of those. I just -- my understanding, Dad had a
15 \$6 million life insurance policy and we were going to use that in
16 Lake Tahoe.

02:26PM

17 Q To pay down debt?

18 A Yes.

19 Q And that 6 million wasn't to be distributed to Stan,
20 Wendy or Todd?

02:27PM

21 A That's correct.

22 Q And was fully understood that it would be paying down
23 the debt on the house?

24 A That's correct.

02:27PM

25 Q All right. Now, if you then go to the signature page of

1 Exhibit 14, you see your signature on that document, sir?

2 A Yes, I do.

3 Q And did you sign that -- I think it's in the middle --
4 as a primary beneficiary?

02:27PM 5 A I did sign that.

6 Q Now, you now believe that that was not part of a
7 document, it was just a thing you signed?

8 A It's possible that I signed that, that day, after my dad
9 passed away.

02:27PM 10 Q Well, how could that be when that document wasn't
11 prepared until June by Maupin, Cox & LeGoy?

12 A I don't know that.

13 MR. ROBISON: Show us paragraph 4, Mark, on the previous
14 page.

15 BY MR. ROBISON:

16 Q You realized, did you not, sir, that this was a document
17 that was prepared by the trust lawyers at Maupin, Cox & LeGoy,
18 correct?

19 A No, I -- yes.

02:28PM 20 Q And that paragraph was capitalized and in bold print,
21 correct?

22 A Okay, yes.

23 Q Did you notice that?

24 A Again, I never saw this agreement.

02:28PM 25 Q And then your signature, that you admit is yours, is on

1 the signature page as a primary beneficiary.

2 What did you think you were signing as a primary
3 beneficiary on June -- in the June time frame?

02:28PM

4 A I -- the only time I recall signing this document was
5 the day after my dad died.

6 Q Was Maupin and Cox and LeGoy involved at that time?

7 A No.

8 Q Had you had any discussions with the trust lawyers, in
9 your capacity as cotrustee, the night after your father died?

02:29PM

10 A I did not. I signed this, thinking it was for -- to
11 release the insurance funds.

12 Q All right. Release it for what?

13 A So that we could use them in Tahoe.

02:29PM

14 Q And that, I think, is reflected in the second paragraph
15 at page 2.

16 And then this is a consent signed by the primary
17 beneficiaries, at least as reflected by the document, that the
18 beneficiaries and the cotrustees consent that -- to the use by the
19 company -- and that's Incline TSS, correct?

02:29PM

20 A Again, I did not review this document. Obviously,
21 there's no way they could have produced that document in 12 hours.

22 Q Correct.

02:30PM

23 A So, Todd was asking us to sign a life insurance
24 policy -- or, a -- to release the life insurance funds so we
25 could, you know, buy into the Tahoe house or pay off the debt.

1 Q Correct. And I'll draw your attention, then, to the
2 second sentence.

3 MR. ROBISON: Would you highlight that, Mark?

4 BY MR. ROBISON:

02:30PM

5 Q This consent specifically includes the agreement that
6 some or all of the capital contribution by the issue trust in the
7 company may be used for payroll.

8 Can you read that?

02:30PM

9 A For payoff, pay off that certain unsecured promissory
10 note dated December 28th, 2012, in favor of SSJ, LLC, a Nevada
11 limited liability company.

12 Q All right. So it's your contention that you never saw
13 this document?

02:31PM

14 A That's correct. The first time I saw this document was
15 when it was filed with the -- the petition was filed.

16 Q All right. Well, you did hold the position of
17 coexecutor of your father's estate, did you not, sir?

18 A Well, cotrustee.

19 Q This is a little bit different. Stay with me.

02:31PM

20 A Okay.

21 Q Was there a probate opened for the will?

22 A Oh, yes.

23 Q And you were a coexecutor of that proceeding, correct,
24 sir?

02:31PM

25 A I was.

1 Q And is that where the creditor claims were filed with
2 the Court, in the probate proceeding on the will?

3 A Possibly. I don't recall that.

02:31PM

4 Q Now, in addition, the creditor claims were also filed
5 against your father's assets that were held by the trust, correct?

6 A Yes.

7 Q For example, Bank of America made a \$6.3 million
8 creditor claim against the trust because of that loan on the
9 Lake Tahoe house?

02:32PM

10 A Okay, yes.

11 Q And it was your responsibility to process those claims
12 with respect to administering your father's family trust?

13 A Yes.

02:32PM

14 Q And did you accept the fact that you had the duty to
15 administer creditor claims?

16 A Well, I did. I don't recall the 6.3 being part of that,
17 but --

18 Q Well, let's take a look.

02:32PM

19 MR. ROBISON: If I could show the witness Exhibit 298,
20 Your Honor.

21 THE COURT: Yes.

22 MR. ROBISON: I believe it has been stipulated in.

23 THE CLERK: Yes.

24 MR. ROBISON: Thank you.

02:33PM

25 May I approach, Your Honor?

1 THE WITNESS: Yes.

2 BY MR. ROBISON:

3 Q Now, I'm switching topics for the moment to the
4 indemnification agreement.

02:33PM 5 A Okay.

6 Q Do you see Exhibit 298 -- 298 in front of you, sir?

7 A Yes.

8 Q And what is 298?

9 A It is a creditor claim.

02:33PM 10 Q By whom?

11 A Todd and Dawn.

12 Q And Dawn is Todd's wife?

13 A Yes.

14 Q And is that a claim that you were charged with

02:33PM 15 administering?

16 A Again, I didn't -- I don't recall seeing this at that
17 time.

18 Q Well, you were in charge -- I'm sorry, I didn't mean to
19 interrupt you.

02:34PM 20 A Yes, I don't recall seeing this at the time.

21 Q But it was your duty to administer the trust with
22 respect to the creditor claims, correct?

23 MR. HOSMER-HENNER: Your Honor, I'm objecting. This is
24 an executor, that Mr. Robison started out saying. There's a big
02:34PM 25 difference between the trust and estate. I think he's misstating

1 the testimony by referring to the trust.

2 MR. ROBISON: I addressed both of them. I'll be happy
3 to do it again.

4 THE COURT: Overruled.

02:34PM

5 BY MR. ROBISON:

6 Q Now, was that a creditor's claim against the trust, the
7 family's trust?

8 A Yes.

9 Q And attached to the creditor claim is what?

02:34PM

10 A You need these?

11 It's just a really bad copy, which makes it even worse.

12 MR. ROBISON: Can you put it up, Mark. It's probably
13 better on the screen.

14 First page of -- so we can identify the document, Mark,
15 blow up that first paragraph.

02:35PM

16 BY MR. ROBISON:

17 Q Do you see, sir, that that is a creditor claim made by
18 Todd B. Jaksick, Todd B. Jaksick Family Trust, Dawn Jaksick,
19 TBJ SC Trust and TBJ Investment Trust?

02:35PM

20 A Okay.

21 Q And that was a claim against assets that were in your
22 father's trust. Correct, sir?

23 A Yes, I never saw the -- this indemnification agreement,
24 though, attached to that.

02:35PM

25 Q All right. Well, in -- if you turn the page to this

1 exhibit, you'll see the indemnification agreement is attached to
2 Todd's creditor claim. Correct?

3 A Well, it might be in this document, but I never saw it.

4 Q Did you look at it?

02:36PM 5 A I never saw it. I never saw it.

6 Q Well, did you look at Todd's creditor claim when he
7 submitted it?

8 A No, because the creditor claims that I got, that I
9 reviewed, were just a list of creditor claims. I never actually
02:36PM 10 saw a file that contained this document.

11 Q Weren't you told to make a similar creditor claim under
12 your indemnification, sir?

13 A I didn't even know I had an indemnification agreement.

14 Q All right. You recognize that indemnification agreement
02:36PM 15 that's part of Exhibit 298 as the indemnification agreement that
16 you claim you saw much later?

17 A Yes.

18 MR. ROBISON: And would you show the jury Exhibit 12,
19 please.

20 BY MR. ROBISON:

21 Q Do you recognize Exhibit 12 -- let's load that first
22 paragraph.

23 This is an indemnification agreement made effective
24 January 2008 between your father and yourself, correct, sir?

02:37PM 25 A Yeah, I was not aware that I had this until later, some

1 time later, when Todd told me that I had one.

2 MR. ROBISON: So would you show the witness and the jury
3 the signature page of Exhibit 12, please.

4 Now, would you blow up the paragraph and the signatures,
5 please.

6 BY MR. ROBISON:

7 Q Now, that's one of those paragraphs that tells whoever
8 looks at this document what law applies, correct?

9 A Okay, yeah.

10 Q Kind of boilerplate stuff in contracts, as far as you
11 know?

12 A Sure.

13 Q And then that's your signature down there?

14 A It is.

15 Q So did you realize that you were signing a document that
16 was entitled "Indemnification Agreement" that your father created
17 for you?

18 A Well, you know, my dad -- he entered us into a lot of
19 different things over the years. And he was always looking out
20 for us.

21 And numerous times, I recall him putting a document in
22 front of me, saying, hey, you know, I need to get your signature
23 on this, this is, you know, for your benefit down the road. And I
24 didn't read it.

25 Q But by this time, sir, you had guaranteed some debt in

1 connection -- in conjunction with your father?

2 A I never guaranteed any debt.

3 Q All right. Nothing with respect to any of the ranches
4 or any of the golf course, you never guaranteed that?

02:38PM

5 A Never.

6 Q Then when did you become aware of the fact that you
7 actually had an indemnification agreement?

02:39PM

8 A We were on a -- one of our Monday morning calls with
9 Maupin Cox LeGoy, and Kevin Riley, I think, was on the line. And
10 I had -- at that time, I had raised some concerns about Todd's
11 indemnification agreement and just -- we had some disagreements
12 about it.

02:39PM

13 And Todd said, "Well, Stan, you have an indemnification
14 agreement." And I was just kind of shocked. I didn't -- I didn't
15 know that.

16 Q Just something that you forgot that you had?

17 A Yeah.

02:39PM

18 Q All right. And when you actually signed the document,
19 it didn't really register on you what it was that you were signing
20 and what it afforded you in terms of protection?

21 A It didn't. I mean, my dad, he had -- you know, he gave
22 us interests in certain pieces of property and you name it, where,
23 you know, I knew my dad was looking out for our interests.

02:40PM

24 And I just said sure, that's great, Dad, and I signed
25 the document. I didn't review it. And this is one that I don't

1 even recall.

2 Q Would it be fair to say, Stan, that that happened on
3 multiple occasions, you just signed documents that your father
4 asked you to sign?

02:40PM 5 A If my dad asked me to sign something, I signed it.

6 Q Without reading it -- I'm not charging you with
7 wrongdoing, but sometimes you didn't read those documents?

8 A That's true.

02:40PM 9 Q All right. Then if we could please take a look at the
10 next ACPA, which is Exhibit 15.

11 Do you recall there being discussion about the
12 Bronco Billy's money and whether there should be an agreement and
13 consent with respect to that transaction?

14 A I do.

02:40PM 15 Q Would you blow up the first paragraph, please.

16 This is Exhibit 15. Do you recognize this as the
17 Bronco Billy's ACPA?

18 A You may need to go to the next paragraph.

19 Q Please.

02:41PM 20 The second recital might help the most.

21 MR. IVEY: On the next page?

22 MR. ROBISON: Second recital, would you blow that up.

23 Thank you.

24 About there, second recital.

02:41PM 25 MR. IVEY: Got it.

1 BY MR. ROBISON:

2 Q All right. This refers to Section 3 of the second
3 amendment. You knew that to be the second amendment to your
4 father's trust?

02:41PM

5 A Yes.

6 Q And at this point in time, that's the operative document
7 that you were administering as your father's trust instrument in
8 conjunction with 2006?

02:41PM

9 A That's correct.

10 Q And then this indicates that the -- provides that the
11 stock in PG -- which is Pioneer Group, correct?

12 A Correct.

13 Q Approximately 25 percent of the outstanding shares of
14 the corporation is to be distributed as how, sir?

02:42PM

15 A Equally to the three generation-skipping trusts to be
16 formed under the family trust for three -- the three primary
17 beneficiaries, Stan, Todd and Wendy.

18 Q What was this document, as far as you understood,
19 intended to achieve, sir?

02:42PM

20 A You know, basically, it was giving us the opportunity to
21 go out and get a gaming license and, you know, have an -- or --
22 yeah, so that the 25 percent remaining shares of the company could
23 be distributed.

24 Q And 25 percent is what is left over --

02:43PM

25 A Yes.

1 Q -- after you got your 6 percent gift and Todd got his
2 6 percent gift?

3 A That's correct.

4 Q And so that left 25 percent for the family trust?

02:43PM

5 A Correct.

6 MR. ROBISON: All right. And then signature page,
7 please.

8 BY MR. ROBISON:

02:43PM

9 Q Now, on the page that is now before you, you see that
10 you signed that in your capacity as a cotrustee?

11 A Yes.

12 Q And did that mean that as a cotrustee, you were
13 approving this transaction and consenting to it?

14 A Yes.

02:43PM

15 Q And then on the next page, do you recall that you also
16 signed it in your capacity as a primary beneficiary?

17 A Yes, that's my signature.

18 Q And your sister Wendy signed this as well?

19 A Looks like her signature.

02:43PM

20 Q All right. And was it explained to her that the
21 proceeds, if the stock were sold, that 25 percent would go into
22 the family trust?

23 A I don't think -- at the time, you know, we didn't really
24 know that.

02:44PM

25 Q Let's be clear. At the time this ACPA was executed, did

1 you -- you didn't know that Pioneer Group was going to sell the
2 casino?

3 A That's right.

4 Q That came later?

02:44PM 5 A That's right.

6 Q That's the reason why you had to get licensed?

7 A That's right.

8 Q And so this licensing procedure starts in about this
9 area, the summer of 2013?

02:44PM 10 A That's correct.

11 Q Oh. And then if you go to paragraph 4 -- on the second
12 page, Mark -- that document is prepared by whom?

13 A Maupin Cox LeGoy.

02:44PM 14 Q And you -- did you realize, when you signed this
15 document, it was the lawyers representing the trustees who
16 actually prepared the document?

17 A Yes.

18 Q And then if you please turn to Exhibit 16.

02:45PM 19 Do you recall this agreement and consent? We've marked
20 it as Exhibit 16 in this case.

21 That may not be helpful. Let's go to the second
22 recital, please.

02:45PM 23 Referring your attention, Stan, to recital capital B, do
24 you see where that says "Todd B. Jaksick has exercised his rights
25 under the indemnification agreement"?

1 A Yes.

2 Q All right. And that was for what purpose?

3 A So this is the one that I mentioned that was given to me
4 as I was leaving the office one day, and I did not have time to
5 fully review it. I just kind of glanced at it. And it was from
6 Maupin Cox LeGoy. And Todd says hey, can you sign this? And I
7 said okay.

8 So I never had -- at that point on that day, I did not
9 review this document.

10 Q So the document is dated, I think, July 24th -- if
11 you'll show us the signature page, please.

12 Is that your signature, Stanley S. Jaksick, cotrustee,
13 under the date July 24th, 2013?

14 A It is. I don't recall that date. It seems like it was
15 a lot earlier than that.

16 Q But, nonetheless, you signed the document?

17 A I did, yeah.

18 Q And you signed the document -- I think your testimony is
19 that you didn't read it very carefully when you signed it?

20 A That's not really the case. Like I said, I'm leaving
21 the office. Todd asked me if I can sign this document before I
22 leave. I briefly looked at it and I signed it.

23 Q As co -- I'm sorry, go ahead, sir.

24 A To me, we were receiving a dozen documents, at a
25 minimum, a week, from Maupin Cox LeGoy.

1 Q Let me isolate on that a moment. I'll come back to
2 this.

3 A Okay.

02:47PM

4 Q What do you mean that you were receiving dozens of
5 documents per week from the trust lawyers?

6 A They were sending us just all this legal, you know,
7 paperwork.

8 Q Was that being shared with your sister, that litany of
9 trust documents?

02:47PM

10 A No.

11 Q Why didn't you disclose that information being received
12 from the trust lawyers with your sister?

13 A Because she was not a cotrustee --

14 Q Right.

02:48PM

15 A -- at the time, or never was a cotrustee. And so we
16 were just -- they were sending us this stuff to review, stuff we
17 had to take care -- it was all part of, you know, the process you
18 go through after someone passes away.

02:48PM

19 Q If you would have seen anything in that litany of
20 documents that you felt had an effect on the material rights of
21 your sister, would you have disclosed that to her?

22 A Sure.

02:48PM

23 Q But this bunch of documents you got weekly from Maupin
24 Cox LeGoy, you didn't see anything in there that would materially
25 affect her interest that she needed to know about?

1 A I did not see anything in there, no.

2 Q Now, as a cotrustee, did you examine those documents to
3 understand what was going on in your father's estate?

02:48PM

4 A I reviewed most everything. This was one that I did not
5 have an opportunity to review, and I did at a later date. But I,
6 at the time, I didn't.

02:49PM

7 Q All right. If we go fast-forward for a year,
8 fast-forward a year into March of 2014, would that be the
9 approximate time where you were considering a buy-in to the
10 Lake Tahoe house?

11 A I would -- I don't know if it was quite that soon, but
12 could have been. I would probably need to see a document.

02:49PM

13 Q Well, didn't you have to deal with the Bank of America
14 with respect to various matters it was involved in with regard to
15 Lake Tahoe house loan?

16 A I was not involved in any dealings with Bank of America.

17 MR. ROBISON: May I have this marked next, Your Honor?
18 It has been produced.

02:49PM

19 THE COURT: It has or has not?

20 MR. ROBISON: It has.

21 THE COURT: Yes, you may have that marked.

22 THE CLERK: Exhibit 550 marked for identification.

23 (Exhibit 550 marked for identification.)

24 MR. ROBISON: Thank you.

02:50PM

25 May I approach, Your Honor?

1 THE COURT: Yes.

2 BY MR. ROBISON:

3 Q I would like to show you 550 for identification, sir.

4 A Sure.

02:50PM 5 Q See if you recognize that document without telling the
6 jury what it is.

7 A Okay.

8 Q Is that your signature on the second page, sir?

9 A It is.

02:51PM 10 Q And this is a consent release that was executed by you,
11 sir, as a cotrustee of your father's family trust?

12 A Well, this is something Todd put together and had me
13 sign.

14 MR. ROBISON: I would ask for its admission, Your Honor.

02:51PM 15 MR. CONNOT: Your Honor, I don't think this was ever
16 listed in pretrial disclosures.

17 MR. ROBISON: This has been produced and is now being
18 used for impeachment.

19 THE COURT: It is admitted.

02:51PM 20 THE CLERK: Thank you.

21 (Exhibit 550 admitted into evidence.)

22 BY MR. ROBISON:

23 Q Now, with respect to this particular document -- I can't
24 show it on the screen -- I direct your attention to the recital.

02:51PM 25 Do you know what recitals are, sir?

1 A Yes.

2 Q And the first one would indicate, "Whereas, Samuel S.
3 Jaksick Jr. was the original obligor under the Bank of America in
4 a bank loan number" -- long number --

02:51PM

5 A Right.

6 Q -- "which is secured by a deed of trust, dated May 23,
7 2008, deed of trust encumbering the real property located at
8 1011 Lakeshore Boulevard, Incline Village, Nevada."

9 That's the Lake Tahoe house, correct?

02:52PM

10 A Correct.

11 Q And then it says that the property is now owned by
12 Incline TSS, LTD, a Nevada limited liability company?

13 A Okay.

02:52PM

14 Q And the second paragraph says, "Whereas, the LLC" -- and
15 that's referring to Incline TSS, LTD, correct?

16 A Okay.

17 Q -- "is owned by the Todd Jaksick Family Trust and the
18 TBJ SC Trust." Did you see that?

19 A I did.

02:52PM

20 Q And this document that you signed clearly indicates who
21 owned Incline TSS?

22 A Yeah, it was about that time that I realized that Todd
23 owned --

24 Q Was the owner?

02:52PM

25 A Was the owner.

1 Q All right. And it's dated March 4th, 2014, sir?

2 A Yeah, that sounds about right.

3 Q Well, it's not exactly right. March 4th is the date
4 Todd signed the document, apparently?

02:53PM

5 A Okay.

6 Q And you signed it on what date, sir?

7 A I signed it on the 10th of March.

8 Q And that's your signature?

9 A That is my signature, yes.

02:53PM

10 Q So at least by March of 2014, you knew who owned
11 Incline TSS?

12 A I did, at that point, yes.

13 Q All right. And that's about the time the negotiations
14 started for you to buy in?

02:53PM

15 A I guess you could say that.

16 Q All right. And that took quite a while to work out the
17 terms and conditions of your buy-in?

18 A Yes.

19 Q And then, basically, you are going to buy in to acquire
20 17.02 percent by paying Incline TSS \$1.5 million?

02:53PM

21 A Yeah, that's correct.

22 Q All right. And the bank had to approve that. Do you
23 recall that, sir?

24 A The bank did?

02:54PM

25 Q Yes. The Bank of America had to approve your buy-in?

1 A Yeah, I don't recall that part.

2 Q Do you recall being requested to be a guarantor on the
3 Bank of America loan?

4 A I do.

02:54PM 5 Q And were you willing to do that?

6 A I was.

7 Q And did you execute that guaranty?

8 A I did not, because at the time, I was buying a house,
9 and I did not want -- I had to put off the -- you know, a

02:54PM 10 guarantee of the Tahoe home until I got my deal resolved.

11 Q Borrowing money for your house required a disclosure of
12 financial condition?

13 A Yes, right.

14 Q And if you disclosed that you had guaranteed a
02:54PM 15 \$6.3 million --

16 A Right.

17 Q -- loan with B of A, that might affect your ability to
18 get the loan on your house?

19 A Correct.

02:55PM 20 Q All right. Fair enough.

21 And then the documents that were prepared to facilitate
22 your acquisition of the 17.02 percent, that reflected A and B
23 ownership interest. Do you recall that?

24 A Somewhat, yes.

02:55PM 25 Q All right. And by that time, the issue trust was what

1 number, A or B?

2 A I don't recall that.

3 Q Okay. But in any event, your desire to buy in to the
4 house stalled and didn't get done at the time it was contemplated,
5 correct?

02:55PM

6 A Yeah, I think it was stalled for a bit.

7 Q Now, if we look at Exhibit Number 8 -- excuse me, 21, is
8 another ACPA I would like to address your attention to.

9 Do you recall that there was an ACPA that was negotiated
10 where the family trust was going to borrow some money from the
11 issue trust?

02:56PM

12 A Yes.

13 Q And were you in favor of that?

14 A Can you go to the second --

02:56PM

15 Q Second recital, please. That would be the third one on
16 this one. Thank you.

17 Does that refresh your recollection?

18 A Yes.

19 Q And what was, basically, going on here, sir?

02:56PM

20 A The issue trust was loaning the family trust \$115,000.

21 Q To assist the family trust with paying some debt?

22 A Yeah. The family trust just didn't have any cash at the
23 time.

24 Q By this time, the SSJ, LLC, was a 54 percent owner of
25 Incline TSS, correct, sir?

02:57PM

1 A Yeah, what's the date on this again?

2 MR. ROBISON: Signature page, please.

3 THE WITNESS: Yes.

4 BY MR. ROBISON:

02:57PM

5 Q There's a handwritten date of August 28th, 2014. By
6 this time, the buy-in for the issue trust had already occurred?

7 A Correct.

8 Q So the ownership configuration of Incline TSS by this
9 date was what?

02:57PM

10 A Am I supposed to be looking at something?

11 Q No.

12 Do you know what the ownership configuration was of
13 Incline TSS by the summer of 2014?

02:58PM

14 A I think it was 54 percent issue trust and 46 percent
15 Todd, his trust.

16 Q All right. But that was subject to your negotiations to
17 buy in, correct, sir?

18 A Yeah, after I bought in, that would -- those numbers
19 would be diluted.

02:58PM

20 Q Right. Were you disclosing that to Wendy, your buy-in
21 efforts?

22 A I was.

23 Q Did she object in any way to you, sir, that the issue
24 trust interest might be diluted by your buy-in?

02:58PM

25 A She didn't.

1 Q And you made full disclosure?

2 A I explained the deal to Wendy.

3 Q In fact, do you recall that Wendy actually wanted to
4 perhaps use some of her Bronco Billy's money to also buy in to the
5 house?

6 A I do.

7 Q And what did she say in that regard, sir?

8 A What did she say?

9 Q Yes.

10 A Well, this goes back to the time when the Bronco Billy's
11 had not been sold. So -- and Wendy did not have a -- was not able
12 to get a gaming license.

13 So -- and Todd and I were going to have to equalize her
14 in some fashion. And so --

15 Q What does that mean, "equalize her in some fashion,"
16 because that's important.

17 A Basically, because we both got a 6 percent interest in
18 the -- you know, in the Pioneer Group, Bronco Billy's, at that
19 time, the way it was set up, and Wendy wasn't able to get a gaming
20 license, we would -- Todd and I would equally have to give her
21 something to make her whole.

22 Q Was there any definitive agreement with respect to how
23 that was going to happen?

24 A There wasn't. We talked about that numerous times with
25 counsel, and it was just kind of one of those things that was an

1 ongoing topic of discussion. And, yeah, I mean, this was --

2 Q But the sale changed all that, correct?

3 A It did.

4 Q Then we had to deal with money?

03:00PM

5 A That's right.

6 Q You are aware, are you not, that the two last exhibits
7 that I showed you with regard to the ACAPs were prepared by
8 Maupin, Cox & LeGoy?

03:00PM

9 A I didn't pay attention to the last one, but I do recall
10 that -- that ACPA being done by Maupin Cox, yes.

11 Q In fact, of the ten ACPAs that you signed, seven were
12 prepared by the law firm?

13 A If you say so.

03:00PM

14 Q All right. They are in evidence, and I'm not going to
15 belabor the point.

16 A Okay.

03:01PM

17 Q Now, the last question I have of you is, at what point
18 in time did you formulate the definitive belief that your father
19 did not intend to have Wendy own the Lake Tahoe house, what point
20 in time?

03:01PM

21 A I would say probably sometime in 2012, again, just
22 talking about the whole Incline TSS situation and it was just
23 going to be Todd and myself, you know. We're going to have equal
24 interest in that and -- yeah, Wendy was not part of that
25 discussion.

1 THE COURT: With that, ladies and gentlemen, we will
2 stand for our mid afternoon break. Please do not discuss this
3 case amongst yourselves. Please do not form or express any
4 opinion about this matter until it's been submitted to you.
03:02PM 5 Please be available for returning into the courtroom at
6 3:20.
7 (The jury left the courtroom.)
8 THE COURT: Ms. Reporter, let's write this, please.
9 Tomorrow begins the 10th day of a 10-day trial.
03:02PM 10 MR. ROBISON: And the last.
11 THE COURT: How many more witnesses do you have?
12 MR. SPENCER: One.
13 THE COURT: Who would that be?
14 MR. SPENCER: Mr. Wallace, Bruce Wallace.
03:02PM 15 THE COURT: And do you anticipate --
16 MR. ROBISON: Three that can be done in a day.
17 MR. LATTIN: I agree with that.
18 MR. HOSMER-HENNER: Sure.
19 MR. ROBISON: And since it's Wednesday and we might be
03:03PM 20 putting them on tomorrow, it's probably going to be put Todd back
21 on, Kevin Riley and Mr. LeGoy.
22 THE COURT: It's very difficult for me to understand,
23 from where I sit, that Mr. LeGoy and Mr. Riley are going to be on
24 and off the witness stand in a day? Is that -- am I missing
03:03PM 25 something?

1 MR. ROBISON: Well, you are not going to miss a brief
2 and succinct direct examination.

3 MR. CONNOT: Famous last words.

03:03PM

4 THE COURT: So I'm wondering at what point I tell this
5 jury they are coming back Monday.

6 I've always been willing to tender deliberations to
7 another judge, but anything prior to deliberations, I must do.
8 And it appears to me that we are closing the court session Friday
9 at noon.

03:04PM

10 MR. ROBISON: Oh. Well, we're shooting to shut down
11 tomorrow afternoon. That's our optimum.

12 MR. SPENCER: That's the goal.

13 MR. ROBISON: Both sides.

03:04PM

14 MR. SPENCER: I picture in my head that happening and
15 then closing on Friday morning, so that then, we would be done by
16 noon and you could leave and get another judge. But we have the
17 jury instructions to deal with, so that's the extra time.

03:04PM

18 THE COURT: And so mostly, you are all responsible for
19 the pacing of the trial, though I'm responsible for the
20 representations I make. And I thought, all along, my flight was
21 at 3:00. My flight is at 1:30, which means we are shut down at
22 noon.

23 MR. SPENCER: All right. Okay.

24 MR. ROBISON: So arguments done by noon.

03:05PM

25 THE COURT: By noon.

1 MR. ROBISON: I'll only be three hours.

2 MR. HOSMER-HENNER: Your Honor, I'm not as optimistic as
3 all other counsels.

4 THE COURT: Oh, neither am I, Counsel.

03:05PM 5 MR. HOSMER-HENNER: That's why, if your flight is done
6 and we're not going to switch to another judge --

7 THE COURT: I don't believe I can.

8 MR. HOSMER-HENNER: Yeah, so that means examination
9 would go -- worst-case scenario, examination will go -- continue
03:05PM 10 on Friday morning. Means closing and the verdict wouldn't happen
11 until Monday?

12 THE COURT: Well, let's not forget the jury
13 instructions.

14 MR. HOSMER-HENNER: As well.

03:05PM 15 THE COURT: This is not a gross misdemeanor criminal
16 case with some stock instructions for which there are no
17 objections.

18 MR. ROBISON: Almost. We're getting close.

19 MR. CONNOT: Although, I mean, that being said, I don't
03:05PM 20 disagree with what Kent says. I do think that there's going to be
21 a handful that the Court is going to have to wrestle with.

22 THE COURT: When do you anticipate I wrestle with them?

23 MR. ROBISON: I'm sorry, Your Honor, I didn't --

24 THE COURT: When shall I hold court out of the jury's
03:06PM 25 presence to settle instructions?

1 MR. LATTIN: I think it was our responsibility to make
2 some changes, get them back to Mark. We are prepared to discuss
3 those with him later today, if he's --

03:06PM

4 MR. CONNOT: I'll -- I told someone from your office I'd
5 make myself available this evening, but we have the problem --
6 okay.

7 THE COURT: And at this point, we're going to go off the
8 record as we talk about instructions.

9 (A discussion was held off the record.)

03:11PM

10 THE COURT: Okay. Let's take a break.

11 (A recess was taken.)

12 THE COURT: Counsel, you may continue.

13 BY MR. ROBISON:

03:29PM

14 Q Sir, with regard to a 2005 loan on Buckhorn Land and
15 Livestock, \$4 million loan, did you have any guarantee, that loan?

16 A I don't recall me having to guarantee that loan.

17 Q Do you recall that Bob LeGoy and Jessica Clayton sent
18 you a template of the ACPA that pertained to the indemnification
19 agreement -- the indemnification agreement --

03:29PM

20 A I'm sorry, can you say that again.

21 Q Yeah, I'm sorry.

22 Do you recall that Bob LeGoy and, separately,
23 Jessica Clayton sent you the template for the -- I think it's
24 Exhibit 16 -- the Ag Credit indemnification agreement, ACPA?

03:30PM

25 A Yeah, I don't recall receiving that.

1 Q Ah, very well. Stan, is there anything to which your
2 sister is entitled to right now from that trust that hasn't
3 already been either advanced or considered? In other words, is
4 she entitled to a distribution right now?

03:30PM

5 A No.

6 MR. ROBISON: Thank you, sir.

7 THE COURT: Redirect.

8 I'm sorry, Mr. Lattin, did I pass over you?

9 MR. LATTIN: I have no questions.

10 THE COURT: Excuse me.

11 MR. LATTIN: You went to the right place.

12 THE COURT: Thank you.

13

14 REDIRECT EXAMINATION

15 BY MR. CONNOT:

16 Q Would it be easiest if we just pulled up an exhibit here
17 that's in evidence, Stan?

18 Can you pull up Exhibit 38, please. And this is an
19 email. It says "Jackrabbit capital call."

03:31PM

20 Scroll up. You've got to go up a little bit, up in the
21 upper left-hand corner.

22 Do you see that?

23 A Yes.

24 Q Okay. And this, in the middle of the page on

03:31PM

25 Exhibit 38, is an email dated December 14th of 2017, from you,

1 Stan; is that correct?

2 A Yes.

3 Q You are sending this to Bob LeGoy, Michael Kimmel,
4 Todd Jaksick, Brian McQuaid, Don Lattin, and Kevin Riley.

03:32PM

5 And you state in the text, "Hey guys, sorry for
6 involving you in these issues. And Bob, thank you for your
7 efforts in trying to get us to resolve these disputes, but Todd's
8 indemnification agreement has a faster, bigger impact on the trust
9 than any lawsuit or attorney's fees ever will."

03:32PM

10 Did you write that?

11 A I did.

12 Q And if we go to the final page of Exhibit 38, and this
13 has been up before, but this shows capital calls for the members
14 of Jackrabbit. Do you see that?

03:32PM

15 A Yes.

16 Q And there's a Chart A and Chart B. And let's look at
17 Chart B. What's the percentage interest that the TBJ Investment
18 Trust owns?

19 A 38 percent.

03:33PM

20 Q A little over 38 percent, but -- and then what does
21 Todd B. Jaksick, LLC, own?

22 A 4 percent.

23 Q So between TBJ Investment Trust -- which is Todd's
24 entity, correct?

03:33PM

25 A Correct.

1 Q -- and Todd B. Jaksick, LLC, a little over 42 percent,
2 correct?

3 A Yes.

03:33PM

4 Q And then it shows up as Wendy Jaksick Trust under the
5 SJ Trust Family Agreement, a little over 7.5 percent. Do you see
6 that?

7 A Yes.

8 Q And then you see Stan Jaksick II, LLC, a little over
9 12.5 percent, correct?

03:33PM

10 A Correct.

11 Q So capital calls that were made by the family trust, out
12 of family trust assets, were disproportionately paid and
13 benefitted Todd, correct, because he has a 42 percent interest?

03:34PM

14 So on a capital call, he would have had to pay
15 42 percent of whatever the outstanding capital call is, correct?

16 A Correct.

17 Q And the family trust paid those funds, correct?

18 A I think Todd paid one of them. I'm not positive.

03:34PM

19 Q Okay. We saw the financials earlier where it showed the
20 capital calls, then, right, that had been paid -- and that -- so
21 some of those were paid that disproportionately benefitted Todd
22 for his interest, correct?

23 A Are you talking about -- talking about the Jackrabbit
24 capital calls?

03:34PM

25 Q Yes.

1 A Okay. Yeah, I mean, he has a larger interest.

2 Q So if the total capital call for all members is a
3 million dollars, or let's just say a hundred thousand, let's just
4 say it's a hundred thousand dollars, the capital call the family
03:35PM 5 trust would pay for Todd would be 42,000 approximately, correct?

6 A Correct.

7 Q And the capital call that they would pay for you or your
8 entity would be approximately a little over 12,000, correct?

9 A Correct.

03:35PM 10 Q And Wendy would be 7,500, correct?

11 A Correct.

12 Q So the benefits are not proportionate. I mean, Wendy
13 hasn't received more than her benefit.

14 We've also seen the circumstances where Todd's
03:35PM 15 individual interest, in exchange for a note at 1.5 percent -- and
16 let me interrupt right there.

17 Have you ever borrowed money at 1.5 percent, Stan?

18 A No.

19 Q Are you aware of any place in the market today where you
03:35PM 20 could go out and borrow 1.5 percent?

21 A No.

22 Q Particularly in an unsecured note, there's no security
23 backing up those 1.5 percent notes that Todd has given himself
24 from the trust, is there?

03:35PM 25 A Not that I'm aware, no.

1 Q Okay. So an unsecured note for 1.5 percent where Todd's
2 on both sides of the transaction, correct?

3 A Yes.

4 Q Is that a wise use of family trust assets?

03:36PM 5 A Probably not.

6 Q And so you talked about the Lake Tahoe house and
7 Incline TSS. You thought -- you thought, at the time of your
8 dad's death and shortly thereafter, that your dad owned
9 100 percent of Incline TSS; isn't that true?

03:36PM 10 A Yes.

11 Q And if that was the case, Incline TSS would have then
12 been owned by your family -- by the family trust, and the family
13 trust would have had ownership of Incline TSS, which then held the
14 Lake Tahoe house, correct?

03:36PM 15 A You know, I don't recall that. Again, I was not
16 involved in those discussions, but I -- I was just unaware of the
17 Tahoe house. And it just seemed to me that we were trying to get
18 it out of my dad's name and into another entity.

03:37PM 19 We talked about Incline TSS over the years, and so I
20 just assumed that my dad still was, yes, the owner.

21 Q Okay. And had your dad still been the owner, just like
22 with SSJ, LLC, when he transferred it out of the trust and put it
23 into SSJ, LLC, for creditor protection, that was creditor
24 protection in that scenario.

03:37PM 25 In that scenario, had he passed away, the family trust

1 owned SSJ, LLC, those interests would be held by the family trust
2 either directly, if it was in the trust, or through the probate
3 with the pour-over will, and the family trust would have owned the
4 entity that owned the Lake Tahoe house, correct?

03:38PM

5 A Possibly. Again, I was not involved in those
6 discussions at that time.

7 Q Mr. Robison spent some time with you talking about
8 Montreux Golf Club membership interest in Jaksick Family, LLC, so
9 let's discuss that for a second.

03:38PM

10 Jaksick Family, LLC, has nothing to do with the family
11 trust, does it, other than the family trust has a 1 percent
12 membership interest, correct?

13 A That's correct.

03:38PM

14 Q So Jaksick Family, LLC, is something that you and Todd
15 and Wendy received from your grandmother's estate, isn't that
16 true, from your grandmother Thelma?

03:39PM

17 A Again, it's complicated because it had to do with the
18 initial funds that came out of Lakeridge Golf Course sale into the
19 Montreux Golf Club. And I honestly don't remember how it all took
20 place, but my grandmother's trust was -- basically, it had been
21 distributed, so --

22 Q So that's how each -- you, Todd and Wendy, each received
23 your one-third interest, correct, through your -- ultimately,
24 through your grandmother's estate, correct?

03:39PM

25 A That's not how I understood it with Jaksick Family.

03:39PM

1 Q Okay. But it has nothing to do with the family trust,
2 does it, other than the family trust has a 1 percent membership
3 interest? So any funds that Wendy is going to receive as a result
4 of that, she's entitled to receive separate and apart from any
5 disputes regarding the family trust or the issue trust, correct?

6 A With regard to Jaksick Family, yes.

7 Q Which is the Montreux Golf Club memberships?

8 A That's right.

03:40PM

9 Q Correct. So when you signed the Incline TSS rental
10 agreement in February of '13 --

11 A Yes.

12 Q -- you knew you were signing for Incline TSS, but you
13 thought Incline TSS was owned by Sam at that time?

03:40PM

14 A Well, I mean, you know, my dad's asking me to go handle
15 this for him. It wasn't Todd telling me to go handle it for him.

16 Q And you were never a manager or member of Incline TSS,
17 were you?

18 A Again, I think there's some confusion there because,
19 again, that was the -- my dad's intent early on.

03:40PM

20 Q Have you ever seen any document that said you were a
21 member or manager of Incline TSS?

22 A I have.

23 Q And what document is that?

03:41PM

24 A It was a document that Pierre Hascheff's office put
25 together and I just -- I ended up getting a copy of it.

1 Q And is that the articles of organization that's filed
2 with the Secretary of State's office? Do you recall if that's --
3 I can show it to you if you want.

4 A That's not what I was talking about, no.

03:41PM 5 Q So what's the document that you recall that
6 Pierre Hascheff's office prepared that had you as a manager or
7 member of Incline TSS?

8 A It, basically, just had a list of the different entities
9 and the ownership interest of those entities.

03:41PM 10 And there was one that was produced around February
11 of 2012, and it showed Todd had a 51 percent interest and he had a
12 49 percent interest in Incline TSS. And I just -- we came across
13 that at a later date, but --

03:42PM 14 Q But had you ever been a manager, to your knowledge, of
15 Incline TSS?

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

17 Q Were you aware that the operating agreement of
18 Incline TSS only lists Todd and his trusts as members?

03:42PM 19 A I'm not. I mean, my dad was the manager of the SSJ,
20 LLC.

21 Q And if we look at Exhibit 14, and if we go to the third
22 page, the signature page -- and Exhibit 14 is the ACPA for the
23 life insurance proceeds -- I believe your testimony -- I believe
24 your testimony is that you don't recall signing the ACPA for the
03:43PM 25 life insurance proceeds?

1 A Again, there was never an ACPA for the life insurance
2 proceeds.

3 Q But there's a signature page here and you don't dispute
4 that your signature is on this signature page?

03:43PM 5 A That's my signature, yes.

6 Q Do you see a problem with orphan signature pages, Stan?

7 A Yeah.

8 Q Is this a classic example of an orphan signature page
9 and the problems it creates?

03:43PM 10 A Sure.

11 Q And Exhibit 298, the creditor claim -- could you pull
12 that up, please.

13 And actually, if you go to the attachment, which is the
14 indemnification agreement that was -- that at least is arguably
03:44PM 15 attached to that.

16 So is that the attachment to Exhibit 298, Keith?

17 Yeah, so scroll down to the actual indemnification
18 agreement part. It's actually about the second page of that
19 document. I still think you have to scroll up, though.

03:44PM 20 Actually, the indemnification agreement itself.

21 So this is the indemnification agreement that is
22 purportedly attached to the creditor claim.

23 Is that legible?

03:45PM 24 A Again, all I saw in the creditor claim was just a

25 different -- it was a simplified version. It had the name of an

1 entity or a person and the amount. It was a summary. It
2 wasn't -- there was nothing where you had, like, a document like
3 this attached to it.

03:45PM 4 Q And you were here for the testimony in regards to -- can
5 you pull Exhibit 11 up, please, Keith.

6 Between Exhibit 11, 11-A and 11-B, and I believe it was
7 Exhibit 173, which is another indemnification agreement from
8 Kevin Riley's file, were you present in the courtroom for the
9 discussion about those?

03:45PM 10 A Yes.

11 Q Okay. So if we look at Exhibit 11, in the first
12 paragraph -- and that's between the family trust and
13 Todd B. Jaksick and Dawn Jaksick individually, TBJ SC Trust and
14 TBJ Investment Trust.

03:46PM 15 And you've testified previously that you don't believe
16 that under any fashion, your father would have ever agreed to have
17 Dawn Jaksick be part of that.

03:46PM 18 A Yeah, I don't. I mean, my dad, just kind of like with
19 the -- my whole divorce situation, wanted to keep things separate
20 between Todd and I or whoever and family businesses, regardless
21 whether Todd was married or not.

22 He, you know -- I mean, I -- you know, as far as me
23 having, like, my ex-wife on there, there's no chance he would have
24 agreed to that.

03:47PM 25 So I -- I just thought it was odd having her name on it.

1 Q That's another reason why you questioned the validity of
2 the indemnification agreement?

3 A Yeah.

4 MR. CONNOT: If we pull up Exhibit 95, please, Keith.

03:47PM

5 THE COURT: And will you pause for just a moment,
6 please.

7 MR. CONNOT: Certainly.

8 THE COURT: We'll go off the record, Ms. Reporter.

9 (A discussion was held off the record.)

03:48PM

10 BY MR. CONNOT:

11 Q And Exhibit 95 is financial statements for the
12 Wendy Jaksick trust. This is Wendy's sub trust.

13 A Okay.

14 Q Do you recognize this document?

03:48PM

15 A I mean, I recognize it here, but I don't know that I
16 recall reviewing it.

17 Q Okay. And this is for the period April 21 of 2013 to
18 December 31 of 2016. Do you see that on the first page?

19 A Yes.

03:48PM

20 Q Then if we go to Exhibit 540, and that's a similar
21 accounting for the Wendy Jaksick -- for her sub trust, the
22 Wendy Jaksick Trust under the Samuel S. Jaksick Jr. Family Trust
23 agreement.

24 And this is for the period January 1, 2017, to
25 December 31 of 2017.

03:49PM

1 A Okay.

2 Q Do you see that?

3 And then if we go to the third page, if you go to the
4 lower right-hand -- lower left-hand corner, do you see what the
5 date of that is when it's issued by Rossmann, MacDonald &
6 Benetti --

7 A Yes.

8 Q -- February 11th, 2019, about two and a half weeks ago.
9 Do you see that?

10 A Yes.

11 Q Are you aware that Wendy had to seek court relief in
12 order to even get the sub trust accounting delivered?

13 MR. ROBISON: Your Honor, that is another order that we
14 have stipulated to with respect to discovery.

15 THE COURT: It is sustained.

16 BY MR. CONNOT:

17 Q Let's go to page 4 of that, numbered page 4, that is
18 JSK 5067, receipts of principal. And this occurred between
19 January 1, 2017, and December 31, 2017.

20 Go to the last entry, "Received by assignment from
21 Stanley Jaksick II, LLC, on October 11, 2017, 9.3984 Class A units
22 of Jackrabbit Properties, representing a 7.5187 percent interest
23 of the total Class A units of Jackrabbit Properties."

24 That's the first time in any accounting that Wendy's
25 interest in Jackrabbit shows up, isn't it, in this period for

1 January 1 of 2017 to December 31 of 2017 accounting?

2 A Possibly.

3 Q So prior to that, it was held by the Stanley Jaksick --
4 by Stanley Jaksick II, LLC?

03:51PM 5 A I'm sorry, what's the question?

6 Q So prior to this transfer on October 11 of 2017, Wendy's
7 Jackrabbit interest is actually held in Stanley Jaksick II, LLC;
8 isn't that correct?

03:51PM 9 A Yeah, I don't really recall why we transferred it over
10 into my sub trust or why I held it for her. I mean, I think it
11 had something to do with the refinance on the Jackrabbit loan.
12 For some reason, they had to move it over to me, get the loan, and
13 then they moved it back to her.

03:52PM 14 Q And you testified that you don't know why Wendy sued you
15 or the other trustees. You sued Todd, didn't you, for breach of
16 fiduciary duty?

17 A I said I don't know why she sued me.

18 Q Okay. But you sued your brother for breach of fiduciary
19 duty, correct?

03:52PM 20 A I don't remember the claims.

21 Q And in your examination by your attorney,
22 Mr. Hosmer-Henner, you talked about how removing Todd's house from
23 the indemnification agreement benefits Wendy, right?

24 A Correct.

03:52PM 25 Q And yet, there's other provisions that do not benefit

1 Wendy of that resolution, aren't there?

2 MR. ROBISON: Object, Your Honor, violates the order.

3 MR. HOSMER-HENNER: Objection.

4 MR. CONNOT: May we approach, Your Honor?

03:52PM 5 THE COURT: Ladies and gentlemen, please stand.

6 (The Court and attorneys left the courtroom.)

7 THE COURT: Be seated, please.

8 BY MR. CONNOT:

9 Q So the resolution that you and your brother reached,

03:56PM 10 part of which included withdrawal of the indemnification

11 agreement, okay, you testified about the benefits to Wendy from

12 that. But part of the other -- other parts of the resolution also

13 can harm Wendy; isn't that true?

14 A Am I allowed to speak about this?

03:56PM 15 Q It's a yes-or-no question.

16 THE COURT: So let me intervene so we don't have any
17 inadvertent statements.

18 The details of that resolution at this point are not
19 going to be presented to the jury. So any specifics, I ask you to
03:56PM 20 refrain from talking about. But the general concept of whether --
21 whether there is another side to the Wendy detriment or benefit,
22 you may answer.

23 THE WITNESS: I don't believe that -- it really does
24 affect Wendy, maybe.

03:57PM 25 THE COURT: We're not going to do it now, Counsel. So

1 you'll have Mr. Stan tomorrow morning after we have an opportunity
2 out of the jury's presence.

3 So go on to whatever your next subject area is.

4 MR. CONNOT: Understood, Your Honor.

5 BY MR. CONNOT:

6 Q And your position has been that Todd's mortgage never
7 should have been part of that indemnification agreement, correct?

8 A Correct.

9 MR. CONNOT: I'll pass, subject to that, Your Honor.

03:57PM 10 THE COURT: Thank you.

11 MR. HOSMER-HENNER: Your Honor, I just want to go to
12 Exhibit 540.

13 THE COURT: Will you stand next to the microphone that
14 should be re-placed there, or at least amplify your voice, please.

03:58PM 15 MR. HOSMER-HENNER: Turn to Exhibit 540.

16 MR. IVEY: 540?

17 MR. HOSMER-HENNER: And the same page showing the
18 Stanley S. Trust distribution.

19 MR. IVEY: I'm sorry, what page?

03:58PM 20 MR. HOSMER-HENNER: The Stanley Jaksick II, LLC,
21 distribution. It's 5067.

22 Can you blow up the third paragraph down.

23

24 ///

25 ///

1 RECROSS-EXAMINATION

2 BY MR. HOSMER-HENNER:

3 Q Stan, you were asked questions about why those shares
4 were in Stanley Jaksick II, LLC. Do you remember that?

03:59PM

5 A Yes.

6 Q And did that entity hold those shares for Wendy for any
7 extended period of time?

8 A Not very -- not very extended period of time, no.

03:59PM

9 Q Was that the distribution entity that was chosen to then
10 distribute it to the Wendy Jaksick sub trust?

11 A Yeah.

12 Q And that distribution took place near simultaneously
13 from the family trust?

14 A That was my understanding.

03:59PM

15 Q And that method of distribution was done at the advice
16 of your attorneys and accountants?

17 A Absolutely.

18 Q Are there any shares that were distributed to Wendy's
19 sub trust that are still in Stanley Jaksick II, LLC?

03:59PM

20 A No.

21 Q Are there any shares of Jackrabbit still in the family
22 trust?

23 A No.

03:59PM

24 Q To your knowledge, has every interest in Jackrabbit that
25 Wendy was entitled to been distributed to her sub trust?

1 A Yes.

2 MR. HOSMER-HENNER: Pass the witness.

3 THE COURT: Mr. Robison.

4 MR. ROBISON: Thank you, Your Honor.

04:00PM 5 I would like to show the witness Exhibit 44, please.

6 THE COURT: Yes.

7 MR. ROBISON: May I approach, Your Honor?

8 THE COURT: Yes.

9

10 RE CROSS-EXAMINATION

11 BY MR. ROBISON:

12 Q Sir, would you please turn to Exhibit 44. And I'll do
13 some house cleaning for you. Thank you.

14 MR. CONNOT: Did you say 44?

04:00PM 15 MR. ROBISON: I did.

16 MR. CONNOT: Thank you.

17 MR. ROBISON: I believe it's in that stipulation.

18 MR. CONNOT: Yeah, I think so, yes.

19 THE COURT: It is admitted, Ms. Clerk.

04:00PM 20 THE CLERK: Thank you.

21 (Exhibit 44 admitted into evidence.)

22 BY MR. ROBISON:

23 Q Stan, you recognize this email?

24 And blow up the header, please, so we can see who it's
04:01PM 25 from.

1 Do you recognize that as an email from Bob LeGoy at the
2 Maupin Cox LeGoy firm, dated August 8th, 2013? Do you see that,
3 sir?

4 A I do.

04:01PM 5 Q And are you copied on that?

6 A I am.

7 Q And which one of that -- which one of those email
8 addresses is yours?

9 A The SSJ3232.

04:01PM 10 Q I think he highlighted the wrong one, didn't he?

11 A No.

12 Q All right. So do you recall getting this email from
13 Mr. LeGoy, subject -- "Agreement and consent to proposed action"
14 is the subject?

04:01PM 15 A Yeah, I do not specifically recall receiving this from
16 Mr. LeGoy.

17 Q Well, let's take a look at what Mr. LeGoy did here.
18 Enlarge the first paragraph, please.
19 Would you read that to the jury.

04:02PM 20 A "Jess, Stan, Todd and Kevin, Todd asked me" --

21 Q Your voice is fading. I'm sorry.

22 THE COURT: And go slow, please.

23 THE WITNESS: "Jess, Stan, Todd and Kevin, Todd asked me
24 to revise the attached proposed action agreement as I deemed
04:02PM 25 appropriate and to prepare a form agreement and consent you can

1 use before you take any future trust action.

2 "I have attached both. Please review them and call if
3 you have any questions or changes. Otherwise, please have the
4 first one signed if you think it's better than the one that
5 already has been signed."

04:02PM

6 BY MR. ROBISON:

7 Q Now, do you know what Mr. LeGoy attached?

8 A I don't, because I had a discussion with Mr. LeGoy after
9 I had found out that the cotrustees were actually doing these
10 ACPAs. And he never told me, hey, Stan, I sent you an email back
11 in August of 2013.

04:03PM

12 Q Do you deny receiving this email, sir?

13 A I don't recall receiving that email from Bob LeGoy.

14 Q Then would you show us what the attachment is, please.

04:03PM

15 Do you see that the attachment is the proposed ACPA with
16 respect to the business the cotrustees were then handling?

17 A Okay. I don't understand, I'm sorry. Which ACPA is
18 this for?

19 Q Okay. Take a look at the next recital, please.

04:03PM

20 Do you recall what that refers to?

21 A Yeah, the Ag Credit, MetLife.

22 Q That's the one in which Mr. Todd Jaksick's
23 indemnification is expressly referred to, correct?

24 A Possibly.

04:04PM

25 Q Next paragraph, please.

1 **Would you read that to the jury, please.**

2 A "Todd B. Jaksick has exercised his rights under the
3 indemnification agreement between Sam S. Jaksick Jr. and Todd B.
4 Jaksick to require that the above ranch payments are paid by
04:04PM 5 Samuel S. Jaksick Jr. Family Trust and the Estate of
6 Samuel S. Jaksick Jr. to assure the above-described payments are
7 kept current and all the assets securing the ranch debt are fully
8 protected."

9 Q **So you do not recall receiving this email with that**
04:04PM 10 **attachment, Exhibit 44, from Mr. LeGoy, sent to you, correct?**

11 A I do not. I don't know why not, but I don't recall.

12 Q **Now, look, there's -- hundreds of documents have been**
13 **sent across your desk, agreed?**

14 A Oh, for sure.

04:05PM 15 Q **Regarding the administration of this trust.**

16 A Yes.

17 Q **In addition to that, you are running your own businesses**
18 **out at Montreux and elsewhere, correct?**

19 A Yes, and I have kids as well.

04:05PM 20 Q **I'm sorry?**

21 A I have kids as well.

22 Q **Okay. That trumps everything.**

23 A Yes.

24 Q **Be fair to say that it's hard to recollect every single**
04:05PM 25 **document that came across your desk. Isn't that true, sir?**

1 A It is.

2 Q And you don't deny that Mr. LeGoy sent you this, do you,
3 sir?

04:05PM

4 A I don't. I just thought -- I think it's kind of odd
5 that he would have not brought that to my attention when we had a
6 phone conversation, but it was a while after.

7 Q Did you respond to that email?

8 A Did not.

04:05PM

9 Q All right. Now, I want to ask you a question.
10 Your sister receives, ultimately, the disbursement from
11 the family trust to her sub trust, correct?

12 A Correct.

13 Q And you understand that that's a life estate?

14 A Yes.

04:06PM

15 Q Your father didn't want her to own anything, but just be
16 taken care of for life?

17 A That's correct.

18 Q And who's the trustees of her sub trust?

19 A Todd and I.

04:06PM

20 Q How are you going to administer that without getting
21 sued?

22 A Yeah, I think we're going to have to find another
23 trustee here.

04:06PM

24 Q Are you willing to be her trustee on the disbursements
25 that go into her sub trust so that you can administer those assets

1 for her benefit?

2 A Do I want to be a trustee?

3 Q Yes.

4 A No.

04:06PM 5 Q Why?

6 A Just don't have the time to.

7 Q Well, do you think you might get sued for fraud,
8 conspiracy, aiding and abetting?

04:06PM 9 A I hope not, but I just -- I think it would be better off
10 if someone else oversaw that.

11 Q Because of this litigation?

12 A Yes.

13 MR. ROBISON: Thank you, sir.

14 Pass the witness.

04:06PM 15 Oh, I guess we're done.

16 THE COURT: Ladies and gentlemen, during this recess,
17 please do not discuss this case amongst yourselves. Please do not
18 form or express any opinion about this matter until it has been
19 submitted to you.

04:07PM 20 We're not done with our trial day yet. We'll stand for
21 our jury.

22 (The jury left the courtroom.)

23 THE COURT: I would like to capture some of the sidebar
24 conversation.

04:07PM 25 Be seated.

1 The admissibility and details of the pretrial agreement
2 settlement between Todd and Stan has been -- that issue has been
3 the most controversial of this trial.

04:08PM

4 And I have attempted to navigate the issues so that
5 prejudice falls evenly on both sides -- potential prejudice falls
6 evenly on both sides.

04:08PM

7 I cannot change the fact that Todd and Stan once had an
8 adversary position, a legally adversarial position in which
9 allegations were made, and then they chose to resolve those
10 disagreements separate from the disagreements involving Wendy.

11 And when asked about the general effect of that
12 resolution, Stan testified that at least with respect to Todd's
13 home and its removal from the indemnification agreement, it was a
14 great benefit to Wendy.

04:09PM

15 And Wendy now wants to present some evidence that in
16 addition to the benefit to Wendy, there is also some detriment to
17 Wendy.

04:09PM

18 I said at side bar that, conceptually, that seems right
19 to me. I want to exclude the specific terms of the settlement. I
20 may also remind all of you I have not seen the specific terms of
21 the settlement.

04:09PM

22 But now, Mr. Stan has testified that there are no
23 provisions of the settlement that are adverse to Wendy's
24 interests. And I think that's where we pick up the sidebar,
25 because counsel may disagree about that.

1 I don't want to plant any evidence into a witness' mind,
2 and I would never countenance dishonest testimony. But the
3 problem has just grown because Stan has testified that there are
4 no other detriments to Wendy in the agreement.

04:10PM

5 So beginning with Wendy's counsel, please be heard.

6 MR. CONNOT: Yes, Your Honor.

7 So we have the fact that not only is that what
8 Stan Jaksick has testified to, but starting with Todd's testimony
9 and now with Stan's testimony as well, the -- sort of the thrust
10 has been, well, this is -- they, wearing the white hat of Todd,
11 removing his personal mortgage, the mortgage on his personal
12 residence as part of the indemnification agreement, is part of the
13 resolution of the dispute; that somehow, that that means there's
14 this great benefit to Wendy.

04:10PM

15 And yet, at the same time, Todd testified in his
16 deposition on February 1st that there were adverse effects. And
17 there are adverse effects, Your Honor.

18 I mean, I don't want to get too far into the details for
19 the Court, but the trust is going to pay a certain extent of Todd
20 and Stan's attorney's fees that they have incurred. That's going
21 to get paid out of the family trust.

04:11PM

22 They are going to continue to pay those disproportionate
23 capital calls for a period of time.

24 Yes, is Wendy going to get some benefit? But it's going
25 to deplete trust assets to the extent they make capital calls

04:11PM

1 disproportionately for the interests that Stan and Todd have.

2 They are also going to continue to have certain payments
3 on the Ag Credit loan pursuant to the indemnification agreement
4 paid out of the family trust, once again, benefitting
04:11PM 5 Todd Jaksick's 51 percent interest.

6 So again, if they are going to sit here and wave this
7 around and say there's this great benefit to Wendy, they can't
8 have it both ways.

9 They are the ones who chose to go down that path, and
04:11PM 10 we're entitled to get into what those -- what the harm is to Wendy
11 or what the adverse effects of this settlement is to Wendy.

12 THE COURT: Counsel?

13 MR. HOSMER-HENNER: Your Honor, I have to go back to the
14 touchstone, which is why would this evidence be admissible, be an
04:12PM 15 exception. And it's to show bias on the part of the witness.

16 What are they trying to show, that Stan testified that
17 was biassed or that he now has an incentive to change his
18 testimony? They could do that through the deposition transcript,
19 but there's nothing that they can show that as a result of the
04:12PM 20 settlement agreement, he's now biased to say something
21 differently.

22 I mean, if you heard his testimony, Your Honor -- and I
23 think it's exactly consistent with his deposition transcript and
24 the position that he has maintained in this case for, essentially,
04:12PM 25 since 2013.

1 There's no bias here to be impeached about. And what
2 they want to do is to take that settlement agreement and say that
3 if that's approved, there will be harm to Wendy.

04:12PM

4 It's not a question of getting in front of the jury that
5 they've reached a settlement agreement. That, again, is
6 conditional. That will harm the jury. That's not proper evidence
7 that's before here.

04:13PM

8 That chills settlement because it stops you from
9 entering into a settlement that has an effect that, then, if it's
10 approved by this Court, will harm the ultimate -- the other party
11 in this case.

12 The only purpose that this should be admissible for is
13 to show some bias on the part of Stan to say something different.

04:13PM

14 It's not about Todd waving the white hat. And they have
15 had the opportunity to cross-examine him about the same thing and
16 say whether or not that \$2.4 million reduction was prior to this
17 settlement agreement or after.

04:13PM

18 That testimony, I guess, is admissible based on your
19 ruling that Todd opened the door to that. But all of the other
20 terms of the settlement agreement and its effect on Wendy, that's
21 not the standard which even this Court recognized was the sole
22 reason it was allowing this, some of the settlement discussion in,
23 which, again, is that exception to show bias.

04:13PM

24 THE COURT: But now, we have cause -- potential cause
25 for impeachment, which, for me, is a separate analysis.

1 MR. HOSMER-HENNER: Impeachment on the terms of the
2 settlement agreement.

3 And, Your Honor, if that was the standard, right, they
4 could have said doesn't your settlement agreement say this, and
04:14PM 5 asked him 40 questions until he says one that they disagree with
6 and immediately open it up and publish it so they get the terms of
7 the settlement agreement in.

8 THE COURT: So do I understand correctly that Todd has
9 testified in deposition that there are adverse impacts upon Wendy
04:14PM 10 from the settlement he reached with Stan?

11 MR. HOSMER-HENNER: I believe Todd said that there were
12 some advantages and potentially some things that could be
13 detriment.

14 THE COURT: And now, I have Stan saying something
04:14PM 15 different.

16 MR. HOSMER-HENNER: And I don't believe -- if we go back
17 to read the answer, I don't believe that's what Stan said. I
18 think his testimony was that, as a whole, that doesn't -- is not
19 detrimental to Wendy. I don't believe he said there's not a
04:14PM 20 single detrimental effect in the entire settlement agreement.

21 THE COURT: Do you have the deposition transcript from
22 Todd?

23 MR. ROBISON: Yes, we're getting it right now.

24 MR. CONNOT: While we are getting that, if I could, Your
04:15PM 25 Honor, please.

1 THE COURT: Slowly, please.

2 MR. CONNOT: Thank you.

3 As the Court noted, while bias might have been part of
4 it, it's expanded beyond that by the choice on that side of the
04:15PM 5 courtroom, by stating here are the benefits to Wendy, trying to
6 make it sound like there's this great benefit to Wendy. And yet,
7 they want to hide the detriment to Wendy.

8 And so I think that now, we are in an area of
9 impeachment. We are in the area of -- they chose to go down that
04:15PM 10 road, Your Honor. I mean, they didn't have to go down that road;
11 they chose to.

12 And now, it's unfairly prejudicial to Wendy because now,
13 the seed -- well, not just the seed. I mean, it has been danced
14 around in front of the jury, how amazing this is going to work out
04:16PM 15 for Wendy in this. We're entitled to get into what the adverse
16 impacts are.

17 MR. HOSMER-HENNER: May I, Your Honor?

18 THE COURT: As long as you don't remind me again that I
19 chilled future settlements because I admitted this evidence in a
04:16PM 20 case-specific contextualized indecision. Please don't say that
21 again. I understand.

22 MR. HOSMER-HENNER: My only point, Your Honor, is that
23 we didn't introduce that settlement in our testimony with Stan.

24 They brought up, as a strategic decision, to talk about
04:16PM 25 the \$2.4 million house with Stan in their very first direct

1 examination of Stan. We are not waving this in front of the jury
2 in order to show Stan in a positive light. They brought that in.

3 THE COURT: That doesn't change the fact that Stan,
4 until a month ago, was adverse to Todd. I can't change that.

04:16PM

5 That was a decision he and -- he made.

6 MR. ROBISON: Your Honor, we found that portion of the
7 deposition, which is page 1218 -- 1218 of, I think, Volume VII.
8 And this was at the last session of Mr. Todd Jaksick's deposition.

9 The question was, "Okay."

04:17PM

10 Answer, "Concept is to be aggressive and sell property
11 and get debt paid off as quickly as we can, and that's pretty much
12 what I'm recalling right now."

13 Question, "All right. Back to my original question. Do
14 you recall anything about the terms of the settlement with Stan
15 that adversely affected Wendy's interest besides Incline TSS

04:17PM

16 purchase? Anything else, in your view?"

17 Answer, "There was some payments that we agreed to
18 under -- being paid under the Ag Credit loan 101. We agreed to
19 attorney's fees being paid."

04:18PM

20 Question, "Okay."

21 Answer, "But I believe for the most part, it was very
22 positive for Wendy, Stan, myself, and the trust."

23 THE COURT: Thank you, Counsel, for reading that.

24 MR. SPENCER: There was something about Incline that was
25 above, but --

04:18PM

04:19PM 1 THE COURT: Well, to the right side of the courtroom, my
2 left, do you want me to allow counsel -- Wendy's counsel to
3 recommence examination of Stan to further probe his answer that
4 there are no detrimental effects to Wendy in the settlement
5 between Todd and Stan, or do you want me to allow them to re-call
6 Todd for the specific purpose of eliciting his deposition
7 testimony?

8 Which of the two do you prefer?
9 MR. HOSMER-HENNER: Well, I'm going to go with the Todd
04:19PM 10 option, if it's up to me.

11 MR. ROBISON: We'll take the Todd option, Door Number 2.

12 THE COURT: Okay. So I guess you will call Todd, and
13 you will say you heard Stan testify that there were no -- I mean,
14 I don't want to put words in your mouth, but you create the segue,
04:19PM 15 and then you can use the deposition and make inquiries.

16 But I'm still reluctant and not allowing the specific
17 terms, specifically the attorney's fees and Ag --

18 MR. LATTIN: Credit.

19 THE COURT: Ag Credit. Not yet, if at ever.

04:20PM 20 MR. CONNOT: Okay. Understood, Your Honor. So just --
21 and I'm not asking to direct me to the specific words, but I also
22 want to be cognizant and not step over the line.

23 THE COURT: You have the right to impeach his answer.

24 MR. CONNOT: Right.

04:20PM 25 THE COURT: And I'm trying to figure out a way for you

1 to do it, quickly --

2 MR. CONNOT: Yes.

3 THE COURT: -- and generally. And I think that through
4 Todd's deposition transcript, that can be accomplished, because
04:20PM 5 his testimony is what his testimony is.

6 MR. CONNOT: Okay.

7 THE COURT: And it's different from what I just heard
8 counsel read to me from the deposition transcript.

9 MR. CONNOT: So even though the deposition transcript
04:20PM 10 talks about the attorney's fees and Ag Credit loan, I'm not
11 permitted to go into that?

12 THE COURT: I think you first call Todd and you ask him
13 the same question you asked Stan.

14 MR. CONNOT: Understood.

04:20PM 15 THE COURT: And if he also says that there are no
16 detrimental effects to Wendy, then I guess we're going to open up
17 the terms.

18 MR. CONNOT: Understood.

19 MR. HOSMER-HENNER: Just to head off confusion down the
04:21PM 20 road, can we just have the last answer that Stan gave on that so
21 we're all clear about what he said.

22 THE COURT: Yes. It will take the reporter a minute.
23 Let's all quit talking.

24 (The record was read by the reporter as follows:

03:56PM 25 "BY MR. CONNOT, QUESTION: So the resolution that you

1 and your brother reached, part of which included withdrawal
2 of the indemnification agreement, okay, you testified about
3 the benefits to Wendy from that. But part of the other --
4 other parts of the resolution also can harm Wendy; isn't that
03:56PM 5 true?
6 "ANSWER: Am I allowed to speak about this?
7 "QUESTION: It's a yes-or-no question.
8 "THE COURT: So let me intervene so we don't have any
9 inadvertent statements.
03:56PM 10 "The details of that resolution at this point are not
11 going to be presented to the jury. So any specifics, I ask
12 you to refrain from talking about. But the general concept
13 of whether -- whether there is another side to the Wendy
14 detriment or benefit, you may answer.
03:57PM 15 "THE WITNESS: I don't believe that -- it really does
16 affect Wendy, maybe.")
17 THE COURT: Okay.
18 MR. ROBISON: I just want to state for the record, if I
19 may, that since we filed our motion, we've looked at a more recent
04:24PM 20 Nevada Supreme Court case.
21 THE COURT: Since you filed your motion?
22 MR. ROBISON: Pardon me?
23 THE COURT: Which motion?
24 MR. ROBISON: The motion in limine to preclude any
04:24PM 25 reference to the fact that Stan sued, the fact that that was

1 settled, et cetera, et cetera.

2 And the case we would like to bring to the Court's
3 attention, if it's going to further consider this, is Moore versus
4 Bannen in which the Nevada Supreme Court adopted what was referred
5 to as "the court rule," addressed in Vermont and Colorado, and
6 that in terms of admitting evidence of a settlement, only the
7 existence of the settlement should be permitted, because to do
8 otherwise allows an unjustified inference that one party feels
9 guilt or liability and therefore settled with another party.

10 And the Court in the Moore case is very cognizant of the
11 fact that this jury may infer liability or guilt from Todd and/or
12 Stan to Wendy because of their settlement. And we would like to
13 base our position in addition to what we've already said on that
14 case.

15 THE COURT: What is the cite, please? What is the
16 citation?

17 MR. ROBISON: 106 Nevada 679, 799 P.2d 564.

18 THE COURT: Was that not -- I'm not trying to make a
19 point, I'm just trying to clarify. Was that case presented to the
20 Court in any of the moving papers?

21 MR. ROBISON: Not yet. No, it has not been. We were
22 going to supplement. By that time, we thought the dispute was
23 over.

24 THE COURT: Well, I honor the right to jury trial. I
25 ask the governor to allow me to be a trial judge.

04:26PM 1 But when parties choose trial, they yield control. They
2 cannot control the composition of the jury. They cannot control
3 the strengths, weaknesses and unpredictability of the trial judge.
4 And we do our best. And we'll see what happens and we'll see what
5 the Supreme Court says.

6 I will read that case tonight.

7 MR. ROBISON: Thank you, Your Honor.

8 THE COURT: All right. Get the jury, please.

04:26PM 9 MR. ROBISON: Oh, just -- the procedure, is Todd going
10 back up right now?

11 THE COURT: We're going to allow you to re-call Todd for
12 that specific purpose.

13 MR. CONNOT: Okay.

14 MR. ROBISON: He's admonished not to discuss --

04:27PM 15 THE COURT: Details.

16 (The jury entered the courtroom.)

17 THE COURT: If everyone will be seated, please.

18 Petitioner's counsel.

04:27PM 19 MR. CONNOT: Thank you, Your Honor. Wendy Jaksick will
20 re-call Todd Jaksick.

21 THE COURT: Mr. Jaksick, you remain under oath.

22 THE WITNESS: Okay.

23 THE COURT: Thank you.

24

25 ///

1 TODD JAKSICK

2 recalled as a witness, having been previously

3 duly sworn, testified as follows:

4

04:27PM

5 DIRECT EXAMINATION

6 BY MR. CONNOT:

7 Q Good afternoon, Mr. Jaksick.

8 A Good afternoon.

9 Q Is it okay if I call you "Todd"?

04:27PM

10 A Yes.

11 Q The resolution that you reached with your brother in the

12 agreement, that included the conditional contingent terms and the

13 withdrawal of your personal mortgage from the indemnification

14 agreement scope, that agreement also includes terms that can

04:28PM

15 adversely affect Wendy; isn't that true?

16 A I believe I mentioned that it was possible. And as I
17 thought about it some more, I think that it's much more favorable
18 than I had anticipated.

19 Q Okay. But are there terms of that agreement that

04:28PM

20 adversely -- that can adversely impact Wendy?

21 A I'm not totally sure because I believe that some of the
22 things that I mentioned previously -- expenses, for example -- are
23 covered under the trust agreement as it stands already.

24 MR. CONNOT: If I could have his deposition, Volume VII.

04:28PM

25 THE COURT: Yes.

1 THE CLERK: Deposition open and published.

2 MR. CONNOT: May I approach, Your Honor?

3 THE COURT: Yes, thank you.

4 BY MR. CONNOT:

04:28PM

5 Q I'm handling you Volume VII of your deposition, if I
6 could have you turn to page 1218, please, sir.

7 MR. CONNOT: Can I put it up on the screen, Your Honor?

8 THE COURT: I don't know because I'm not sure what's
9 going to be shown.

10 MR. CONNOT: Okay.

11 Let me know when you are there, please, sir.

12 THE COURT: Just lead this witness carefully into the
13 lines of the transcript you wish him to read and possibly recite.

14 BY MR. CONNOT:

04:29PM

15 Q Okay. Line 7, are you there, on page 1218?

16 A Yes.

17 Q Okay. Question, "All right, and back to my original
18 question. Do you recall anything about the terms of the agreement
19 with Stan that adversely affected Wendy's interest besides the
20 Incline TSS purchase? Anything else, in your view?"

04:29PM

21 And without particularly getting into the response, did
22 you provide some potential -- did you respond to that question
23 with what could be considered some adverse impacts on Wendy?

24 A At that time, yes, I did say that, and I believe I
25 mentioned that before.

04:30PM

1 I just was letting you know that after I thought it
2 through a little bit more, some of the terms that were -- I was
3 thinking about right here are actually covered under the trust.

04:30PM

4 And I think that you guys were saying that the document
5 would --

6 Q So is your answer now, no, these terms don't adversely
7 impact Wendy?

04:30PM

8 A I'm not -- I just don't necessarily know totally. I
9 don't remember every word, the line, every word that was in the
10 agreement.

04:31PM

11 I'm just saying that I believe that it was very positive
12 for all of the family, including Stan, Wendy, myself and all the
13 beneficiaries. And one of the things that I mentioned right here
14 that I guess we're not talking about, but I guess it's covered in
15 the trust documents as an obligation of the trust to pay anyways.

16 MR. CONNOT: Your Honor, he can't have it both ways.

17 THE COURT: Please don't --

18 MR. CONNOT: I'm sorry. I'm sorry.

19 THE COURT: -- in front of the jury.

04:31PM

20 MR. ROBISON: Your Honor, I will make a record, if you
21 let me, outside the presence of the jury.

04:32PM

22 But there's so much prejudice surrounding this that we
23 think that he should be able to testify about the terms of the
24 resolution with Stan because, otherwise, there's just bad
25 inferences. And we don't have a choice now.

1 THE COURT: You may proceed, Counsel.

2 MR. CONNOT: Thank you, Your Honor.

3 BY MR. CONNOT:

4 Q In fact, one of the provisions of the resolution reached
5 between you and Stan includes that the family trust for a period
6 of time, in fact, through January 2021, will continue to make the
7 Jackrabbit capital calls, correct?

8 A Yes, we did talk about that and thought that was a
9 benefit to everybody to pay all the capital calls through that
10 period of time so that that asset could stay in good standing and
11 secure, but that would allow us a little more time to be able to
12 sell some additional acreage to get that paid on down.

13 Q But yet, you just heard the testimony of Stan in the
14 exhibit where you have a 42 percent interest, Stan has a 12 and a
15 half percent interest, and Wendy has about a 7 and a half percent
16 interest. So those capital calls will disproportionately benefit
17 you and Stan, correct?

18 A I mean, the ownership percentages are what the ownership
19 percentages are. But regardless of what the ownership percentages
20 are, keeping those debts current keeps that asset in good
21 standing, longer term, which benefits the entire group, to get
22 down the road further where we have some real asset value that
23 we're hoping for.

24 Q But, Todd, once again, if the capital call is a million
25 dollars, total, for all members, that means the family trust would

1 have to pay 420,000 to cover your capital call, 125,000 to cover
2 Stan's capital call, and about 75,000 to cover Wendy's capital
3 call. That's disproportionate, isn't it?

04:34PM

4 A It sounds to be the case, yes. That's obviously based
5 off of the percentage ownerships, of course.

6 Q And the family trust has no obligation to pay those
7 capital calls, does it?

04:34PM

8 A Under the indemnification agreement that they're -- that
9 the Court is going to make a decision on, that that was one of the
10 main reasons that Dad also had the indemnification agreement put
11 into place, was because of the Jackrabbit loan facility.

12 Q Including capital calls?

13 A Including capital calls.

04:34PM

14 These capital calls, for the most part, are largely
15 associated with servicing the Rabobank loan that was originally a
16 MetLife loan, that started out at 7.8 million, that we have been
17 able to reduce it down to \$2.4 million, and we're working our way
18 to get that paid down further here.

04:34PM

19 Q With that indemnification agreement, you've never had to
20 dig into your own pocket to pay a Jackrabbit capital call, have
21 you?

22 A Yes, I have.

23 Q How much?

24 A Quite a bit over the years.

04:34PM

25 Q Since your father's death, how much have you paid for

1 capital calls, personally?

2 A I would say in excess of 200,000.

3 Q Okay. How much has the trust paid on your behalf?

4 A I'm not sure right now, but it's -- whatever I think you
04:35PM 5 pulled up those checks on, on there, on the screen earlier, either
6 earlier today or last time I was up here, some of those were the
7 checks.

8 But I kind of think they were more in the 50,000 to 75-
9 to 100,000 dollar -- I don't know off the top of my head. I'm
04:35PM 10 sorry.

11 Q And one of the terms is that the family trust will
12 continue to pay those for the next two or three years, through
13 2021?

14 A We said through 1/1 of '21.

04:35PM 15 If we are able to achieve a sale, which, like I
16 mentioned before, we currently have about 5,000 acres of land
17 listed, the executive committee is working to list another
18 thousand acres here relatively soon, so we have more of a blended
19 market of property to be able to sell.

04:36PM 20 If that -- one of those or several of those properties
21 do sell and/or we get our crops back into production this year
22 after the flood event, then we're able to start generating income
23 again to offset these expenses to, therefore, reduce the capital
24 calls. So we don't know what the capital calls are going to be
04:36PM 25 over the next couple of years.

1 Q So if there is a capital call and you have approximately
2 42 percent interest and you don't make your capital call, what
3 happens to your interest, Todd?

04:36PM

4 A I'm not sure. I would have to talk to Jackrabbit
5 counsel about that. I'm not sure exactly what the operating
6 agreement calls for.

7 Q In most circumstances, your interest would be diluted,
8 correct?

04:36PM

9 A Not necessarily, or the partners have the ability to
10 make up a deficiency, for example.

11 In your example, I don't pay the 42 percent, Stan or
12 Wendy steps up and says, hey, we're going to pay Todd's
13 42 percent, then they could get a priority return as to that
14 capital call payment that was made and get a preferred return of
15 approximately 15 percent.

04:37PM

16 I believe that's what it calls for in the Jackrabbit
17 entity.

18 Q And one of the other potential adverse terms to Wendy is
19 that Ag Credit loan payments, that would cover your 51 percent
20 interest and then continue to be paid, right?

04:37PM

21 A This has been drastically reduced, as I mentioned in
22 five days of depositions, as well as here in trial, that that loan
23 is a specific loan with respects to the property, as Stan was
24 alluding to earlier today, that we had assets, but we gave them
25 away to various different trusts.

04:37PM

1 So there really isn't anything left to sell to pay down
2 that debt. But the remaining debts that were on the Ag Credit --
3 I mean, if you remember, Exhibit A is very lengthy on the
4 indemnification, I guess, three or four pages.

04:37PM

5 And prior to this, Stan and I had been discussing and I
6 was willing to remove the house payment, even prior to entering
7 into this agreement, I said I would do that.

8 But the only remaining debts that are outstanding was
9 the Buckhorn Land and Livestock. I also agreed to remove that.

04:38PM

10 And there is the Jackrabbit loan, which we have been able to get,
11 like I said, from 7.8 million down now after you cut it half,
12 because the partners assumed their individual debt obligations for
13 about a million 50,000.

04:38PM

14 And I said that I'd be happy to remove that as of 1/1/21
15 as well. So, basically, it consolidates and analyzes the scope of
16 the indemnification agreement.

17 And the only payments that we're agreeing to in this is
18 the ones that are associated with that loan, 101, that we keep
19 talking about.

04:38PM

20 Q Yeah. In fact, there's an IRS refund of approximately
21 \$396,000 that's going to be used to pay that Ag Credit loan
22 pursuant to your indemnification agreement; isn't that true?

04:39PM

23 A My understanding is the Ag Credit, there's an IRS loan
24 refund that was received, was associated with prior payments that
25 were paid on behalf of the indemnification agreement. So it was

1 reimbursement associated with the actual indemnification agreement
2 itself.

3 And it seemed appropriate to -- if the refund was
4 specific to the indemnification agreement being used previously,
04:39PM 5 that that would go down and pay down debt on that loan.

6 Q The IRS refund would be an asset of the family trust,
7 correct?

8 A Yeah. Oh, yeah, for sure.

9 Q And the IRS refund is going to be used to pay down the
04:39PM 10 Ag Credit loan, of which -- for an entity in which you have a
11 51 percent interest, correct?

12 A A loan that I have a 51 percent interest in.

13 Q And you have a 51 percent interest in the entity --

14 THE COURT: Everyone slow down, please, everybody,
04:39PM 15 please.

16 BY MR. CONNOT:

17 Q You have a 51 percent interest in the entity in which
18 that -- which holds that loan as well, correct?

19 A That loan doesn't have an entity associated with it.

04:39PM 20 Q Okay. So the loan is for -- the Ag Credit loan is for
21 what?

22 A It was for the original purchase of what we call
23 Home Camp.

24 Q Okay. And Home Camp is owned by who?

04:40PM 25 A It is owned 50 -- or, 49 percent by the SSJ Issue Trust,

1 49 percent by the TBJ issue trust, and 2 percent by the Todd --
2 TBJ SC Trust.

3 Q So those last two trusts, the 49 and the 2 percent,
4 those are your trusts, right?

04:40PM 5 A The 2 percent one is a trust for my kids, and I'm the
6 trustee for it. The other 49 percent is the TBJ Issue Trust,
7 which mirrors the SSJ Issue Trust, where, basically, Dad and I
8 took our ownership and gave it away to those issue trusts.

04:40PM 9 So I don't own that trust anymore, and I'm not the
10 trustee for that trust. I don't make decisions on that.

11 Q But that issue trust benefits only your -- your issue,
12 Todd Jaksick's issue, meaning your children, their children, their
13 children for generations; not Stan's children, not Wendy's
14 children, into the future, either?

04:41PM 15 A That is correct. I just don't -- just trying to
16 clarify, I don't actually own it.

17 Q Okay. And also the attorney's fees that you and Stan
18 have incurred, both individually in your individual capacities
19 here.

04:41PM 20 A Yes.

21 Q That's another term of the resolution?

22 A Yes.

23 Q Those are going to be paid by the family trust?

04:41PM 24 A In our further -- in our analysis, that those are
25 obligations that are to be paid under the family trust anyways.

1 And what Stan and I did is we actually thought we were doing a
2 benefit to the family trust by capping those.

04:41PM

3 Q Those obligations are not automatic, are they? There
4 has to be determination made as to whether or not those attorney's
5 fees are even appropriate.

6 And you've removed that -- you and Stan as cotrustees of
7 the family trust have removed that pursuant to your resolution
8 that stated that the cotrustees are going to benefit themselves by
9 paying those attorney's fees; correct?

04:42PM

10 MR. LATTIN: Objection, calls for legal conclusion.

11 THE COURT: Overruled.

12 THE WITNESS: Counsel -- that's the way counsel had
13 explained it to Stan and I, that those obligations were going to
14 have to be paid by the family trust, as well as the fact that Stan
15 and I thought we were doing a benefit by capping them.

04:42PM

16 BY MR. CONNOT:

17 Q And Stan also gets to buy into Incline TSS, correct?

18 A Yes, the game plan was, basically, reinstate the
19 original transaction that he -- similar terms to the original
20 transaction that he originally entered into, paid the \$235,000
21 towards.

04:42PM

22 He would get credit for that \$235,000, as well as he
23 would continue to come up with about a million 4 to buy into
24 Tahoe.

04:42PM

25 Q And that would dilute the interest that the issue trust

1 holds, correct, so that the issue trust, of which Wendy is a
2 beneficiary, as well as all the other issues --

3 THE COURT: Slow down, please.

4 BY MR. CONNOT:

04:42PM

5 Q -- as well as all of the other issue, would then hold a
6 smaller percentage than the 54 percent they hold, because Stan
7 would be diluting the interest, correct?

04:43PM

8 A It's basically the same interest that the beneficiaries
9 have previously agreed to, which was in the ACPA that was signed
10 in January of 2016 by all the beneficiaries.

11 It's basically taken that same dilution provision and
12 diluting it back down to what everybody agreed to at that point in
13 time.

14 Q So -- I'm sorry.

04:43PM

15 A And as well as the benefit is, there is additional
16 income coming annually into Incline TSS from interest that's paid
17 on the \$1.4 million loan, that the company will get to enjoy the
18 benefits of having that additional capital, which will reduce the
19 capital call --

04:43PM

20 THE COURT: You need to slow down, please, sir.

21 THE WITNESS: Okay. I'm sorry.

22 -- which will reduce the capital calls annually, as well
23 as when Stan pays that additional \$1.4 million, it pays down the
24 debt, which offsets the interest being reduced in some degree.

25 ///

1 BY MR. CONNOT:

2 Q So your position is that an ACPA that was entered into
3 in, I believe 2014, now provides the basis for this because
4 beneficiaries approved it back then, so they should approve it
5 now?

04:44PM

6 A No, we were leaving it up to the Court to approve all of
7 this, just so you know that then. We came up with a structure
8 that we thought was acceptable, and then we were going to have the
9 Court approve that.

04:44PM

10 Q And not all of the beneficiaries approved that ACPA, did
11 they?

12 A They did originally all approve the ACPA, yes.

13 Q And Luke Jaksick is now the age of majority, correct,
14 and he's a beneficiary of the issue trust?

04:44PM

15 A I guess we should maybe clarify a little bit. Are you
16 talking about they approved the ACPA associated with Stan's
17 original buy-in?

18 Q Well, I believe your testimony was that because it was
19 approved by the beneficiaries back in 2014 through the ACPA, it
20 should be okay today. Well, Luke Jaksick is the age of majority,
21 he's a beneficiary of the issue trust. He hasn't approved it, has
22 he?

04:44PM

23 A No, Luke has not seen this, this agreement yet. And,
24 like I said, it was going to go to the Court, for the Court to
25 make a final determination.

04:45PM

1 Q And, in fact, once again, the agreement itself is
2 contingent and conditioned upon achieving a favorable outcome and
3 defeating Wendy's claims; isn't that correct?

04:45PM

4 A I don't believe that to be the case. I don't remember
5 seeing any wording like that in there.

6 MR. CONNOT: I would offer Exhibit 457, Your Honor.

7 THE COURT: Allow the witness to read paragraph 3,
8 please.

9 Please don't put it up.

04:45PM

10 MR. CONNOT: No, we won't. We won't.

11 May I approach, Your Honor?

12 THE COURT: Yes.

13 BY MR. CONNOT:

14 Q I would direct you to Section 3.

04:45PM

15 A All right.

16 Q It continues on to the next page, Todd, and if you want
17 to just read it to yourself, please, before you comment.

18 A Okay.

04:46PM

19 Q So does that refresh your recollection as to what the
20 terms are, in that the agreement is conditioned -- contingent and
21 conditioned upon either reaching a resolution with Wendy or
22 achieving an outcome in this litigation that doesn't affect the
23 material terms?

24 A It does say something similar to what you just said.

04:46PM

25 It's conditioned upon the cases that are mentioned here, and that

1 the settlement doesn't materially affect the terms.

2 But I just know that somewhere in one of these other
3 paragraphs, we intended for this to go before the Court for the
4 Court to approve it.

04:47PM 5 MR. CONNOT: I would still offer Exhibit 457, Your
6 Honor.

7 THE COURT: It is not admitted.

8 MR. CONNOT: Okay. I understand.

9 No further questions.

04:47PM 10 THE COURT: Mr. Robison.

11

12 CROSS-EXAMINATION

13 BY MR. ROBISON:

04:47PM 14 Q Todd, are you familiar with the terms of the SSJ Issue
15 Trust, the one that you were the sole trustee of?

16 A Yes.

17 Q Does it reflect your father's intent, sir?

18 A Of course, yes.

04:47PM 19 Q Does it not state that if you are sued, this trust pays
20 your attorney's fees?

21 A It does.

22 Q That's what your father wanted?

23 A Correct.

04:48PM 24 Q Now, let's look at the family trust. Do you understand
25 the family trust to be an expression of your father's intent?

1 A I do, yes.

2 Q And are you familiar with the 2006 restated trust
3 agreement that you have administered in association with the 2012
4 second amendment?

04:48PM

5 A I am, yes.

6 Q And is those two documents together an expression of
7 your father's intent?

8 A Yes.

04:48PM

9 Q And is there not a provision in the family trust that
10 says if you get sued, the trust has to pay your fees?

11 A Yes, there is.

12 Q And is there not a provision that if Stan, as a
13 cotrustee, gets sued, that your father wanted the trust to pay
14 those fees?

04:48PM

15 A Yes, absolutely.

16 Q And you are absolutely sure that that's what your father
17 wanted, that if you got sued by your sister or Stan got sued by
18 his sister, that trust was obligated to defend you and pay your
19 fees?

04:48PM

20 A Yes, sir, it's in the document, and Dad told us that
21 verbally.

22 Q In both trusts?

23 A Yes.

24 MR. ROBISON: Thank you, sir.

04:48PM

25 THE COURT: Mr. Lattin?

1 MR. LATTIN: No questions, Your Honor.

2 THE COURT: Mr. Hosmer-Henner?

3 MR. HOSMER-HENNER: No.

4 THE COURT: Mr. Connot.

04:49PM

5

6

REDIRECT EXAMINATION

7 BY MR. CONNOT:

8 Q So is your testimony, Todd, that your father's intent

9 was that if you were to breach your fiduciary duty and violate

04:49PM

10 your duties, that the trust would pay your attorney's fees, if

11 that was determined?

12 A My understanding, Dad wanted us to be held harmless for
13 being trustees in both of these trusts, yes.

14 Q Regardless of how reckless you might act, regardless of

04:49PM

15 if you act with malice or otherwise or you're in bad faith, it's

16 your position that your father's intent was that your attorney's

17 fees would be paid?

18 A There was a couple of -- I would have to read that
19 paragraph in there again, but for the most part, absolutely, yes,

04:49PM

20 Dad wanted us to be covered.

21 Q Just so I'm clear then, your testimony is, your dad's

22 intent was that you would be covered if you acted in bad faith, if

23 you breached your fiduciary duty, no matter how recklessly or

24 maliciously you acted, that your attorney's fees should be paid by

04:49PM

25 the trust in those circumstances?

1 A I believe it was without -- there was some language in
2 there -- I can't tell you exactly what it states right this
3 second, but there is provision in there that lays out how he wants
4 us to be covered, under what circumstances.

04:50PM

5 Q But not in all circumstances?

6 A There could be some provisions in there that say it
7 different, but my understanding was be protected in all these
8 situations.

9 Q In all circumstances?

04:50PM

10 A You can pull out the section if you like. There is -- I
11 can't -- I have the wording in the top -- or in the back of my
12 mind, but I just can't think of it at this second.

13 Q That's fine.

04:50PM

14 A I think it's if you act without reason or if you act in
15 bad faith, it was like two things, something like that.

16 Q That's fine. It's in evidence. We'll look at it in
17 closing.

18 A Okay.

19

04:50PM

20 RE CROSS-EXAMINATION

21 BY MR. ROBISON:

22 Q Do you recall the language being that you would not be
23 entitled to fees if you acted in bad faith?

04:50PM

24 A That's what I recall, bad faith, yes, and without
25 reason.

1 Q Have you acted in bad faith?

2 A No, sir.

3 THE COURT: Thank you. You are free to step down.

4 Ladies and gentlemen, we're going to take one other

04:51PM 5 recess before you leave the building, because I want to visit with
6 counsel about the calendar so I can try and give you some guidance
7 as to what your future is.

8 During this recess, please do not discuss this case
9 amongst yourselves. Please do not form or express any opinion

04:51PM 10 about this matter until it's submitted to you.

11 Please be available for return into the courtroom
12 momentarily.

13 (The jury left the courtroom.)

14 THE COURT: In the last hour, I've cleared my Monday
04:52PM 15 calendar. It appears to me that the presentation of evidence will
16 go until Friday at noon, and that we will either meet over the
17 weekend or Monday morning to settle instructions; hopefully,
18 instruct, have closing arguments and deliberations on Monday.

04:52PM 19 If that's the case -- if I'm reading it wrong, I invite
20 you to share with me. But if I'm reading it right, when do I tell
21 this jury that they are coming back on Monday? My preference is
22 to tell them today so they can start making arrangements with
23 their lives.

24 MR. ROBISON: Your Honor, may I be heard?

04:52PM 25 THE COURT: Yes.

1 MR. ROBISON: We would ask that you defer that so that
2 we can collaborate this afternoon, this evening, to determine
3 whether we should take a scalpel to our case and try to get it to
4 this jury by Friday.

04:53PM

5 THE COURT: I'm happy to defer.

6 MR. CONNOT: I think that's optimistic, Your Honor. I
7 mean, all due respect to that side, all due respect -- I mean,
8 they know their case, they know what they are going to do -- but
9 we've got Mr. Wallace, the expert; as the Court mentioned,

04:53PM

10 Mr. Riley, who has been, you know, mentioned quite a bit, deferred
11 to quite a bit. I just --

12 THE COURT: So I -- there's a lot of trial experience in
13 the well of this court, and I'm not about to step in front of it.
14 And if counsel I know and respect tells me, give me a chance, I'm
15 going to give them a chance, though I agree with you, but I'm
16 willing to be wrong.

04:53PM

17 We'll ask tomorrow morning.

18 MR. ROBISON: In the morning, we might agree with them,
19 we might not. But if we don't, it's going to be a faster, more
20 expeditious trial.

04:53PM

21 THE COURT: All right. Show the jury in, please.

22 (The jury entered the courtroom.)

23 THE COURT: Ladies and gentlemen, during this evening
24 recess, you are admonished not to converse amongst yourselves or
25 with anyone else on any subject connected with this trial.

04:54PM

1 You'll not read, watch or listen to any report of or
2 commentary on the trial by any person connected with this case, or
3 by any medium of information, including, without limitation, the
4 newspaper, television, Internet or radio.

04:55PM

5 You are further admonished not to perform any type of
6 electronic research or experimentation.

7 Do not form or express any opinion on any subject
8 connected with this trial until the case is finally submitted to
9 you.

04:55PM

10 I'm unable to make any projections about the duration of
11 this trial. I do know that you'll be in trial tomorrow, and I do
12 know that your service will be required on Friday.

13 Please be ready for entry into the courtroom at 8:45
14 tomorrow morning. Good night, ladies and gentlemen.

04:55PM

15 (The jury left the courtroom.)

16 THE COURT: I'm happy to entertain any after-hours
17 arguments, if you wish to memorialize anything on the record, but
18 I can't do it for 10 or 15 minutes while the reporter waits.

04:56PM

19 And if we go past right now, there's a second
20 after-hours per diem that will be charged by the reporter. I
21 insist that she charges it. It will be charged to you.

22 So do you wish to reconvene in 15 minutes for anything?

23 MR. ROBISON: No.

24 MR. LATTIN: No.

04:56PM

25 MR. CONNOT: I think we're good for tonight.

1 THE COURT: I'll be in chambers when you arrive in the
2 morning. If you need me for any reason before 8:45, I will be
3 here. If not, I'll see you at 8:45.

4 Thank you, Counsel. Good night.

04:56PM

5 (The proceedings concluded at 4:56 p.m.)

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1 STATE OF NEVADA)
) ss.
2 WASHOE COUNTY)

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4

5 I, CONSTANCE S. EISENBERG, an Official Reporter of the
6 Second Judicial District Court of the State of Nevada, in and for
7 the County of Washoe, DO HEREBY CERTIFY:

8 That I was present in Department 15 of the
9 above-entitled Court on February 27, 2019, and took verbatim
10 stenotype notes of the proceedings had upon the matter captioned
11 within, and thereafter transcribed them into typewriting as herein
12 appears;

13 That I am not a relative nor an employee of any of the
14 parties, nor am I financially or otherwise interested in this
15 action;

16 That the foregoing transcript, consisting of pages 1
17 through 251, is a full, true and correct transcription of my
18 stenotype notes of said proceedings.

19 DATED: At Reno, Nevada, this 13th day of May, 2019.

20

21

22

23

24

25



CONSTANCE S. EISENBERG
CCR #142, RMR, CRR

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