

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.

Electronically Filed
Jun 14 2021 05:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No.: 81470

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

**RESPONDENT/CROSS-APPELLANT WENDY JAKSICK'S
APPENDIX, VOLUME 21**

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Indemnification and Contribution Agreement – Trial Exhibit 11	1/1/2008	1	WJ 0001 - 0010
Email - Kevin Riley to Todd Jaksick - Tahoe/Incline TSS -Trial Exhibit 441	10/28/2014	1	WJ 0011 - 0013
Agreement and Consent to Proposed Action – Stanley Jaksick Buy in to Lake Tahoe Property - Trial Exhibit 23	11/13/2015	1	WJ 0014 - 0018
Objection to Approval of Accountings and Other Trust Administration Matters Case No. PR17-00446	11/13/2015	1	WJ 0019 - 0021
Objection to Approval of Accountings and Other Trust Administration Matters Case No. PR17-00445	10/10/2017	1	WJ 0022 - 0024
Minutes of Court Appearances - Hearing	1/8/2018	1	WJ 0025 - 0026
Minutes from Scheduling Conference	3/12/2018	1	WJ 0026 - 0029
Amended Objection and Counter-Petition Re: Family Trust	3/23/2018	1	WJ 0030 - 0048
Petitioners' Status Report	6/1/2018	1	WJ 0049 - 0057
Todd B. Jaksick's, As an Individual, Offer of Judgement to Wendy Jaksick	8/29/2018	1	WJ 0058 - 0062
Motion for Summary Judgement - Michael Kimmel	10/23/2018	1	WJ 0090 - 0107
Order After Hearing	11/26/2018	1	WJ 0108 - 0110
Notice of Errata Regarding Wendy A. Jaksick's first Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, for Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory Judgement and other Relief	12/26/2018	1	WJ 0111 - 0115

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L. Robert Legoy, Jr. and Maupin, Cox & Legoy Custodian's Fourth Supplement to Their Objections and Responses to Subpoena Duces Tecum	12/26/2018	1	WJ 0115 - 0118
Order Granting in Part and Denying in Part Motion for Summary Judgment	1/15/2019	1	WJ 0119 - 0131
L. Robert Legoy, Jr. and Maupin, Cox & Legoy Custodian's Fifth Supplement to Their Objections and Responses to Subpoena Duces Tecum- Priv Log	1/29/2019	1	WJ 0132 - 0138
Settlement Agreement and Release – Exhibit 584	1/31/2019	1	WJ 0194 - 0201
Wendy Jaksick's Emergency Motion to Extend Discovery Deadlines and Trial for Cause and Alternatively Motion to Continue Trial Pursuant to NRS 16.010	2/1/2019	2	WJ 0202 - 0281
Notice of Withdrawal of And Objections & Counter-Petitions Re: Family Trust and Issue Trust	2/1/2019	2	WJ 0282 - 0284
Todd B. Jaksick's Notice of Withdrawal of Petition for Reconveyance of Trust Assets - Todd	2/1/2019	2	WJ 0285 - 0288
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L. Robert Legoy, Jr. and Maupin, Cox & Legoy Custodian's Sixth Supplement to Their Objections and Responses to Subpoena Duces Tecum	2/8/2019	9	WJ 2032 - 2094
L. Robert Legoy, Jr. and Maupin, Cox & Legoy Custodian's Seventh Supplement to Their Objections and Responses to Subpoena Duces Tecum	2/8/2019	9	WJ 2095 - 2102
Supp Declaration of Mark J. Connot in Support of Wendy Jaksick's Emergency Motion to Extend Discovery Deadlines and Trial for Cause and Alternatively Motion to Continue Trial Pursuant to NRS 16.010	2/8/2019	9	WJ 2103 - 2128
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Todd B Jaksick, Individually, Incline TSS, LTD., and Duck Lake Ranch, LLC's Memo of Costs and Disbursements Incurred in Case No. PR 17-00445	3/11/2019	18	WJ 4162 - 4178
Todd B Jaksick, Individually, incline TSS, LTD., and Duck Lake Ranch, LLC's Memo of Costs and Disbursements Incurred in Case No. PR 17-00445	3/11/2019	18	WJ 4179 - 4188
Todd B Jaksick, Individually, incline TSS, LTD., and Duck Lake Ranch, LLC's Memo of Costs and Disbursements Incurred in Case No. PR 17-00445	3/21/2019	18	WJ 4189 - 4196
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Petitioner Wendy A. Jaksick's Opposition to Motion for Attorney's Fees	3/25/2019	18	WJ 4201 - 4216
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Email- Stan Jaksick to Bob Legoy – Trial Exhibit 38	5/18/2018	19	WJ 4421 - 4426
Wendy Jaksick’s Emergency Motion to Extend Discovery, Expert Designation Deadlines and Trial	9/21/2018	20-21	WJ 4427 - 4763
Trial Transcript	2/19/2019	21-22	WJ 4764 - 5015
Trial Transcript	2/21/2019	22-23	WJ 5016 - 5283
Trial Transcript	2/28/2019	23-24	WJ 5284 – 5673

Dated this 14th day of June, 2021.

MARQUIS AURBACH COFFING

By /s/ Chad F. Clement

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Appellant, Wendy Jaksick

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RESPONDENT/CROSS-APPELLANT WENDY JAKSICK'S APPENDIX, VOLUME 21** 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:

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100 West Liberty Street, 10th Fl.
P.O. Box 2670
Reno, NV 89505

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

the provisions of Section 1.8 hereof, then Nevada State Bank shall thereafter serve as a Trustee.

The term "Trustee" or "Trustees" as used in this Trust Agreement shall refer to Settlor so long as he shall serve as Trustee and thereafter to such person(s) or entity(ies) as may serve as Trustee. Nothing in this Section 1.6 shall be construed to limit to one the number of persons(s) or entity(ies) who may concurrently serve as Trustees. No bond or other security shall be required of any of those named as Trustee, notwithstanding any provisions of law to the contrary.

Removal of Trustees

Any person or entity who shall serve as a trustee, successor trustee or a Named Successor Trustee of one or more of the separate trusts established pursuant to this Agreement, with the exception of the Settlor, TODD and/or STAN, may be removed as a trustee of any or all such trusts, at any time and from time to time, with or without cause, in the sole and absolute discretion of TODD, by delivery of ten (10) days' written notice of such removal to all of the then acting trustees of each of the separate trusts for which such person or entity is being removed as a trustee. If TODD is unable or unwilling, for any reason, to act with respect to the removal of any trustee, successor trustee, or named successor trustee, then STAN shall have the right, power, and authority to remove any such trustee pursuant to this Section 1.7.

Appointment of Successor Trustees

In the event of any vacancy in the office of trustee, whether by resignation, removal or otherwise, TODD, in his sole and absolute discretion, shall have the right, power and authority to designate and appoint, without requiring the consent or approval of any court or any other person, any qualified and competent individual or entity to serve as a successor trustee of any one or more of the separate trusts established pursuant to this Agreement (herein referred to as a "Named Successor Trustee"). If TODD is unable or unwilling, for any reason, to act with respect to the designation and appointment of any Named Successor Trustee, then STAN shall have the right, power and authority

to designate and appoint a Named Successor Trustee pursuant to this Section 1.8.

Designation of Institutional Trustee

Notwithstanding the designation in Section 1.6 of this Agreement for Nevada State Bank to ultimately serve as Trustee of the trusts established pursuant to this Agreement, TODD, in his sole and absolute discretion, shall have the right, power and authority at any time, and from time to time, with or without cause, to change the designation of Nevada State Bank, or any subsequently named institution, to serve as the "Institutional Trustee" if a Named Successor Trustee has not been effectively designated. If TODD is unwilling or unable, for any reason, to act with respect to any change in the designation of Nevada State Bank, or any subsequently named institution, to serve as the Institutional Trustee if a Named Successor Trustee has not been effectively designated, then STAN shall have the right, power and authority to change the designation of the Institutional Trustee pursuant to this Section 1.9.

Additions to Trust

The Settlor may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer, beneficiary designation, or Will. Such property, when received and accepted by the Trustee, shall become part of the Trust Estate and be subject to all the terms and provisions of this Trust Agreement. Notwithstanding any other provision of this Trust Agreement, no Trustee shall accept any property as a contribution or addition to this Trust, including but not limited to the initial conveyance and transfer by the Settlor, which may jeopardize the character of the interest of the Settlor or any other beneficiary of this Trust as his or her sole and separate property.

Revocation or Modification of Trust

The Settlor reserves the right at any time, and from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created

by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by delivering notice of such revocation, modification, change or withdrawal to the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment.

BENEFICIARY

The Trust has been established for the benefit of the Settlers and those certain beneficiaries named in the trust instrument.

REVOCATION OR MODIFICATION OF TRUST

The Settlers, or the Surviving Settlor, reserve the right at any time, or from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by delivering notice of such revocation, modification, change or withdrawal to the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment.

POWERS OF TRUSTEE

In order to carry out the purposes of any trust or trusts established by this Trust Agreement, the Trustee, in addition to all other powers and discretions granted by this Trust Agreement or by law, shall have the powers and discretions listed below, subject to any limitations specified elsewhere in this Trust Agreement.

a. To hold and exercise all of the powers and discretions enumerated in N.R.S. 163.265 to N.R.S. 163.410, inclusive, as such powers and discretions exist at the time of the execution of this Trust Agreement; and such powers and discretions are incorporated herein by reference with the same effect as if set forth verbatim. In the event any of such powers or discretions are inconsistent with any of the powers or discretions hereinafter set forth, the most liberal shall control to give the greatest latitude and discretion to the Trustee.

b. To continue to hold all or any part of the Trust Estate in the form in which the same may be at the time of the receipt thereof by the Trustee, including, but without

limitation, any shares of stock, uninvested cash, balances in banks, and property of any kind, whether marketable or otherwise, without any obligation to convert the same, and without regard to the limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason of such retention.

c. To invest and reinvest in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, common and preferred stocks, cash or other funds though unproductive, and any other securities, obligations or property, including gaming investments, without regard to limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason thereof.

d. To exercise, respecting securities held in the Trust Estate, all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and to pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers, regardless of any limitations elsewhere in this Trust Agreement relative to investments by the Trustee.

e. To hold securities or other trust property in the name of the Trustee as Trustee under this Trust Agreement or in the Trustee's own names or in the name of a nominee or unregistered in a condition where ownership will pass by delivery.

f. With respect to any business interest that may become a part of the Trust Estate, whether organized as a sole proprietorship, partnership, or corporation, and on such terms, for the time and in the manner that the Trustee may deem advisable, to retain and continue to operate any such business solely at the risk of the Trust Estate and without liability on the part of the Trustee for any losses resulting therefrom; to dissolve, liquidate, or sell at the time and on the terms that the Trustee may deem advisable; to incorporate the business and hold the stock as an asset of the Trust Estate; to use the general assets of the Trust Estate for the purposes of the business; to borrow money for business purposes and pledge or encumber the assets of the business or the other assets of the Trust Estate to secure the loan; to employ such officers, managers, employees, or agents as they may deem advisable in the management of such business, including electing directors, officers, or employees of any Trustee to take part in the management of the business as directors or officers; to receive compensation for the services of the Trustee, to be paid from the business or from the other assets or from both as the Trustee in their discretion may deem advisable; and the Trustee shall have such additional powers as may now or hereafter be conferred on them by law or as may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations that may be provided for herein. Notwithstanding the foregoing, the Settlor hereby acknowledges that his sons, STAN and TODD, currently provide services in the management of many of the Settlor's business entities, which management duties would be significantly increased in the

event of the Settlor's death. Accordingly, the Trustees are hereby authorized and instructed to increase the compensation currently payable to STAN and TODD from these various business entities in accordance with the additional workload and responsibilities each will be assuming in the event of the Settlor's death.

g. It is the Settlor's desire that the Trustee continue to hold any corporate securities received by the Trustee or subsequently added to the Trust Estate, subject to the need to sell or dispose of the same for tax or other reasons. The foregoing is not intended to prohibit the sale of any or all such securities should the Trustee deem that course advisable, but, as the Settlor believes that it will be beneficial to the Trust Estate to retain such securities, they authorize their retention at the risk of the Trust Estate.

h. To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any property of the Trust Estate without approval of any court.

i. On any division of the Trust Estate into separate shares or trusts, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests, in the manner deemed advisable in the discretion of the Trustee. After any division of the Trust Estate, the Trustee may make joint investments with funds from some or all of the several shares or trusts, but the Trustee shall keep separate accounts for each share or trust.

j. To abandon any trust asset or interest therein at the discretion of the Trustee.

k. To grant an option involving disposition of a trust asset and to take an option for the acquisition of any asset by the Trust Estate.

l. To lease any real or personal property of the Trust Estate for any purpose for terms within or extending beyond the duration of the Trust.

m. To manage, control, improve, and repair real and personal property belonging to the Trust Estate.

n. To partition, divide, subdivide, assign, develop, and improve any trust property; to make or obtain the vacation of plats and adjust boundaries or to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land or easement to public use with or without consideration.

o. To make ordinary and extraordinary repairs and alterations in buildings or other trust property, to demolish any improvements, to raze party walls or buildings, and to erect new party walls or buildings as the Trustee deem advisable.

p. To borrow money for any trust purpose from any person, firm, or corporation on the terms and conditions deemed proper by the Trustee and to obligate the Trust for repayment; to encumber the Trust or any of its property by mortgage, deed of trust, pledge, or otherwise, using procedures to consummate the transaction deemed advisable by the Trustee; to replace, renew, and extend any encumbrance and to pay loans or other obligations of the Trust deemed advisable by the Trustee.

q. To loan or advance their own funds for any trust purposes to the Trust; the loans or advances may be made by any one or more of the Trustees; the loans or advances shall bear interest at the then current rate from the date of advancement until repayment and shall, together with interest, constitute a first lien on the entire Trust Estate until repayment.

r. To enter into oil, gas, and other mineral leases on terms deemed advisable by the Trustee, and to enter into any pooling, unitization, repressurization, community, and other types of agreements relating to the exploration, development, operation, and conservation of mineral properties; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals, to contract for the installation and operation of absorption and repressuring plants, and to install and maintain pipelines.

s. To procure and carry at the expense of the Trust insurance of the kinds, forms, and amounts deemed advisable by the Trustee to protect the Trust Estate and the Trustee against any risk or hazard.

t. To enforce any deed of trust, mortgage, or pledge held by the Trust and to purchase at any sale thereunder any property subject to any such hypothecation.

u. To extend the time of payment of any note or other obligation held in the Trust Estate, including accrued or future interest, in the discretion of the Trustee.

v. To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against the Trust Estate.

w. To commence or defend at the expense of the Trust any litigation affecting the Trust or any property of the Trust Estate deemed advisable by the Trustee.

x. To pay all taxes, assessments, compensation of the Trustee, and other expenses incurred in the collection, care, administration, and protection of the Trust Estate.

y. To employ any attorney, investment advisor, accountant, broker, tax specialist, or any other agent deemed necessary in the discretion of the Trustee; and to pay from the Trust Estate the reasonable compensation for all services performed by any of them.

The Trustee shall not be liable for any neglect, omission, or wrongdoing of any attorney, investment adviser, accountant, broker, tax specialist, or any other agent employed by the Trustee, provided that reasonable care was exercised in his selection.

The Trustee may consult with the attorney employed by them concerning any question which may arise with regard to the duties of the Trustee and, provided reasonable care has been exercised in selecting him, the opinion of the attorney shall be full and complete authorization and protection in regard to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of the attorney.

z. To terminate in the discretion of the Trustee any separate trust held for an income beneficiary if the fair market value of the separate trust at any time becomes less than \$50,000.00 and, regardless of the age of the income beneficiary, to distribute the principal and any accrued or undistributed net income to the income beneficiary, or to his guardian, conservator, or other fiduciary.

aa. On any partial or final distribution of the Trust Estate, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests in the manner deemed advisable in the discretion of the Trustee and to sell any property deemed necessary by the Trustee to make the distribution.

bb. To do all the acts, to take all the proceedings, and to exercise all the rights, powers, and privileges which an absolute owner of the same property would have, subject always to the discharge of their fiduciary obligations; the enumeration of certain powers in this Trust Estate shall not limit the general or implied powers of the Trustee; the Trustee shall have all additional powers that may now or hereafter be conferred on them by law or that may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations specified in this Trust Agreement.

cc. To determine in their discretion what is income and what is principal of each trust established under this Trust Agreement, and what expenses, costs, taxes and charges of all kinds shall be charged against income and what shall be charged against principal, and the decision of the Trustee with respect to these matters shall be conclusive upon all parties.

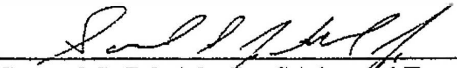
dd. To make any and all elections permitted by any tax law applicable to any trust, the Settlor or the estate of the Settlor, and no adjustments shall be necessary among the beneficiaries of any trust as to the income or principal of such trust as a result of the exercise of such election.

TRUST CERTIFICATION

Samuel S. Jaksick, Jr., as Settlor and Trustee of The Third Amendment to and Complete Restatement of the Samuel S. Jaksick, Jr. Family Trust, originally dated December 4, 2003, hereby certify that this Certificate of Third Amendment to and Complete Restatement of the Samuel S. Jaksick, Jr. Family Trust Agreement is an accurate summary of the provisions of the Trust

Agreement, identifying the Trust, naming the Trustees and the successor Trustees, and specifying the powers of the Trustees. Any person or entity transacting business with the Trustees may rely upon this Certificate without reviewing the entire Trust Agreement.

Executed this 30th day of November, 2005, at Reno, Nevada.


Samuel S. Jaksick, Jr., Settlor and Trustee

State of Nevada)
 : ss.
County of Washoe)

012

This instrument was acknowledged before me on the 30 day of November, 2005, by Samuel S. Jaksick, Jr. as Settlor and Trustee of **The Third Amendment to and Complete Restatement of the Samuel S. Jaksick, Jr. Family Trust.**


Notary Public



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THIRD AMENDMENT TO AND COMPLETE RESTATEMENT OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST AGREEMENT

Samuel S. Jaksick, Jr., a married man, as Settlor, hereby amends the Samuel S. Jaksick, Jr. Family Trust Agreement, dated December 4, 2003, as further amended by the First Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement, dated February 27, 2004, as further amended by the Second Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement, dated May 25, 2004, each pursuant to the provisions of Section 1.8 thereof, to read in full as follows:

ARTICLE 1. DECLARATIONS

Conveyance to Trustee

Section 1.1. He has conveyed and transferred, without consideration, to the Trustee named in this Trust Agreement all the property described in an inventory hereto attached, marked Schedule "A". All property now or hereafter conveyed or transferred to the Trustee to be held pursuant to this Trust Agreement is the sole and separate property of the Settlor, and shall retain its character as the Settlor's separate property as it was before the conveyance or transfer.

Name of Trust

Section 1.2. This Trust shall be known as the SAMUEL S. JAKSICK, JR. FAMILY TRUST.

Identity of Trust Estate

Section 1.3. All property described in Schedule "A", and any other property that may hereafter be transferred or conveyed to and received by the Trustee to be held pursuant to the terms of this instrument, is herein called the "Trust Estate" and shall be held, administered, and distributed by the Trustee as provided in this Trust Agreement.

Identity of Settlor

Section 1.4. As used in this Trust Agreement:

- a. The term "Settlor" shall mean SAMUEL S. JAKSICK, JR..

JSK001866

WJ 004685

Family

Section 1.5. Settlor is married to JANENE BARGER ("JANENE"), however, Settlor entered into a pre-nuptial agreement with JANENE, dated July 22, 1993, and as a consequence thereof, has intentionally limited the amounts he desires to provide for JANENE pursuant to this Agreement. Settlor has three (3) living children, namely STANLEY S. JAKSICK ("STAN"), WENDY ANN JAKSICK SMRT ("WENDY"), TODD BRUCE JAKSICK ("TODD"), and several grandchildren as more particularly set forth herein.

Designation of Trustee

Section 1.6. Settlor is hereby designated as the sole Trustee of all trusts created by or to be created pursuant to this Trust Agreement. Should Settlor become unwilling or unable, for whatever reason, to serve as Trustee, STAN, TODD, and RAY BENETTI ("RAY") shall thereafter serve as Co-Trustees. Should any one of STAN, TODD, or RAY become unwilling or unable, for whatever reason, to serve as a Co-Trustee, the remaining two of them and KEN HUFF ("KEN") shall thereafter serve as successor Co-Trustees. Should any two of STAN, TODD, RAY or KEN, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining two of them and a Named Successor Trustee, shall thereafter serve as successor Co-Trustees. Should any three of STAN, TODD, RAY or KEN, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining one of them and one or more Named Successor Trustee(s) shall thereafter serve as successor Co-Trustees. In the event all of the above-named individuals are unwilling or unable, for whatever reason, to serve as Co-Trustees (including any individuals designated to serve as a Named Successor Trustee) or if a Named Successor Trustee has not been effectively designated pursuant to the provisions of Section 1.8 hereof, then Nevada State Bank shall thereafter serve as a Trustee.

The term "Trustee" or "Trustees" as used in this Trust Agreement shall refer to Settlor so long as he shall serve as Trustee and thereafter to such person(s) or entity(ies) as may serve as Trustee. Nothing in this Section 1.6 shall be construed to limit to one the number of persons(s) or entity(ies)

who may concurrently serve as Trustees. No bond or other security shall be required of any of those named as Trustee, notwithstanding any provisions of law to the contrary.

Removal of Trustees

Section 1.7. Any person or entity who shall serve as a trustee, successor trustee or a Named Successor Trustee of one or more of the separate trusts established pursuant to this Agreement, with the exception of the Settlor, TODD and/or STAN, may be removed as a trustee of any or all such trusts, at any time and from time to time, with or without cause, in the sole and absolute discretion of TODD, by delivery of ten (10) days' written notice of such removal to all of the then acting trustees of each of the separate trusts for which such person or entity is being removed as a trustee.

If TODD is unable or unwilling, for any reason, to act with respect to the removal of any trustee, successor trustee, or named successor trustee, then STAN shall have the right, power, and authority to remove any such trustee pursuant to this Section 1.7.

Appointment of Successor Trustees

Section 1.8. In the event of any vacancy in the office of trustee, whether by resignation, removal or otherwise, TODD, in his sole and absolute discretion, shall have the right, power and authority to designate and appoint, without requiring the consent or approval of any court or any other person, any qualified and competent individual or entity to serve as a successor trustee of any one or more of the separate trusts established pursuant to this Agreement (herein referred to as a "Named Successor Trustee"). If TODD is unable or unwilling, for any reason, to act with respect to the designation and appointment of any Named Successor Trustee, then STAN shall have the right, power and authority to designate and appoint a Named Successor Trustee pursuant to this Section 1.8.

Designation of Institutional Trustee

Section 1.9. Notwithstanding the designation in Section 1.6 of this Agreement for Nevada State Bank to ultimately serve as Trustee of the trusts established pursuant to this Agreement.

TODD, in his sole and absolute discretion, shall have the right, power and authority at any time, and from time to time, with or without cause, to change the designation of Nevada State Bank, or any subsequently named institution, to serve as the "Institutional Trustee" if a Named Successor Trustee has not been effectively designated. If TODD is unwilling or unable, for any reason, to act with respect to any change in the designation of Nevada State Bank, or any subsequently named institution, to serve as the Institutional Trustee if a Named Successor Trustee has not been effectively designated, then STAN shall have the right, power and authority to change the designation of the Institutional Trustee pursuant to this Section 1.9.

Additions to Trust

Section 1.10. The Settlor may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer, beneficiary designation, or Will. Such property, when received and accepted by the Trustee, shall become part of the Trust Estate and be subject to all the terms and provisions of this Trust Agreement. Notwithstanding any other provision of this Trust Agreement, no Trustee shall accept any property as a contribution or addition to this Trust, including but not limited to the initial conveyance and transfer by the Settlor, which may jeopardize the character of the interest of the Settlor or any other beneficiary of this Trust as his or her sole and separate property.

Revocation or Modification of Trust

Section 1.11. The Settlor reserves the right at any time, and from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by delivering notice of such revocation, modification, change or withdrawal to the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment.

designated a significantly large amount to be allocated to the Credit Shelter Trust with the knowledge and understanding that in the event said amount cannot be prudently achieved, the Trustee would disclaim such portion thereof as is appropriate, in favor of the Marital Trust, to maintain appropriate liquidity for the payment of taxes and the overall administration of the Trust Estate as a whole. By creating the SSJ Interim Holding Trust, it is the Settlor's intention that the Trustee thereof exercise any such disclaimer as a single unit and, thereafter, that any undisclaimed portion be thereafter allocated in accordance with the provisions of Section 5.1

To further facilitate any such disclaimer at the level of each of the individual beneficiaries named in Section 5.1, TODD is hereby designated to act as a "general attorney-in-fact" authorized to execute valid and effective disclaimers on behalf of each of the individual beneficiaries named in Section 5.1, consistent with the disclaimer determination and recommendation of the Trustee of the SSJ Interim Holding Trust. In the event TODD is unable or unwilling to act as general attorney-in-fact for the disclaimer purposes described above, STAN is hereby designated to act as general attorney-in-fact for such purposes.

ARTICLE 7. TERMINATION OF TRUST

Section 7.1. This Trust shall terminate at such time as the entire Trust Estate has been distributed in accordance with the provisions of this Trust Agreement.

ARTICLE 8. POWERS OF TRUSTEE

Section 8.1. In order to carry out the purposes of any trust or trusts established by this Trust Agreement, the Trustee, in addition to all other powers and discretions granted by this Trust Agreement or by law, shall have the following powers and discretions, subject to any limitations specified elsewhere in this Trust Agreement:

a. To hold and exercise all of the powers and discretions enumerated in N.R.S. 163.265 to N.R.S. 163.410, inclusive, as such powers and discretions exist at the time of the execution of this Trust Agreement; and such powers and discretions are incorporated herein by reference with the same effect as if set forth verbatim. In the event any of such powers or discretions are inconsistent with any of the powers or discretions hereinafter set forth, the most liberal shall control to give the greatest latitude and discretion to the Trustee.

b. To continue to hold all or any part of the Trust Estate in the form in which the same may be at the time of the receipt thereof by the Trustee, including, but without

limitation, any shares of stock, uninvested cash, balances in banks, and property of any kind, whether marketable or otherwise, without any obligation to convert the same, and without regard to the limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason of such retention.

c. To invest and reinvest in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, common and preferred stocks, cash or other funds though unproductive, and any other securities, obligations or property, including gaming investments, without regard to limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason thereof.

d. To exercise, respecting securities held in the Trust Estate, all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and to pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers, regardless of any limitations elsewhere in this Trust Agreement relative to investments by the Trustee.

e. To hold securities or other trust property in the name of the Trustee as Trustee under this Trust Agreement or in the Trustee's own names or in the name of a nominee or unregistered in a condition where ownership will pass by delivery.

f. With respect to any business interest that may become a part of the Trust Estate, whether organized as a sole proprietorship, partnership, or corporation, and on such terms, for the time and in the manner that the Trustee may deem advisable, to retain and continue to operate any such business solely at the risk of the Trust Estate and without liability on the part of the Trustee for any losses resulting therefrom; to dissolve, liquidate, or sell at the time and on the terms that the Trustee may deem advisable; to incorporate the business and hold the stock as an asset of the Trust Estate; to use the general assets of the Trust Estate for the purposes of the business; to borrow money for business purposes and pledge or encumber the assets of the business or the other assets of the Trust Estate to secure the loan; to employ such officers, managers, employees, or agents as they may deem advisable in the management of such business, including electing directors, officers, or employees of any Trustee to take part in the management of the business as directors or officers; to receive compensation for the services of the Trustee, to be paid from the business or from the other assets or from both as the Trustee in their discretion may deem advisable; and the Trustee shall have such additional powers as may now or hereafter be conferred on them by law or as may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations that may be provided for herein. Settlor hereby acknowledges that he has historically utilized excess cash flow from certain of his business interests as loans or advances to fund various cash flow deficits or other cash requirements of his other businesses. Settlor hereby authorizes the continuation of this historical practice, as deemed advisable by the Trustee in the Trustee's sole discretion, to facilitate the effective cash flow management of each of the Settlor's business interests. In addition to the foregoing, the Settlor hereby acknowledges that his sons, STAN and TODD, currently provide services in the management of many of the Settlor's business entities, which management duties would be significantly increased in the event of the Settlor's death as further described in . Article 7, Section 7.1(y) hereof.

Accordingly, the Trustees are hereby authorized and instructed to increase the compensation currently payable to STAN and TODD from these various business entities in accordance with the additional workload and responsibilities each will be assuming in the event of the Settlor's death.

g. It is the Settlor's desire that the Trustee continue to hold any corporate securities received by the Trustee or subsequently added to the Trust Estate, subject to the need to sell or dispose of the same for tax or other reasons. The foregoing is not intended to prohibit the sale of any or all such securities should the Trustee deem that course advisable, but, as the Settlor believes that it will be beneficial to the Trust Estate to retain such securities, they authorize their retention at the risk of the Trust Estate.

h. To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any property of the Trust Estate without approval of any court.

i. On any division of the Trust Estate into separate shares or trusts, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests, in the manner deemed advisable in the discretion of the Trustee. After any division of the Trust Estate, the Trustee may make joint investments with funds from some or all of the several shares or trusts, but the Trustee shall keep separate accounts for each share or trust.

j. To abandon any trust asset or interest therein at the discretion of the Trustee.

k. To grant an option involving disposition of a trust asset and to take an option for the acquisition of any asset by the Trust Estate.

l. To lease any real or personal property of the Trust Estate for any purpose for terms within or extending beyond the duration of the Trust.

m. To manage, control, improve, and repair real and personal property belonging to the Trust Estate.

n. To partition, divide, subdivide, assign, develop, and improve any trust property; to make or obtain the vacation of plats and adjust boundaries or to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land or easement to public use with or without consideration.

o. To make ordinary and extraordinary repairs and alterations in buildings or other trust property, to demolish any improvements, to raze party walls or buildings, and to erect new party walls or buildings as the Trustee deem advisable.

p. To borrow money for any trust purpose from any person, firm, or corporation on the terms and conditions deemed proper by the Trustee and to obligate the Trust for repayment; to encumber the Trust or any of its property by mortgage, deed of trust, pledge, or otherwise, using procedures to consummate the transaction deemed advisable by the Trustee; to replace, renew, and extend any encumbrance and to pay loans or other obligations of the Trust deemed advisable by the Trustee.

q. To loan or advance their own funds for any trust purposes to the Trust; the loans or advances may be made by any one or more of the Trustees; the loans or advances shall bear interest at the then current rate from the date of advancement until repayment and shall, together with interest, constitute a first lien on the entire Trust Estate until repayment.

r. To enter into oil, gas, and other mineral leases on terms deemed advisable by the Trustee, and to enter into any pooling, unitization, repressurization, community, and other types of agreements relating to the exploration, development, operation, and conservation of mineral properties; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals, to contract for the installation and operation of absorption and repressuring plants, and to install and maintain pipelines.

s. To procure and carry at the expense of the Trust insurance of the kinds, forms, and amounts deemed advisable by the Trustee to protect the Trust Estate and the Trustee against any risk or hazard.

t. To enforce any deed of trust, mortgage, or pledge held by the Trust and to purchase at any sale thereunder any property subject to any such hypothecation.

u. To extend the time of payment of any note or other obligation held in the Trust Estate, including accrued or future interest, in the discretion of the Trustee.

v. To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against the Trust Estate.

w. To commence or defend at the expense of the Trust any litigation affecting the Trust or any property of the Trust Estate deemed advisable by the Trustee.

x. To pay all taxes, assessments, compensation of the Trustee, and other expenses incurred in the collection, care, administration, and protection of the Trust Estate.

y. To employ any attorney, investment advisor, accountant, broker, tax specialist, property or ranch manager, development managers and consultants, sales representatives and personnel, business and water rights consultants, analysts and engineers, or any other agent or representative deemed necessary in the sole discretion of the Trustee; and to pay from the Trust Estate the reasonable compensation for all services performed by any of them. Settlor acknowledges that STAN and TODD currently provide and/or involved in helping to administer and develop many of the Settlor's business activities and opportunities, but their roles and responsibilities in these capacities will likely be greatly increased in the event of the Settlor's Death. Accordingly, the Trustee is hereby authorized and instructed, from time to time, to review and adjust (especially to increase their respective levels of compensation based upon the increase in their then current responsibilities.

The Trustee shall not be liable for any neglect, omission, or wrongdoing of any attorney, investment adviser, accountant, broker, tax specialist, or any other agent employed by the Trustee, provided that reasonable care was exercised in his selection.

The Trustee may consult with the attorney employed by them concerning any question which may arise with regard to the duties of the Trustee and, provided reasonable care has been exercised in selecting him, the opinion of the attorney shall be full and complete authorization and protection in regard to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of the attorney.

z. To terminate in the discretion of the Trustee any separate trust held for an income beneficiary if the fair market value of the separate trust at any time becomes less than \$50,000.00 and, regardless of the age of the income beneficiary, to distribute the principal and any accrued or undistributed net income to the income beneficiary, or to his guardian, conservator, or other fiduciary.

aa. On any partial or final distribution of the Trust Estate, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests in the manner deemed advisable in the discretion of the Trustee and to sell any property deemed necessary by the Trustee to make the distribution.

bb. To do all the acts, to take all the proceedings, and to exercise all the rights, powers, and privileges which an absolute owner of the same property would have, subject always to the discharge of their fiduciary obligations; the enumeration of certain powers in this Trust Estate shall not limit the general or implied powers of the Trustee; the Trustee shall have all additional powers that may now or hereafter be conferred on them by law or that may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations specified in this Trust Agreement.

cc. To determine in their discretion what is income and what is principal of each trust established under this Trust Agreement, and what expenses, costs, taxes and charges of all kinds shall be charged against income and what shall be charged against principal, and the decision of the Trustee with respect to these matters shall be conclusive upon all parties.

dd. To make any and all elections permitted by any tax law applicable to any trust, the Settlor or the estate of the Settlor, and no adjustments shall be necessary among the beneficiaries of any trust as to the income or principal of such trust as a result of the exercise of such election.

ARTICLE 9. SPENDTHRIFT TRUSTS

Section 9.1. Each trust created by this Trust Agreement shall be a spendthrift trust. No beneficiary of any trust established under this Trust Agreement shall have any right or power to sell, transfer, assign, pledge, mortgage, alienate or hypothecate his or her interest in the principal or income of the Trust Estate in any manner whatsoever. To the fullest extent of the law, the interest of each and every beneficiary shall not be subject to the claims of any of his or her creditors or liable to attachment, execution, bankruptcy proceedings, or any other legal process. The Trustee shall pay, disburse and distribute principal and income of the Trust Estate only in the manner provided for in this Trust Agreement, and not upon any attempted transfer or assignment, whether oral or written, of any beneficiary nor by operation of law.

ARTICLE 10. DEFINITIONS

Incapacity

Section 10.1. For all purposes under this Trust Agreement, the incapacity of any person shall be deemed to exist if:

a. A court of competent jurisdiction determines that such person is legally incapacitated to act in his or her own behalf; or

b. At least two (2) licensed physicians render duly executed, witnessed and acknowledged written certificates, each certifying that such physician has examined such person and has concluded that, by reason of accident, physical or mental illness or other similar cause, such person had become incapacitated to act rationally and prudently in financial matters.

ARTICLE 11. GENERATION SKIPPING TRUST

Allocation of Exemption

Section 11.1. If a trust created by this Trust Agreement would be partially exempt from generation-skipping tax by reason of an allocation of generation-skipping tax exemption to it, before the allocation the Trustee, in the Trustee's discretion, may divide the trust into two separate trusts of equal or unequal value, to permit allocation of the exemption solely to one trust which will be entirely exempt from generation-skipping tax. In addition, if a trust created by this Trust Agreement is entirely exempt or nonexempt from generation-skipping tax and adding property to the trust or combining it with another trust would partially subject it to generation-skipping tax, the Trustee, in the Trustee's discretion, may hold that property as a separate trust in lieu of making the addition or combination. Except as otherwise provided in this Trust Agreement, the two trusts shall have the same terms and conditions, but the Trustee shall not make discretionary distributions from the income or principal of the exempt trust to beneficiaries who are non-skip persons so long as any readily marketable assets remain in the nonexempt trust.

Disproportionate Distribution

Section 11.2. Upon division or distribution of an exempt trust and a nonexempt trust created by this Trust Agreement, the Trustee in the Trustee's discretion, may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur.

Augmenting Distribution

Section 11.3. If the Trustee considers that any distribution from a trust created by this Trust Agreement other than pursuant to a power to withdraw or appoint is a taxable distribution subject to a generation-skipping tax payable by the distributee, the Trustee shall augment the distribution by an amount which the Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

Payment of Tax

Section 11.4. If the Trustee considers that any termination of an interest in trust property created by this Trust Agreement is a taxable termination subject to a generation-skipping tax, the Trustee shall pay the tax from the portion of the trust property to which the tax relates, without adjustment of the relative interests of the beneficiaries.

ARTICLE 12. CONSTRUCTION OF TRUSTS

Trusts to Include Shares or Partial Shares

Section 12.1. The terms "trust", "trusts", or the phrase "any trust provided for in this Trust Agreement" shall, as used in this Trust Agreement, unless otherwise specifically provided herein, refer to each of the separate trusts provided for, respectively, and the trust estate of each trust. There need be no physical segregation or division of the various trusts except as segregation or division may be required by termination of any of the trusts, but the Trustee shall keep separate accounts for the different individual interests.

Law For Construction of Trusts

Section 12.2. The trusts provided for in this Trust Agreement have been accepted by the Trustee in the State of Nevada, will be administered by the Trustee in Nevada, and their validity, construction, and all rights under them shall be governed by the laws of the State of Nevada.

Disclaimers

Section 12.3. Any beneficiary of any trust created by this Trust Agreement, or such beneficiary's personal representative without the necessity of any prior court authorization or approval of any kind, may disclaim all or any part or portion of his or her benefits or powers.

including benefits or powers which qualify for the marital deduction, by written instrument delivered to the Trustee or in any other manner recognized by law.

Contest

Section 12.4. If any beneficiary of any trust created by this Trust Agreement contests or attacks in any manner, directly or indirectly, this Trust Agreement or any of its provisions, any share or interest of any trust created by this Trust Agreement given to the contesting beneficiary is revoked and shall be disposed of in the same manner provided herein as if the contesting beneficiary had predeceased the Settlor without issue.

Singular and Plural Interchangeable

Section 12.5. As used in this Trust Agreement, any words used in the singular shall be construed as if used in the plural, and vice versa, if necessary, to properly carry out the Settlor's intent.

Perpetuities Saving Clause

Section 12.6. Unless sooner terminated in accordance with other provisions of this Trust Agreement, each trust created under this Trust Agreement shall terminate twenty-one (21) years after the death of the last survivor of the group composed of the Settlor and the issue of the Settlor living at the death of the Settlor. All principal and undistributed income of any trust so terminated shall be distributed to the then income beneficiaries of that trust as are then entitled or authorized in the Trustee's discretion to receive income payments.

Payments to Minors or Incompetents

Section 12.7. The Trustee, in the Trustee's absolute discretion, may make payments to a minor or other beneficiary under disability by making payments to the guardian of his person with whom he resides or the Trustee, in the Trustee's absolute discretion, may make payments directly

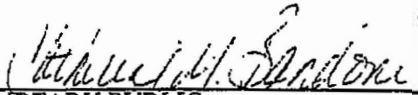
to a minor if, in the Trustee's judgment, he or she is of sufficient age and maturity to spend the money properly.

EXECUTED this 30th day of November, 2005, at Reno, Nevada.


SAMUEL S. JAKSICK, JR., Settlor and Trustee

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on 30 day of November, 2005, by SAMUEL S. JAKSICK, JR., as Settlor and Trustee of the SAMUEL S. JAKSICK, JR. FAMILY TRUST.


NOTARY PUBLIC



SCHEDULE A

PROPERTY INITIALLY CONVEYED TO SAMUEL S. JAKSICK, JR., TRUSTEE OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST

I. Real Property

A. All that real property located at:

1011 Lakeshore Blvd.
Incline Village, NV 89451
APN: 130-230-34

II. Personal Property

A. All of the bank accounts, savings accounts, investment accounts, brokerage accounts, time certificates, and all other cash, securities and/or investments of Settlor.

B. All right, title and ownership interest of the Settlor in any corporation, general or limited partnership, limited liability company, or any other entity, whether closely held or publicly traded, including, but not limited to, the following:

1. Juniper Trails Development Co.;
2. Pioneer Group, Inc.;
3. Pioneer Associates Limited Liability Company;
4. Montreux Unit 3 Association;
5. Saddlehorn Development Co.;
6. Lakecrest Realty, Inc.;
7. Lake-Ridge;
8. White Pine Lumber Co.;
9. Toiyabe Investment Co.;
10. Basecamp LLC, a Nevada limited-liability company;
11. Montreux South 51 L.L.C.;
12. Montreux Development Group, Inc.;
13. Montreux Golf & Country Club, Inc.;
14. Duck Lake Ranch, L.L.C.;
15. SJ Ranch, LLC;
16. Bright-Holland Co.;
17. Lakeridge Golf Course Ltd.;
18. Montreux Golf Club Ltd.;
19. Great Western Helicopters, Inc.;
20. Jaksick Family Partnership, Limited Partnership;
21. Montreux West 40 L.L.C.;
22. SJ Ranch Property Owners Association;
23. Southeast SJ Ranch Property Owners Association;
24. Montreux-South 80, a Nevada joint venture;
25. Jackrabbit Properties, LLC;
26. BBB Investments, LLC, a Nevada limited-liability company;
27. Home Camp Land and Livestock Co., Inc.;
28. Pronghorn, LLC;
29. Buckhorn Land and Livestock, LLC;
30. Washoe Winds, LLC, a Nevada limited-liability company;
31. Locnavar, LLC;
32. SST Westridge, LLC;
33. California Bighorn, LLC;

34. St. George Homes, LLC;
 35. Gerlach Green Energy, LLC: and
 36. Liquid Waste Management, LLC, a Nevada limited-liability company.
- C. All tangible personal property of the Settlor.

**SECOND AMENDMENT TO AND COMPLETE RESTATEMENT OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST AGREEMENT**

Samuel S. Jaksick, Jr., a married man, as Settlor, hereby amends the Samuel S. Jaksick, Jr. Family Trust Agreement, dated December 4, 2003, as further amended by the First Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement, dated February 27, 2004, each pursuant to the provisions of Section 1.8 thereof, to read in full as follows:

ARTICLE 1. DECLARATIONS

Conveyance to Trustee

Section 1.1. He has conveyed and transferred, without consideration, to the Trustee named in this Trust Agreement all the property described in an inventory hereto attached, marked Schedule "A". All property now or hereafter conveyed or transferred to the Trustee to be held pursuant to this Trust Agreement is the sole and separate property of the Settlor, and shall retain its character as the Settlor's separate property as it was before the conveyance or transfer.

Name of Trust

Section 1.2. This Trust shall be known as the SAMUEL S. JAKSICK, JR. FAMILY TRUST.

Identity of Trust Estate

Section 1.3. All property described in Schedule "A", and any other property that may hereafter be transferred or conveyed to and received by the Trustee to be held pursuant to the terms of this instrument, is herein called the "Trust Estate" and shall be held, administered, and distributed by the Trustee as provided in this Trust Agreement.

Identity of Settlor

Section 1.4. As used in this Trust Agreement:

- a. The term "Settlor" shall mean SAMUEL S. JAKSICK, JR..

JSK001881

WJ 004700

Family

Section 1.5. Settlor is married to JANENE BARGER ("JANENE"), however, Settlor entered into a pre-nuptial agreement with JANENE, dated July 22, 1993, and as a consequence thereof, has intentionally limited the amounts he desires to provide for JANENE pursuant to this Agreement. Settlor has three (3) living children, namely STANLEY S. JAKSICK ("STAN"), WENDY ANN JAKSICK SMRT ("WENDY"), TODD BRUCE JAKSICK ("TODD"), and several grandchildren as more particularly set forth herein.

Designation of Trustee

Section 1.6. Settlor is hereby designated as the sole Trustee of all trusts created by or to be created pursuant to this Trust Agreement. Should Settlor become unwilling or unable, for whatever reason, to serve as Trustee, STAN, TODD, and RAY BENETTI ("RAY") shall thereafter serve as Co-Trustees. Should any one of STAN, TODD, or RAY become unwilling or unable, for whatever reason, to serve as a Co-Trustee, the remaining two of them and BOB MARSHALL ("BOB") shall thereafter serve as successor Co-Trustees. Should any two of STAN, TODD, RAY or BOB, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining two of them and KEN HUFF ("KEN"), shall thereafter serve as successor Co-Trustees. Should any three of STAN, TODD, RAY, BOB or KEN, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining Co-Trustees and one or more named successor trustee(s) shall thereafter serve as successor Co-Trustees. In the event all of the above-named individuals are unwilling or unable, for whatever reason, to serve as Co-Trustees (including any individuals designated to serve as a named successor trustee) or if a named successor trustee has not been effectively designated pursuant to the provisions of Section 1.8 hereof, then Nevada State Bank shall thereafter serve as a Trustee.

The term "Trustee" or "Trustees" as used in this Trust Agreement shall refer to Settlor so long as he shall serve as Trustee and thereafter to such person(s) or entity(ies) as may serve as Trustee. Nothing in this Section 1.6 shall be construed to limit to one the number of persons(s) or entity(ies)

who may concurrently serve as Trustees. No bond or other security shall be required of any of those named as Trustee, notwithstanding any provisions of law to the contrary.

Removal of Trustees

Section 1.7. Any person or entity who shall serve as a trustee, successor trustee or a Named Successor Trustee of one or more of the separate trusts established pursuant to this Agreement, with the exception of TODD and STAN, may be removed as a trustee of any or all such trusts, at any time and from time to time, with or without cause, in the sole and absolute discretion of TODD, by delivery of ten (10) days' written notice of such removal to all of the then acting trustees of each of the separate trusts for which such person or entity is being removed as a trustee. If TODD is unable or unwilling, for any reason, to act with respect to the removal of any trustee, successor trustee, or named successor trustee, then STAN shall have the right, power, and authority to remove any such trustee pursuant to this Section 1.7.

Appointment of Successor Trustees

Section 1.8. In the event of any vacancy in the office of trustee, whether by resignation, removal or otherwise, TODD, in his sole and absolute discretion, shall designate and appoint, without requiring the consent or approval of any court or any other person, any qualified and competent individual or entity to serve as a successor trustee of any one or more of the separate trusts established pursuant to this Agreement (herein referred to as a "Named Successor Trustee"). If TODD is unable or unwilling, for any reason, to act with respect to the designation and appointment of any Named Successor Trustee, then STAN shall have the right, power and authority to designate and appoint a Named Successor Trustee pursuant to this Section 1.8.

Designation of Institutional Trustee

Section 1.9. Notwithstanding the designation in Section 1.6 of this Agreement for Nevada State Bank to ultimately serve as Trustee of the trusts established pursuant to this Agreement, TODD shall, in his sole and absolute discretion, have the right, power and authority at any time, and from time to time, with or without cause, to change the designation of Nevada State Bank, or any

subsequently named institution, to serve as the "Institutional Trustee" if a Named Successor Trustee has not been effectively designated.

Additions to Trust

Section 1.10. The Settlor may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer or Will. Such property, when received and accepted by the Trustee, shall become part of the Trust Estate and be subject to all the terms and provisions of this Trust Agreement. Notwithstanding any other provision of this Trust Agreement, no Trustee shall accept any property as a contribution or addition to this Trust, including but not limited to the initial conveyance and transfer by the Settlor, which may jeopardize the character of the interest of any beneficiary of this Trust as his or her sole and separate property.

Revocation or Modification of Trust

Section 1.11. The Settlor reserves the right at any time, and from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by filing notice of such revocation, modification, change or withdrawal with the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment.

ARTICLE 2. DISTRIBUTIONS DURING SETTLOR'S LIFE

Distributions of Net Income to Settlor

Section 2.1. During the life of the Settlor, the Trustee shall quarter-annually or at more frequent intervals, unless otherwise directed in writing by the Settlor, pay to or apply for the benefit of the Settlor all of the net income from the Trust Estate.

Distributions of Principal

Section 2.2 During the life of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor as much of the principal of the Trust Estate as the Trustee, in the Trustee's sole discretion, shall deem necessary for the proper health, education, support, care, maintenance and general welfare of the Settlor.

**SECOND AMENDMENT TO AND COMPLETE RESTATEMENT OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST AGREEMENT**

Samuel S. Jaksick, Jr., a married man, as Settlor, hereby amends the Samuel S. Jaksick, Jr. Family Trust Agreement, dated December 4, 2003, as further amended by the First Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement, dated February 27, 2004, each pursuant to the provisions of Section 1.8 thereof, to read in full as follows:

ARTICLE 1. DECLARATIONS

Conveyance to Trustee

Section 1.1. He has conveyed and transferred, without consideration, to the Trustee named in this Trust Agreement all the property described in an inventory hereto attached, marked Schedule "A". All property now or hereafter conveyed or transferred to the Trustee to be held pursuant to this Trust Agreement is the sole and separate property of the Settlor, and shall retain its character as the Settlor's separate property as it was before the conveyance or transfer.

Name of Trust

Section 1.2. This Trust shall be known as the SAMUEL S. JAKSICK, JR. FAMILY TRUST.

Identity of Trust Estate

Section 1.3. All property described in Schedule "A", and any other property that may hereafter be transferred or conveyed to and received by the Trustee to be held pursuant to the terms of this instrument, is herein called the "Trust Estate" and shall be held, administered, and distributed by the Trustee as provided in this Trust Agreement.

Identity of Settlor

Section 1.4. As used in this Trust Agreement:

- a. The term "Settlor" shall mean SAMUEL S. JAKSICK, JR..

JSK001885

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Family

Section 1.5. Settlor is married to JANENE BARGER ("JANENE"), however, Settlor entered into a pre-nuptial agreement with JANENE, dated July 22, 1993, and as a consequence thereof, has intentionally limited the amounts he desires to provide for JANENE pursuant to this Agreement. Settlor has three (3) living children, namely STANLEY S. JAKSICK ("STAN"), WENDY ANN JAKSICK SMRT ("WENDY"), TODD BRUCE JAKSICK ("TODD"), and several grandchildren as more particularly set forth herein.

Designation of Trustee

Section 1.6. Settlor is hereby designated as the sole Trustee of all trusts created by or to be created pursuant to this Trust Agreement. Should Settlor become unwilling or unable, for whatever reason, to serve as Trustee, STAN, TODD, and RAY BENETTI ("RAY") shall thereafter serve as Co-Trustees. Should any one of STAN, TODD, or RAY become unwilling or unable, for whatever reason, to serve as a Co-Trustee, the remaining two of them and BOB MARSHALL ("BOB") shall thereafter serve as successor Co-Trustees. Should any two of STAN, TODD, RAY or BOB, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining two of them and KEN HUFF ("KEN"), shall thereafter serve as successor Co-Trustees. Should any three of STAN, TODD, RAY, BOB or KEN, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining Co-Trustees and one or more named successor trustee(s) shall thereafter serve as successor Co-Trustees. In the event all of the above-named individuals are unwilling or unable, for whatever reason, to serve as Co-Trustees (including any individuals designated to serve as a named successor trustee) or if a named successor trustee has not been effectively designated pursuant to the provisions of Section 1.8 hereof, then Nevada State Bank shall thereafter serve as a Trustee.

The term "Trustee" or "Trustees" as used in this Trust Agreement shall refer to Settlor so long as he shall serve as Trustee and thereafter to such person(s) or entity(ies) as may serve as Trustee. Nothing in this Section 1.6 shall be construed to limit to one the number of persons(s) or entity(ies)

who may concurrently serve as Trustees. No bond or other security shall be required of any of those named as Trustee, notwithstanding any provisions of law to the contrary.

Removal of Trustees

Section 1.7. Any person or entity who shall serve as a trustee, successor trustee or a Named Successor Trustee of one or more of the separate trusts established pursuant to this Agreement, with the exception of TODD and STAN, may be removed as a trustee of any or all such trusts, at any time and from time to time, with or without cause, in the sole and absolute discretion of TODD, by delivery of ten (10) days' written notice of such removal to all of the then acting trustees of each of the separate trusts for which such person or entity is being removed as a trustee. If TODD is unable or unwilling, for any reason, to act with respect to the removal of any trustee, successor trustee, or named successor trustee, then STAN shall have the right, power, and authority to remove any such trustee pursuant to this Section 1.7.

Appointment of Successor Trustees

Section 1.8. In the event of any vacancy in the office of trustee, whether by resignation, removal or otherwise, TODD, in his sole and absolute discretion, shall designate and appoint, without requiring the consent or approval of any court or any other person, any qualified and competent individual or entity to serve as a successor trustee of any one or more of the separate trusts established pursuant to this Agreement (herein referred to as a "Named Successor Trustee"). If TODD is unable or unwilling, for any reason, to act with respect to the designation and appointment of any Named Successor Trustee, then STAN shall have the right, power and authority to designate and appoint a Named Successor Trustee pursuant to this Section 1.8.

Designation of Institutional Trustee

Section 1.9. Notwithstanding the designation in Section 1.6 of this Agreement for Nevada State Bank to ultimately serve as Trustee of the trusts established pursuant to this Agreement, TODD shall, in his sole and absolute discretion, have the right, power and authority at any time, and from time to time, with or without cause, to change the designation of Nevada State Bank, or any

subsequently named institution, to serve as the "Institutional Trustee" if a Named Successor Trustee has not been effectively designated.

Additions to Trust

Section 1.10. The Settlor may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer or Will. Such property, when received and accepted by the Trustee, shall become part of the Trust Estate and be subject to all the terms and provisions of this Trust Agreement. Notwithstanding any other provision of this Trust Agreement, no Trustee shall accept any property as a contribution or addition to this Trust, including but not limited to the initial conveyance and transfer by the Settlor, which may jeopardize the character of the interest of any beneficiary of this Trust as his or her sole and separate property.

Revocation or Modification of Trust

Section 1.11. The Settlor reserves the right at any time, and from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by filing notice of such revocation, modification, change or withdrawal with the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment.

ARTICLE 2. DISTRIBUTIONS DURING SETTLOR'S LIFE

Distributions of Net Income to Settlor

Section 2.1. During the life of the Settlor, the Trustee shall quarter-annually or at more frequent intervals, unless otherwise directed in writing by the Settlor, pay to or apply for the benefit of the Settlor all of the net income from the Trust Estate.

Distributions of Principal

Section 2.2 During the life of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor as much of the principal of the Trust Estate as the Trustee, in the Trustee's sole discretion, shall deem necessary for the proper health, education, support, care, maintenance and general welfare of the Settlor.

Withdrawals of Principal

Section 2.3. The Settlor may, at any time and from time to time, withdraw such amounts, up to the whole thereof, from the principal of the Trust Estate as the Settlor may, at the time of any such withdrawal, designate in a written notice delivered to the Trustee.

Distributions on Death of Settlor

Section 2.4. On the Death of the Settlor, if this Trust Agreement has not been revoked or otherwise modified by the Settlor, the entire remaining principal of the Trust Estate, after the payments called for by Sections 2.5 and 2.6 of this Trust Agreement, shall be administered and disposed of in accordance with the provisions of Article 3 of this Trust Agreement.

Payment of Debts, Expenses and Taxes

Section 2.5. The Trustee shall pay either from the income or principal of the Trust, or partly from the principal and partly from the income of the Trust, as the Trustee, in the Trustee's absolute discretion may determine, the expenses of the Settlor's last illness, funeral, burial and any inheritance, estate or death taxes that may be due by reason of the Settlor's death, unless the Trustee, in the Trustee's absolute discretion, determines that other adequate provisions have been made for the payment of such expenses and taxes. Notwithstanding the foregoing, no portion of the assets allocated to the Credit Shelter Trust pursuant to Section 3.2 hereof shall be responsible for the payment of any of the Settlor's inheritance, estate, or death taxes, it being the Settlor's goal and intention that the full amount described in Section 3.2 hereof be allocated to the Credit Shelter Trust in the event of his death. Further, the Settlor hereby directs that the Trustees allocate the entire amount of the Unified Credit against the estate tax described in Section 2010 be allocated to the Credit Shelter Trust such that the minimum amount of tax shall be payable in the event of my death.

Specific Gifts

Section 2.6. The Trustee shall distribute, outright and free of trust, the Settlor's interest in any tangible personal property given by the Settlor in accordance with a written statement signed by the Settlor which specifically disposes of such tangible personal property and states that it is incorporated by reference into this Trust Agreement.

Notwithstanding the foregoing, I hereby give my trophy animals and guns to TODD. As to my trophy animals, TODD may either keep a portion of them or find an appropriate place to display them, and, even if they are given away, any money needed to find or create an appropriate and suitable location for the trophy animals shall be a charge against the Trust Estate prior to its allocation pursuant to Section 3 hereof. Furthermore, I hereby give my 1933 Pierce Arrow automobile to STAN, as well as all of my binoculars, hunting and camping equipment.

Any property disposed of pursuant to this Section 2.6 (and its recipient with regard to such property) shall be completely relieved of any burden or responsibility for the payment of the Settlor's debts, expenses of administration, or any Federal or State taxes due by reason of the Settlor's death.

ARTICLE 3. ALLOCATION OF TRUST ESTATE

Create Two Trusts

Section 3.1. On the death of the Settlor, after the distributions set forth in Sections 2.5 and 2.6 above, should JANENE survive the Settlor, the Trustee shall divide the entire Trust Estate, including any additions made to the Trust by reason of the Settlor's Death, such as from the Settlor's Will, retirement plans or life insurance on the Settlor's life, into two separate trusts to be known as the "Credit Shelter Trust" and the "Marital Trust". The Credit Shelter Trust and the Marital Shelter Trust shall become at that time irrevocable and not subject to amendment. The Marital Trust and the Credit Shelter Trust shall be administered and distributed as hereafter provided in Articles 4 and 5, respectively, of this Trust Agreement.

Principal of Credit Shelter Trust

Section 3.2. The principal or Trust Estate of the Credit Shelter Trust shall consist of an amount equal to the "applicable exclusion amount" set forth in Section 2010(c) of the Internal Revenue Code of 1986, together with such additional sums of cash and/or property as are necessary to make the initial Trust Estate of the Credit Shelter Trust equal to a minimum of Ten Million Dollars (\$10,000.00).

Principal of Marital Trust

Section 3.3. The principal or Trust Estate of the Marital Trust shall consist of the entire

remaining balance of the Settlor's interest in the Trust Estate. The Trustee shall satisfy this amount in cash or in kind or partly in each with assets eligible for the marital deduction. Assets allocated in kind shall be deemed to satisfy this amount on the basis of their value for federal estate tax purposes and this pecuniary bequest shall not participate in increases and decreases that may occur during the administration of the estate except such increases and decreases as may result from an election to use the alternate valuation date. The Settlor's surviving spouse shall have the power at any time to compel the Trustee of the Marital Trust to convert any non-income producing property at any time held in the Marital Trust to income producing property by delivering to the Trustee a written direction.

Qualification for Marital Deduction

Section 3.4. It is the intention of the Settlers to have the Marital Trust qualify for the marital deduction under Section 2056 of the Internal Revenue Code and the regulations pertaining to that section or any corresponding or substitute provisions applicable to the Trust Estate. In no event shall the Trustee take any action or have any power that will impair the marital deduction, and all provisions regarding the Marital Trust shall be interpreted to conform to this primary objective.

ARTICLE 4. ADMINISTRATION AND DISTRIBUTIONS FROM MARITAL TRUST

Distributions of Income during Life of Surviving Settlor

Section 4.1. During the life of the Settlor's Surviving Spouse, the Trustee shall pay to or apply for the benefit of the Settlor's Surviving Spouse all of the net income of the Marital Trust no less frequently than annually.

Distributions of Principal

Section 4.2. Principal distributions shall be made from this Marital Trust for the health, education, support and maintenance of the Settlor's Surviving Spouse, after taking into consideration, to the extent the Trustee shall deem it advisable, any other income or resources of the Settlor's Surviving Spouse known to the Trustee.

Qualified Terminable Interest

Section 4.3. The Trustee is authorized, in the Trustee's sole discretion, to elect as provided in Section 2056(b)(7)(v) of the Internal Revenue Code of 1986, as amended, to have treated as qualified terminable interest property for the purpose of qualifying for the marital deduction allowable in determining the federal estate tax upon the Settlor's estate, any or all of the property comprising the Marital Trust. In considering such an election, the Trustee may wish to consider the age, and health, of the Settlor's Surviving Spouse, the sizes of the Settlor's respective estates, and a computation on the estate of the Surviving Settlor, which may render such an election inappropriate in whole or in part. The decision of the Trustee with respect to the exercise of the election shall be final and conclusive on all persons whose interests in the Settlor's estate are directly or indirectly affected thereby.

With respect to any portion or all of the Marital Trust which the Trustee shall have elected to have treated as qualified terminable interest property under Section 2056(b)(7)(v), the following provisions shall apply:

- (a) Notwithstanding any other provision of this Trust Agreement, the Trustee shall not have any rights, duties, authorities, privileges, immunities, or powers with respect to such qualified terminable interest property if or to the extent that such would disqualify the same for the marital deduction.

Distribution on Death of Settlor's Surviving Spouse

Section 4.4. Upon the death of the Settlor's Surviving Spouse, the entire remaining principal of the Marital Trust shall be added to the principal of the Credit Shelter Trust established under this Trust Agreement, and shall thereafter be administered and disposed of in accordance with the terms and provisions of Article 6 of this Trust Agreement.

**ARTICLE 5. ADMINISTRATION AND DISTRIBUTIONS FROM THE CREDIT
SHELTER TRUST**

Allocation of Trust Estate

Section 5.1 Upon the death of the Settlor (but subject to the provisions of Section 5.2 hereof), the Trustee shall divide the principal and all accumulated income of the Trust Estate of the Credit Shelter Trust into the following fractional shares for the sole and exclusive benefit of the beneficiaries named below who survive the Settlor (the Settlor hereby acknowledges that due to the initial funding of the Marital Trust, many of the provisions of this Article 5 will not be funded or occur prior to JANENE's death should she survive the Settlor):

1. STAN - 1/3;
2. TODD - 1/3;
3. WENDY - 2/9;
4. LEXEY SMRT (WENDY'S DAUGHTER) ("LEXEY") - 1/18;
5. LUKE JAKSICK (WENDY'S SON) ("LUKE") - 1/18.

Each share allocated to STAN, TODD, WENDY, LEXEY and LUKE who survive the Settlor shall be held, administered and distributed in accordance with the provisions of Sections 3.3, 3.4 and 3.5 of this Trust Agreement. In the event any one or more of STAN, TODD, WENDY, LEXEY or LUKE do not survive the Settlor, the Trustee shall distribute that beneficiary's fractional share among that beneficiary's then living issue, but only those who are lineal descendants of the Settlor, by right of representation, and if there are none, to the other above-named beneficiaries who survive the Settlor, in proportion to their respective fractional interests as set forth herein. If none of the above-named beneficiaries survive the Settlor (or survive the last living beneficiary for whom a Trust has been established hereunder), the Trustee shall allocate the principal and all accumulated income of the Trust Estate as follows:

1. NEVADA STATE CHILDREN'S HOME, Carson City, Nevada, or a similar successor organization of the State of Nevada, for the following purposes:

- a. One-half ($\frac{1}{2}$) to be used, in the discretion of the NEVADA STATE CHILDREN'S HOME, to assist in college or university education for children who have residents of the Home when they graduate from high school.
- b. One-half ($\frac{1}{2}$) to be used for athletic and recreational equipment for the growth, development, and entertainment of children residing in the Home.

Reallocation of Trust Estate After Reimbursement of Certain Sums

Section 5.2 Settlor hereby acknowledges that WENDY has received substantial sums of money and/or property from the Settlor and/or other members of, or entities related to, the Settlor's family, by virtue of which Settlor desires to adjust the share of the Trust Estate the Settlor desires WENDY to receive. Accordingly (as more particularly described in the hypothetical calculation set forth on Schedule B, attached hereto and incorporated herein by reference) the Trustee is hereby instructed as follows:

1. Calculate the dollar value of the sum each beneficiary would tentatively be entitled to receive, after payment of all the Settlor's debts, expenses and taxes.
2. Reduce the dollar amount WENDY would otherwise be entitled to receive by the sum of One Million Dollars (\$1,000,000.00).
3. Reallocate the dollar amount by which WENDY's share has been reduced to and for the benefit of the other beneficiaries named in Section 3.1, in proportion to their respective fractional interests as described therein.
4. Recalculate the total dollar amounts to be allocated to each of the beneficiaries named in Section 3.1 above, and thereafter hold, administer and distribute the assets of the Trust Estate allocated to each, pursuant to and in accordance with the provisions of this Trust Agreement.
5. Notwithstanding the foregoing, should JANENE survive the Settlor, only Five Hundred Thousand Dollars (\$500,000.00) of the amount described in

Section 5.2(2) above shall be reduced and reallocated upon the Settlor's death, with the remaining Five Hundred Thousand Dollars (\$500,000.00) to be reduced and reallocated at such time as the Trust Estate of the Marital Trust is added to the Credit Shelter Trust pursuant to Section 4.4 hereof.

It is the sole intent and desire of the Settlor that the reductions and reallocations described in this Section 5.2 are the only actions and/or remedies to be pursued against WENDY. Accordingly, my Trustees are hereby authorized and instructed not to pursue any additional forms of legal actions or otherwise against WENDY, both in their capacity as Trustees as well as individuals, and any such action shall be construed as a "Contest" to the provisions of this Agreement subject to the provisions of Section 11.4 hereof.

Settlor's Tahoe Home

Section 5.3 Settlor hereby directs the Trustee to sell his house at Lake Tahoe, if in the sole judgment of the Trustee, the proceeds from such sale are needed to pay the Settlor's debts, expenses, and/or taxes on the Settlor's estate. If, in the sole judgment of the Trustee, Settlor's home at Lake Tahoe need not be sold, then STAN and TODD shall have the exclusive successive rights to use said home according to the following schedule: STAN, for the first three (3) years, commencing six (6) months after the date of Settlor's death (during which six (6) month period the Settlor's then existing spouse shall have the exclusive right to live in and use the home); and TODD, for the second three (3) years. Thereafter, the schedule between STAN and TODD of three (3) years each shall start over and repeat itself until such time as the Trustee, in the Trustee's sole discretion, determines that the Tahoe home should be sold. At any time, with the unanimous agreement of the Trustees, Settlor's Lake Tahoe home may be sold and the proceeds therefrom allocated and distributed as otherwise provided in this Trust Agreement. Title to the Settlor's Lake Tahoe home shall be held in the name of this Trust, as conveyed to the Trustee concurrently with the execution of this Trust Agreement.

Distribution to Beneficiaries Over Age 55

Section 5.4 Except as otherwise set forth herein, each share allocated to any beneficiary who has attained the age of 55 years shall be distributed to such beneficiary outright and free of trust.

Administration and Distributions to Beneficiaries Under Age 55

Section 5.5 Each share allocated to any beneficiary who has not attained the age of 55 years shall be retained by the Trustee as a separate trust for the benefit of such beneficiary and shall thereafter be held, administered and distributed as follows:

a. The Trustee shall pay to or apply for the benefit of such beneficiary as much of the net income and principal of the Trust Estate of such beneficiary's separate trust as the Trustee, in the Trustee's sole discretion, shall deem necessary for such beneficiary's proper health, education, support, and maintenance, after taking into consideration, to the extent the Trustee shall deem advisable, any other income or resources of such beneficiary known to the Trustee. Any net income not distributed shall be accumulated and added to principal.

b. With regard to the separate trust administered by the Trustee for STAN, the Trustee shall distribute to STAN, outright and free of trust, the following undivided fraction of the then existing principal balance and accumulated income of his Trust:

- (i) At age forty-five years (45), 1/4th;
- (ii) At age fifty years (50), 1/4th;
- (iii) At age fifty-five years (55), the entire remaining balance.

c. With regard to the separate trust administered by the Trustee for TODD, the Trustee shall distribute to TODD, outright and free of trust, the following undivided fraction of the then existing principal balance and accumulated income of his Trust:

- (i) At age thirty-five years (35), 1/4th;
- (ii) At age forty years (40), 1/4th;
- (iii) At age forty-five (45), the entire remaining balance.

d. With regard to the separate trust administered by the Trustee for WENDY, the Trustee shall distribute to WENDY, outright and free of trust, the following undivided fraction of the then existing principal balance and accumulated income of his Trust:

- (i) At age fifty years (50), 1/4th;
- (ii) At age fifty-five years (55), 1/4th;

(iii) At age sixty years (60), the entire remaining balance, payable as follows: WENDY is to receive the distribution of the remaining principal balance of her Trust in forty (40) equal quarterly installments of principal, together with the income thereon, until fully distributed.

e. With regard to the separate trusts administered by the Trustee for LEXEY, LUKE, and any other beneficiary hereunder other than STAN, TODD, and WENDY, the Trustee shall distribute to said beneficiary, outright and free of trust, the following undivided fraction of the then existing principal balance and accumulated income in their respective Trusts:

- (i) At age forty years (40), 1/4th;
- (ii) At age forty-five years (45), 1/4th;
- (iii) At age fifty-five years (55), the entire remaining balance.

f. If any beneficiary for whom a separate trust is being held and administered by the Trustee pursuant to this Section 3.4 dies before receiving distribution of his or her entire trust, the undistributed balance of that beneficiary's trust shall be allocated equally among the deceased beneficiary's issue, by right of representation, and if there are none, among the remaining beneficiaries for whom a Trust is being administered and distributed by the Trustee pursuant to this Agreement in accordance with the distribution formulas set forth in Section 3.1 hereof (but without any further reduction in WENDY's share pursuant to the provisions of Section 3.2) provided, however, that if a part of the deceased beneficiary's separate trust is allocated to a beneficiary for whose benefit a trust is then being administered under this Trust Agreement, that part shall be added to the separate trust held for such beneficiary and shall thereafter be administered and distributed according to its terms.

Allocation and Distribution of Common Stock in Home Camp Land and Livestock Co., Inc.

Section 5.6 Notwithstanding any other provision of Article 3 of this Trust Agreement regarding the allocation and distribution of the Trust Estate hereunder, upon the death of the Settlor, the Trustee shall include in the share to be allocated and distributed to TODD or his lineal descendants, all the Settlor's right, title and interest in and to the common stock in Home Camp Land and Livestock Co., Inc. (hereafter "HCL"). Further, notwithstanding the provisions regarding the distributions of the Trust Estate set forth in Article 3 of the Trust Agreement, the Trustee shall promptly distribute the Settlor's entire interest in the common stock of HCL to the Trustees of the "49 Mountain Trust", dated concurrently with this Amendment, to thereafter be held, administered, and distributed by the Trustees designated in the 49 Mountain Trust Agreement, in accordance with its terms. Lastly, with regard to the value of the Settlor's stock ownership interest in HCL, the Settlor hereby directs and instructs the Trustee that only one-half (1/2) of the value of said stock in HCL, as determined for federal estate tax purposes, be charged against the portion of the assets to be allocated, in the aggregate, to TODD and/or his lineal descendants pursuant to this Agreement.

ARTICLE 6. TERMINATION OF TRUST

Section 6.1. This Trust shall terminate at such time as the entire Trust Estate has been distributed in accordance with the provisions of this Trust Agreement.

ARTICLE 7. POWERS OF TRUSTEE

Section 7.1. In order to carry out the purposes of any trust or trusts established by this Trust Agreement, the Trustee, in addition to all other powers and discretions granted by this Trust Agreement or by law, shall have the following powers and discretions, subject to any limitations specified elsewhere in this Trust Agreement:

a. To hold and exercise all of the powers and discretions enumerated in N.R.S. 163.265 to N.R.S. 163.410, inclusive, as such powers and discretions exist at the time of the execution of this Trust Agreement; and such powers and discretions are incorporated herein by reference with the same effect as if set forth verbatim. In the event any of such powers or discretions are inconsistent with any of the powers or discretions hereinafter set forth, the most liberal shall control to give the greatest latitude and discretion to the Trustee.

b. To continue to hold all or any part of the Trust Estate in the form in which the same may be at the time of the receipt thereof by the Trustee, including, but without

limitation, any shares of stock, uninvested cash, balances in banks, and property of any kind, whether marketable or otherwise, without any obligation to convert the same, and without regard to the limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason of such retention.

c. To invest and reinvest in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, common and preferred stocks, cash or other funds though unproductive, and any other securities, obligations or property, including gaming investments, without regard to limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason thereof.

d. To exercise, respecting securities held in the Trust Estate, all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and to pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers, regardless of any limitations elsewhere in this Trust Agreement relative to investments by the Trustee.

e. To hold securities or other trust property in the name of the Trustee as Trustee under this Trust Agreement or in the Trustee's own names or in the name of a nominee or unregistered in a condition where ownership will pass by delivery.

f. With respect to any business interest that may become a part of the Trust Estate, whether organized as a sole proprietorship, partnership, or corporation, and on such terms, for the time and in the manner that the Trustee may deem advisable, to retain and continue to operate any such business solely at the risk of the Trust Estate and without liability on the part of the Trustee for any losses resulting therefrom; to dissolve, liquidate, or sell at the time and on the terms that the Trustee may deem advisable; to incorporate the business and hold the stock as an asset of the Trust Estate; to use the general assets of the Trust Estate for the purposes of the business; to borrow money for business purposes and pledge or encumber the assets of the business or the other assets of the Trust Estate to secure the loan; to employ such officers, managers, employees, or agents as they may deem advisable in the management of such business, including electing directors, officers, or employees of any Trustee to take part in the management of the business as directors or officers; to receive compensation for the services of the Trustee, to be paid from the business or from the other assets or from both as the Trustee in their discretion may deem advisable; and the Trustee shall have such additional powers as may now or hereafter be conferred on them by law or as may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations that may be provided for herein. Notwithstanding the foregoing, the Settlor hereby acknowledges that his sons, STAN and TODD, currently provide services in the management of many of the Settlor's business entities, which management duties would be significantly increased in the event of the Settlor's death. Accordingly, the Trustees are hereby authorized and instructed to increase the compensation currently payable to STAN and TODD from these various business entities in accordance with the additional workload and responsibilities each will be assuming in the event of the Settlor's death.

g. It is the Settlor's desire that the Trustee continue to hold any corporate

securities received by the Trustee or subsequently added to the Trust Estate, subject to the need to sell or dispose of the same for tax or other reasons. The foregoing is not intended to prohibit the sale of any or all such securities should the Trustee deem that course advisable, but, as the Settlor believes that it will be beneficial to the Trust Estate to retain such securities, they authorize their retention at the risk of the Trust Estate.

h. To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any property of the Trust Estate without approval of any court.

i. On any division of the Trust Estate into separate shares or trusts, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests, in the manner deemed advisable in the discretion of the Trustee. After any division of the Trust Estate, the Trustee may make joint investments with funds from some or all of the several shares or trusts, but the Trustee shall keep separate accounts for each share or trust.

j. To abandon any trust asset or interest therein at the discretion of the Trustee.

k. To grant an option involving disposition of a trust asset and to take an option for the acquisition of any asset by the Trust Estate.

l. To lease any real or personal property of the Trust Estate for any purpose for terms within or extending beyond the duration of the Trust.

m. To manage, control, improve, and repair real and personal property belonging to the Trust Estate.

n. To partition, divide, subdivide, assign, develop, and improve any trust property; to make or obtain the vacation of plats and adjust boundaries or to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land or easement to public use with or without consideration.

o. To make ordinary and extraordinary repairs and alterations in buildings or other trust property, to demolish any improvements, to raze party walls or buildings, and to erect new party walls or buildings as the Trustee deem advisable.

p. To borrow money for any trust purpose from any person, firm, or corporation on the terms and conditions deemed proper by the Trustee and to obligate the Trust for repayment; to encumber the Trust or any of its property by mortgage, deed of trust, pledge, or otherwise, using procedures to consummate the transaction deemed advisable by the Trustee; to replace, renew, and extend any encumbrance and to pay loans or other obligations of the Trust deemed advisable by the Trustee.

q. To loan or advance their own funds for any trust purposes to the Trust; the loans or advances may be made by any one or more of the Trustees; the loans or advances shall bear interest at the then current rate from the date of advancement until repayment and shall, together with interest, constitute a first lien on the entire Trust Estate until repayment.

r. To enter into oil, gas, and other mineral leases on terms deemed advisable by the Trustee, and to enter into any pooling, unitization, repressurization, community, and other types of agreements relating to the exploration, development, operation, and conservation of mineral properties; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals, to contract for the installation and operation of absorption and

repressuring plants, and to install and maintain pipelines.

s. To procure and carry at the expense of the Trust insurance of the kinds, forms, and amounts deemed advisable by the Trustee to protect the Trust Estate and the Trustee against any risk or hazard.

t. To enforce any deed of trust, mortgage, or pledge held by the Trust and to purchase at any sale thereunder any property subject to any such hypothecation.

u. To extend the time of payment of any note or other obligation held in the Trust Estate, including accrued or future interest, in the discretion of the Trustee.

v. To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against the Trust Estate.

w. To commence or defend at the expense of the Trust any litigation affecting the Trust or any property of the Trust Estate deemed advisable by the Trustee.

x. To pay all taxes, assessments, compensation of the Trustee, and other expenses incurred in the collection, care, administration, and protection of the Trust Estate.

y. To employ any attorney, investment advisor, accountant, broker, tax specialist, or any other agent deemed necessary in the discretion of the Trustee; and to pay from the Trust Estate the reasonable compensation for all services performed by any of them.

The Trustee shall not be liable for any neglect, omission, or wrongdoing of any attorney, investment adviser, accountant, broker, tax specialist, or any other agent employed by the Trustee, provided that reasonable care was exercised in his selection.

The Trustee may consult with the attorney employed by them concerning any question which may arise with regard to the duties of the Trustee and, provided reasonable care has been exercised in selecting him, the opinion of the attorney shall be full and complete authorization and protection in regard to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of the attorney.

z. To terminate in the discretion of the Trustee any separate trust held for an income beneficiary if the fair market value of the separate trust at any time becomes less than \$50,000.00 and, regardless of the age of the income beneficiary, to distribute the principal and any accrued or undistributed net income to the income beneficiary, or to his guardian, conservator, or other fiduciary.

aa. On any partial or final distribution of the Trust Estate, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests in the manner deemed advisable in the discretion of the Trustee and to sell any property deemed necessary by the Trustee to make the distribution.

bb. To do all the acts, to take all the proceedings, and to exercise all the rights, powers, and privileges which an absolute owner of the same property would have, subject always to the discharge of their fiduciary obligations; the enumeration of certain powers in this Trust Estate shall not limit the general or implied powers of the Trustee; the Trustee shall have all additional powers that may now or hereafter be conferred on them by law or that may be necessary to enable the Trustee to administer the assets of the Trust Estate in

accordance with the provisions of this Trust Agreement, subject to any limitations specified in this Trust Agreement.

cc. To determine in their discretion what is income and what is principal of each trust established under this Trust Agreement, and what expenses, costs, taxes and charges of all kinds shall be charged against income and what shall be charged against principal, and the decision of the Trustee with respect to these matters shall be conclusive upon all parties.

dd. To make any and all elections permitted by any tax law applicable to any trust, the Settlor or the estate of the Settlor, and no adjustments shall be necessary among the beneficiaries of any trust as to the income or principal of such trust as a result of the exercise of such election.

ARTICLE 8. SPENDTHRIFT TRUSTS

Section 8.1. Each trust created by this Trust Agreement shall be a spendthrift trust. No beneficiary of any trust established under this Trust Agreement shall have any right or power to sell, transfer, assign, pledge, mortgage, alienate or hypothecate his or her interest in the principal or income of the Trust Estate in any manner whatsoever. To the fullest extent of the law, the interest of each and every beneficiary shall not be subject to the claims of any of his or her creditors or liable to attachment, execution, bankruptcy proceedings, or any other legal process. The Trustee shall pay, disburse and distribute principal and income of the Trust Estate only in the manner provided for in this Trust Agreement, and not upon any attempted transfer or assignment, whether oral or written, of any beneficiary nor by operation of law. Notwithstanding the above, these spendthrift provisions shall not apply to the Residual Trust to the extent that they would disqualify the Trust for the marital deduction.

ARTICLE 9. DEFINITIONS

Incapacity

Section 9.1. For all purposes under this Trust Agreement, the incapacity of any person shall be deemed to exist if:

- a. A court of competent jurisdiction determines that such person is legally incapacitated to act in his or her own behalf; or
- b. At least two (2) licensed physicians render duly executed, witnessed and acknowledged written certificates, each certifying that such physician has examined such

person and has concluded that, by reason of accident, physical or mental illness or other similar cause, such person had become incapacitated to act rationally and prudently in financial matters.

ARTICLE 10. GENERATION SKIPPING TRUST

Allocation of Exemption

Section 10.1. If a trust created by this Trust Agreement would be partially exempt from generation-skipping tax by reason of an allocation of generation-skipping tax exemption to it, before the allocation the Trustee, in the Trustee's discretion, may divide the trust into two separate trusts of equal or unequal value, to permit allocation of the exemption solely to one trust which will be entirely exempt from generation-skipping tax. In addition, if a trust created by this Trust Agreement is entirely exempt or nonexempt from generation-skipping tax and adding property to the trust or combining it with another trust would partially subject it to generation-skipping tax, the Trustee, in the Trustee's discretion, may hold that property as a separate trust in lieu of making the addition or combination. Except as otherwise provided in this Trust Agreement, the two trusts shall have the same terms and conditions, but the Trustee shall not make discretionary distributions from the income or principal of the exempt trust to beneficiaries who are non-skip persons so long as any readily marketable assets remain in the nonexempt trust.

Disproportionate Distribution

Section 10.2. Upon division or distribution of an exempt trust and a nonexempt trust created by this Trust Agreement, the Trustee in the Trustee's discretion, may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur.

Augmenting Distribution

Section 10.3. If the Trustee considers that any distribution from a trust created by this Trust Agreement other than pursuant to a power to withdraw or appoint is a taxable distribution subject to a generation-skipping tax payable by the distributee, the Trustee shall augment the distribution

by an amount which the Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

Payment of Tax

Section 10.4. If the Trustee considers that any termination of an interest in trust property created by this Trust Agreement is a taxable termination subject to a generation-skipping tax, the Trustee shall pay the tax from the portion of the trust property to which the tax relates, without adjustment of the relative interests of the beneficiaries.

ARTICLE 11. CONSTRUCTION OF TRUSTS

Trusts to Include Shares or Partial Shares

Section 11.1 The terms "trust", "trusts", or the phrase "any trust provided for in this Trust Agreement" shall, as used in this Trust Agreement, unless otherwise specifically provided herein, refer to each of the separate trusts provided for, respectively, and the trust estate of each trust. There need be no physical segregation or division of the various trusts except as segregation or division may be required by termination of any of the trusts, but the Trustee shall keep separate accounts for the different individual interests.

Law For Construction of Trusts

Section 11.2. The trusts provided for in this Trust Agreement have been accepted by the Trustee in the State of Nevada, will be administered by the Trustee in Nevada, and their validity, construction, and all rights under them shall be governed by the laws of the State of Nevada.

Disclaimers

Section 11.3. Any beneficiary of any trust created by this Trust Agreement, or such beneficiary's personal representative without the necessity of any prior court authorization or approval of any kind, may disclaim all or any part or portion of his or her benefits or powers, including benefits or powers which qualify for the marital deduction, by written instrument delivered to the Trustee or in any other manner recognized by law.

Contest

Section 11.4. If any beneficiary of any trust created by this Trust Agreement contests or attacks in any manner, directly or indirectly, this Trust Agreement or any of its provisions, any share or interest of any trust created by this Trust Agreement given to the contesting beneficiary is revoked and shall be disposed of in the same manner provided herein as if the contesting beneficiary had predeceased the Settlor without issue.

Singular and Plural Interchangeable

Section 11.5. As used in this Trust Agreement, any words used in the singular shall be construed as if used in the plural, and vice versa, if necessary, to properly carry out the Settlor's intent.

Perpetuities Saving Clause

Section 11.6. Unless sooner terminated in accordance with other provisions of this Trust Agreement, each trust created under this Trust Agreement shall terminate twenty-one (21) years after the death of the last survivor of the group composed of the Settlor and the issue of the Settlor living at the death of the Settlor. All principal and undistributed income of any trust so terminated shall be distributed to the then income beneficiaries of that trust as are then entitled or authorized in the Trustee's discretion to receive income payments.

Payments to Minors or Incompetents

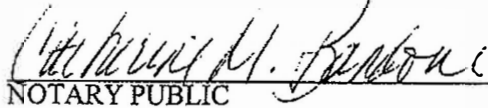
Section 11.7. The Trustee, in the Trustee's absolute discretion, may make payments to a minor or other beneficiary under disability by making payments to the guardian of his person with whom he resides or the Trustee, in the Trustee's absolute discretion, may make payments directly to a minor if, in the Trustee's judgment, he or she is of sufficient age and maturity to spend the money properly.

EXECUTED this 25 day of May, 2004, at Reno, Nevada.


SAMUEL S. JAKSICK, JR., Settlor and Trustee

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on May 5, 2004, by SAMUEL S. JAKSICK, JR., as Settlor and Trustee of the SAMUEL S. JAKSICK, JR. FAMILY TRUST.



NOTARY PUBLIC



SCHEDULE A

**PROPERTY INITIALLY CONVEYED TO
SAMUEL S. JAKSICK, JR., TRUSTEE OF THE
SAMUEL S. JAKSICK, JR. FAMILY TRUST**

I. Real Property

A. All that real property located at:

1011 Lakeshore Blvd.
Incline Village, NV 89451
APN: 130-230-34

II. Personal Property

A. All of the bank accounts, savings accounts, investment accounts, brokerage accounts, time certificates, and all other cash, securities and/or investments of Settlor.

B. All right, title and ownership interest of the Settlor in any corporation, general or limited partnership, limited liability company, or any other entity, whether closely held or publicly traded, including, but not limited to, the following:

1. Caughlin Professional Park Association;
2. Caughlin Crafted Homes;
3. Caughlin Ranch Improvement Association;
4. Juniper Trails Development Co.;
5. Pioneer Group, Inc.;
6. Pioneer Associates Limited Liability Company;
7. Montreux Unit 3 Association;
8. Saddlehorn Development Co.;
9. Lakecrest Realty, Inc.;
10. Lake-Ridge;
11. White Pine Lumber Co.;
12. Toiyabe Investment Co.;
13. Basecamp LLC, a Nevada limited-liability company;
14. Montreux South 51 L.L.C.;
15. Montreux Development Group, Inc.;
16. Montreux Golf & Country Club, Inc.;
17. Duck Lake Ranch, L.L.C.;
18. SJ Ranch, LLC;
19. Bright-Holland Co.;
20. Lakeridge Golf Course Ltd.;
21. Montreux Golf Club Ltd.;
22. Great Western Helicopters, Inc.;
23. Jaksick Family Partnership, Limited Partnership;
24. Montreux West 40 L.L.C.;
25. SJ Ranch Property Owners Association; and
26. Southeast SJ Ranch Property Owners Association;
27. Montreux-South 80, a Nevada joint venture;
28. Jackrabbit Properties, LLC;
29. BBB Investments, LLC, a Nevada limited-liability company;
30. Home Camp Land and Livestock Co., Inc.

C. All tangible personal property of the Settlor.

SCHEDULE B

HYPOTHETICAL CREDIT SHELTER TRUST REALLOCATION TABLE

DESCRIPTION	STAN	TODD	WENDY	LEXEY	LUKE	TOTAL
Beneficiary's fractional interest	1/3	1/3	2/9	1/18	1/18	1/1
Tentative dollar value allocation (assuming a total \$18 million Trust Estate Valuation after payment of taxes and expenses)	\$3,333,333	\$3,333,333	\$2,222,222	\$555,555	\$555,555	\$10,000,000
Reduction amount of WENDY's Share *	-	-	<\$500,000>	-	-	<500,000>
Reallocation Percentage of WENDY's Share	.4286	.4286	-	.0714	.0714	1.0
Reallocation Amount of WENDY's Share	\$214,300	\$214,300	-	\$35,700	\$35,700	\$500,000
Adjusted Final Dollar Allocation of Trust Estate After Application of Section 3.2	\$3,547,633	\$3,547,633	\$1,722,222	\$591,255	\$591,255	\$10,000,000

* Shown assuming JANENE survives the Settlor and an initial sum of \$10,000,000.00 is allocated to the Credit Shelter Trust pursuant to Section 5.2(5), an additional \$500,000.00 of the amount allocated to WENDY would be reduced and reallocated upon JANENE's death when the Marital Trust is added to the Credit Shelter Trust pursuant to Section 4.4.

LAST WILL AND TESTAMENT

of

SAMUEL S. JAKSICK, JR.

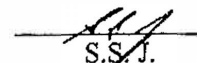
old

I, SAMUEL S. JAKSICK, JR., a resident of the Incline Village, County of Washoe, State of Nevada, acting freely and not under duress or mental reservation, do hereby make, publish, and declare this my Last Will And Testament, and I do hereby expressly revoke all Wills and Codicils heretofore made by me.

FIRST: Family. I declare that I am married to JANENE BARGER ("JANENE"), however, Settlor entered into a pre-nuptial agreement with JANENE, dated July 22, 1993, and as a consequence thereof, has intentionally limited the amounts he desires to provide for JANENE in this Will, or in the SAMUEL S. JAKSICK, JR. FAMILY TRUST described in Articles Fourth and Fifth hereof. I have three children, the issue of a prior marriage, namely, STANLEY S. JAKSICK ("STAN"), WENDY ANN JAKSICK SMRT ("WENDY") and TODD BRUCE JAKSICK ("TODD"). I have no deceased or other children or any issue of any deceased child.

SECOND: Community Property. I hereby declare that any property that I own which is my community property is held in joint tenancy for convenience only. It is my intention to hereby dispose of all of my property, of whatever character and wheresoever situated.

THIRD: Tangible Personal Property. My tangible personal property, including jewelry, clothing, furniture, automobiles and other equipment and articles of personal or household use or ornament, but not including moneys, securities or the like, I give in accordance with a written statement which I may prepare pursuant to N.R.S. 133.045. Any property so disposed of, and its recipient, shall be completely relieved of any burden or responsibility for the payment of any Federal or State taxes due by reason of my death. Any of my tangible personal


S.S.J.

JSK001909

property which I do not dispose of pursuant to such written statement shall become a part of my residuary estate.

FOURTH: Residuary Estate. All the rest and residue of my property, of whatever kind and wheresoever located, that I own at my death, including property over which I may then have any power of appointment, all of which is referred to in this instrument as my residuary estate, shall be distributed as follows:

1. All estate taxes, federal and state, imposed by reason of my death with respect to any property required to be included in my gross estate for estate tax purposes, and any interest thereon, shall be paid out of my residuary estate.

2. My funeral expenses, my debts and expenses of administration of my estate shall be paid out of my residuary estate.

3. The balance of my residuary estate, minus the payments called for by Sections 1 and 2 of this Article FOURTH, I give to the Trustee of that certain Trust Agreement dated May 25, 2004, known as "**THE SECOND AMENDMENT TO AND COMPLETE RESTATEMENT OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST**". I intend that said balance shall be held, administered and distributed under the terms and provisions thereof, including any amendments made thereto prior to my death and any amendments thereafter made in accordance with the terms of that Trust by the exercise of any power of amendment, appointment, withdrawal or otherwise. I do not intend to create separate or testamentary trusts by virtue of the foregoing distribution.

FIFTH: Savings Clause. If, for any reason, the foregoing gift lapses or fails, then I give my entire estate to the Trustee of **THE SECOND AMENDMENT TO AND COMPLETE RESTATEMENT OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST**, dated May 25,

2004, to be held, administered, and distributed pursuant to the terms and provisions, as presently existing, contained in said Trust as if those terms and provisions had been set forth in full in this Last Will and Testament.

SIXTH: Executor. I nominate and appoint STAN, TODD, and RAY BENETTI ("RAY") as Executors of this, my Last Will And Testament. In the event any one of STAN, TODD or RAY are, for any reason, unwilling or unable to serve as a Co-Executor, then I nominate and appoint the remaining two of them and BOB MARSHALL ("BOB") to serve as Co-Executors. Should any two of STAN, TODD, RAY or BOB become unable or unwilling to serve, for whatever reason as Co-Executors, then I nominate and appoint the remaining two of them and KEN HUFF ("KEN") to serve as Co-Executors. Should any three of STAN, TODD, BOB, RAY and KEN become unable or unwilling to serve as Co-Executors, for whatever reason, then I nominate and appoint the remaining above-named individuals and NEVADA STATE BANK to serve as Co-Executors hereunder.

I direct that no bond or other security be required of any of those named as Executor, notwithstanding any provision of law to the contrary.

SEVENTH: Executor Powers. In extension and not in limitation of powers enumerated in Sections 163.265 to 163.410, inclusive, of the Nevada Revised Statutes, which are incorporated herein by reference, or other provisions of this Will, my Executor shall have the following powers with respect to the settlement of my Estate, to be exercised from time to time in the discretion of my Executor, without order or license of the court:

1. To retain indefinitely any investments and to invest and reinvest in stocks, shares and obligations of corporations, of unincorporated associations or trusts and/or investment companies, or in a common trust fund without giving notice to any beneficiary, or in any other kind of personal or real property, notwithstanding the fact that any or all of the investments made or retained are of a character or size which, but for this express authority, would not be considered proper for an executor.

2. To sell, exchange, lease and make contracts concerning real or personal property for such considerations and upon such terms as to credit or otherwise, as my Executor may determine, which leases and contracts may extend beyond the terms of the settlement of my estate; to give options therefor; to execute deeds, transfers, leases and other instruments of any kind; any sales made pursuant to the powers granted by this section may be private or public, with or without notice.

3. To hold bonds, shares or other securities in bearer form or in the name of my Executor, or in the name of a nominee without indication of any fiduciary capacity; to deposit cash in a checking or savings account in a bank without indication of any fiduciary capacity.

4. To give general or special proxies or powers of attorney for voting or acting in respect to shares or securities, which may be discretionary and with power of substitution; to deposit shares or securities with, or transfer them to, protective committees or similar bodies; to join in any reorganization and to pay assessments or subscriptions called for in connection with shares or securities held by my Executor.

5. To improve or develop real estate; to construct, alter or repair buildings or structures on real estate; to settle boundary lines and easements and other rights with respect to real estate; to partition and to join with co-owners and others in dealing with real estate in any way.

6. To employ investment counsel, custodians of property, brokers, agents, accountants and attorneys.

7. To receive additions to any trusts under this Will by gift or will or otherwise, and to hold and administer the same under the provisions hereof.

8. To pay as income the whole of the interest, dividends, rents or similar receipts from property, whether wasting or not, and although bought or taken at a value above par, but if it is deemed advisable when property is bought or taken at a value above par, a portion of the income may be retained to offset such loss to the principal or to apportion between them stock dividends, extra dividends, rights to take stock or securities, and proceeds from the sale of real estate, although such real estate may have been wholly or partly unproductive; to charge to income or principal, or to apportion between them, investment counsels' compensation, attorneys' fees, insurance premiums, repairs or improvements, taxes (income, estate, inheritance or any other taxes), depreciation charges, and executors' compensation; and generally, to determine all questions as between income and principal, and to credit or charge to income or principal, or to apportion between them, any receipt or gain, and any charge, disbursement or loss, as is deemed advisable in the circumstances of each case as it arises, notwithstanding any statute or rule of law for distinguishing income from principal or any determination of the courts.

9. When paying legacies or dividing or distributing my estate, to make such payments, division or distribution wholly or partly in kind by allotting and transferring specific securities or other personal or real property or undivided interests therein, as a part or the whole of any one or more payments or shares at current values.

10. To keep any or all of the estate property at any place or places in Nevada, or elsewhere within the United States or abroad, or with a depository or custodian at such place or places.

11. To make any and all elections permitted by any tax law applicable to me or to my estate, and no adjustments shall be necessary among the beneficiaries as to the income or principal of the estate or any trust under this Will as a result of such election.


EIGHTH: Disclaimer. Any beneficiary of this Will may disclaim all or any part or portion of his or her benefits, including benefits which qualify for the marital deduction, by written instrument delivered to my Executor or in any other manner recognized by law.

NINTH Gender. As used in this Will, the masculine or feminine and the singular or plural number shall be deemed to include the other whenever the context so requires.

TENTH: Omitted Heirs. I have intentionally omitted all my heirs who are not specifically mentioned herein, and hereby generally and specifically disinherit each, any, and all persons whomsoever claiming to be or who be lawfully determined to be my heirs at law, except as otherwise mentioned in this Will.

ELEVENTH: Will Contest. If any devisee or legatee under this, my Last Will And Testament, or any person who, if I died intestate, would be entitled to any part of my estate, should either directly or indirectly, attempt to oppose or set aside or void the probate of this Will or my estate, or to set aside or void any bequest, legacy or provision thereof made or attempted to be made by me, then, in such event, I give and bequeath the sum of One Dollar (\$1.00), and no more, in lieu of any other share or interest under this, my Last Will And Testament, or in my estate, to such person or persons.

IN WITNESS WHEREOF, I have hereto set my hand at Reno, Nevada, this 25th day of May, 2004.


SAMUEL S. JAKICK, JR.

On the date last above written, **SAMUEL S. JAKSICK, JR.** declared to us, the undersigned, that the foregoing instrument, including this page signed by us as witnesses, was his Last Will And Testament and requested us to act as witnesses thereto. **SAMUEL S. JAKSICK, JR.** thereupon signed this Will in our presence, all of us being present at the same time. We now, at his request, in his presence, and in the presence of each other, subscribe our names as witnesses.

Walter B. Dwyer residing at 4326 Thomas Street
Reno, Nevada

James A. Jankal residing at 8270 Lakeside
Reno, NV 89511

Old

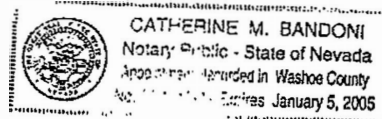
STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Then and there personally appeared the within named Nancy B. Bilheu and James S. Jaksick, known to me to be the persons above identified, who, being duly sworn, depose and say: That they witnessed the execution of the Last Will and Testament of the within named testator, **SAMUEL S. JAKSICK, JR.** that the said testator subscribed said Last Will and Testament and declared the same to be his Last Will and Testament in their presence; that they thereafter subscribed the same as witnesses in the presence of the said testator and in the presence of each other and at the request of said testator; that said testator at the time of execution of said Will appeared to them to be of full age and of sound mind and memory, and that they make this affidavit at the request of said testator.

Nancy B. Bilheu
James S. Jaksick
old

SUBSCRIBED and SWORN to before me
on this 25 day of May, 2004.
by NANCY B. BILHEU and
JAMES S. JAKSICK.

Catherine M. Bandoni
Notary Public



THE 49 MOUNTAIN TRUST AGREEMENT

Samuel S. Jaksick, Jr., a married man ("SAM"), and **Todd B. Jaksick**, a married man ("TODD"), collectively as the "Settlor" hereby declares that:

ARTICLE 1. DECLARATIONS

Conveyance to Trustee

Section 1.1. They have conveyed and transferred, without consideration, to the Trustee named in this Trust Agreement all the property described in an inventory hereto attached, marked Schedule "A". All property now or hereafter conveyed or transferred to the Trustee to be held pursuant to this Trust Agreement is the sole and separate property of the Settlor, and shall retain its character as the Settlor's separate property as it was before the conveyance or transfer.

Name of Trust

Section 1.2. This Trust shall be known as the 49 MOUNTAIN TRUST.

Identity of Trust Estate

Section 1.3. All property described in Schedule "A", and any other property that may hereafter be transferred or conveyed to and received by the Trustee to be held pursuant to the terms of this instrument, is herein called the "Trust Estate" and shall be held, administered, and distributed by the Trustee as provided in this Trust Agreement.

Identity of Settlor

Section 1.4. As used in this Trust Agreement:

- a. The term "Settlor" or "Settlors" shall mean collectively SAMUEL S. JAKSICK, JR. and TODD B. JAKSICK.

Family

Section 1.5. SAM is married to JANENE BARGER ("JANENE"), however, Settlor entered into a pre-nuptial agreement with JANENE, dated July 22, 1993, and as a consequence thereof, has intentionally omitted to provide for JANENE in this Trust. SAM has three (3) living children.

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namely STANLEY S. JAKSICK ("STAN"), WENDY ANN JAKSICK SMRT ("WENDY"), TODD BRUCE JAKSICK ("TODD"), and several grandchildren as more particularly set forth herein. TODD is married to DAWN JAKSICK ("DAWN"), however, Settlor entered into a pre-nuptial agreement with DAWN, dated June 5 1997, and as a consequence thereof, has intentionally omitted to provide for DAWN in this Trust. TODD has two (2) living children, namely BENJAMIN JAKSICK ("BEN"), and AMANDA JAKSICK ("AMANDA").

Designation of Trustee

Section 1.6. SAM and TODD are hereby designated as the Trustees of all trusts created by or to be created pursuant to this Trust Agreement. Should either SAM or TODD become unwilling or unable, for whatever reason, to serve as Trustee, the other of them shall continue to serve as sole Trustee. Should both SAM and TODD become unwilling or unable, for whatever reason, to serve as Trustee, then STAN and ROBERT W. MARSHALL ("BOB") shall thereafter serve as Co-Trustees. Should either STAN or BOB become unwilling or unable, for whatever reason, to serve as a Co-Trustee, the remaining one and RAY BENETTI ("RAY"), shall thereafter serve as successor Co-Trustees. Should all of STAN, BOB and RAY become unwilling, or unable, for whatever reason, to serve as Trustees, then Nevada State Bank shall serve as successor Trustee.

The term "Trustee" or "Trustees" as used in this Trust Agreement shall refer to Settlor so long as he shall serve as Trustee and thereafter to such person(s) or entity(ies) as may serve as Trustee. Nothing in this Section 1.6 shall be construed to limit to one the number of persons(s) or entity(ies) who may concurrently serve as Trustees. No bond or other security shall be required of any of those named as Trustee, notwithstanding any provisions of law to the contrary.

Additions to Trust

Section 1.7. The Settlor may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer or Will. Such property, when received and accepted by the Trustee, shall become part of the Trust Estate and be subject to all the terms and provisions of this Trust Agreement. Notwithstanding any other provision of this Trust Agreement,

no Trustee shall accept any property as a contribution or addition to this Trust, including but not limited to the initial conveyance and transfer by the Settlor, which may jeopardize the character of the interest of any beneficiary of this Trust as his or her sole and separate property.

Revocation or Modification of Trust

Section 1.8. During their joint lifetimes, SAM and TODD collectively reserve the right at any time, and from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by filing notice of such revocation, modification, change or withdrawal with the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment, which shall occur upon the death of ~~either~~ SAM ^{but not} ~~or~~ TODD.

ARTICLE 2. DISTRIBUTIONS DURING SETTLOR'S LIFE

Distributions of Net Income to Settlor

Section 2.1. During the life of the Settlor, the Trustee shall quarter-annually or at more frequent intervals, unless otherwise directed in writing by the Settlor, pay to or apply for the benefit of the Settlor all of the net income from the Trust Estate.

Distributions of Principal

Section 2.2 During the life of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor as much of the principal of the Trust Estate as the Trustee, in the Trustee's sole discretion, shall deem necessary for the proper health, education, support, care, maintenance and general welfare of the Settlor.

Withdrawals of Principal

Section 2.3. The Settlor may, at any time and from time to time, withdraw such amounts,

up to the whole thereof, from the principal of the Trust Estate as the Settlor may, at the time of any such withdrawal, designate in a written notice delivered to the Trustee.

Distributions on Death of Settlor

Section 2.4. On the death of either of the Settlers, if this Trust Agreement has not been revoked or otherwise modified, the entire remaining principal of the Trust Estate shall be administered and disposed of in accordance with the provisions of Article 3 of this Trust Agreement.

ARTICLE 3. USE AND DISTRIBUTION OF TRUST ESTATE

Use of Trust Estate

Section 3.1. Settlers hereby acknowledge and agree that the primary purpose for the formation of this 49 Mountain Trust is, upon the death of either SAM or TODD, to receive a distribution of all of their respective shares of common stock in Home Camp Land and Livestock Co., Inc., a Nevada corporation, which corporation owns three large ranching properties, known respectively as 49 Mountain, the Eagleville Ranch and the SJ Ranch. Accordingly, the Settlers hereby acknowledge and agree that their mutual intent is for the Trustees to continue to hold the stock in HCL, or these three ranch properties until such time as BEN reaches the age of fifty (50) years old. Accordingly, the Settlers intention is for each of the Settlers, as well as TODD's lineal descendants, to have the right to utilize these three ranch properties at all times commencing with the execution of this Agreement and ending upon the final distribution of the Trust Estate to TODD's then living issue upon BEN obtaining fifty (50) years of age. Notwithstanding the Trustees' powers set forth in Article 5 hereof, the Settlers hereby instruct the Trustee that the ranch properties be utilized to pay their respective taxes and expenses of operation, but that the Trustees are not to sell all or any part of these ranch properties unless it is absolutely necessary and essential to do so. The Settlers hereby agree to set forth certain additional restrictions and caveats for utilization of these ranch properties, from time to time which may either be attached as an amendment to this Trust Agreement, or added as a Schedule B hereto to be executed by each of the Settlers and the then acting Trustees. In the event TODD does not leave any then-living issue at the time BEN attains the age of fifty (50) years, the Trustee shall distribute the Trust Estate, outright and free of trust, to

SAM's then living issue by right of representation, but if there are none, then to:

1. NEVADA STATE CHILDREN'S HOME, Carson City, Nevada, or a similar successor organization of the State of Nevada, for the following purposes:
 - a. One-half (½) to be used, in the discretion of the NEVADA STATE CHILDREN'S HOME, to assist in college or university education for children who have residents of the Home when they graduate from high school.
 - b. One-half (½) to be used for athletic and recreational equipment for the growth, development, and entertainment of children residing in the Home.

ARTICLE 4. TERMINATION OF TRUST

Section 4.1. This Trust shall terminate at such time as the entire Trust Estate has been distributed in accordance with the provisions of this Trust Agreement.

ARTICLE 5. POWERS OF TRUSTEE

Section 5.1. In order to carry out the purposes of any trust or trusts established by this Trust Agreement, the Trustee, in addition to all other powers and discretions granted by this Trust Agreement or by law, shall have the following powers and discretions, subject to any limitations specified elsewhere in this Trust Agreement:

- a. To hold and exercise all of the powers and discretions enumerated in N.R.S. 163.265 to N.R.S. 163.410, inclusive, as such powers and discretions exist at the time of the execution of this Trust Agreement; and such powers and discretions are incorporated herein by reference with the same effect as if set forth verbatim. In the event any of such powers or discretions are inconsistent with any of the powers or discretions hereinafter set forth, the most liberal shall control to give the greatest latitude and discretion to the Trustee.
- b. To continue to hold all or any part of the Trust Estate in the form in which the same may be at the time of the receipt thereof by the Trustee, including, but without limitation, any shares of stock, uninvested cash, balances in banks, and property of any kind, whether marketable or otherwise, without any obligation to convert the same, and without regard to the limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason of such retention.
- c. To invest and reinvest in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate

obligations of every kind, common and preferred stocks, cash or other funds though unproductive, and any other securities, obligations or property, including gaming investments, without regard to limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason thereof.

d. To exercise, respecting securities held in the Trust Estate, all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and to pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers, regardless of any limitations elsewhere in this Trust Agreement relative to investments by the Trustee.

e. To hold securities or other trust property in the name of the Trustee as Trustee under this Trust Agreement or in the Trustee's own names or in the name of a nominee or unregistered in a condition where ownership will pass by delivery.

f. With respect to any business interest that may become a part of the Trust Estate, whether organized as a sole proprietorship, partnership, or corporation, and on such terms, for the time and in the manner that the Trustee may deem advisable, to retain and continue to operate any such business solely at the risk of the Trust Estate and without liability on the part of the Trustee for any losses resulting therefrom; to dissolve, liquidate, or sell at the time and on the terms that the Trustee may deem advisable; to incorporate the business and hold the stock as an asset of the Trust Estate; to use the general assets of the Trust Estate for the purposes of the business; to borrow money for business purposes and pledge or encumber the assets of the business or the other assets of the Trust Estate to secure the loan; to employ such officers, managers, employees, or agents as they may deem advisable in the management of such business, including electing directors, officers, or employees of any Trustee to take part in the management of the business as directors or officers; to receive compensation for the services of the Trustee, to be paid from the business or from the other assets or from both as the Trustee in their discretion may deem advisable; and the Trustee shall have such additional powers as may now or hereafter be conferred on them by law or as may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations that may be provided for herein.

g. It is the Settlor's desire that the Trustee continue to hold any corporate securities received by the Trustee or subsequently added to the Trust Estate, subject to the need to sell or dispose of the same for tax or other reasons. The foregoing is not intended to prohibit the sale of any or all such securities should the Trustee deem that course advisable, but, as the Settlor believes that it will be beneficial to the Trust Estate to retain such securities, they authorize their retention at the risk of the Trust Estate.

h. To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any property of the Trust Estate without approval of any court.

i. On any division of the Trust Estate into separate shares or trusts, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests, in the manner deemed advisable in the discretion of the Trustee. After any division of the Trust Estate, the Trustee

may make joint investments with funds from some or all of the several shares or trusts, but the Trustee shall keep separate accounts for each share or trust.

- j. To abandon any trust asset or interest therein at the discretion of the Trustee.
- k. To grant an option involving disposition of a trust asset and to take an option for the acquisition of any asset by the Trust Estate.
- l. To lease any real or personal property of the Trust Estate for any purpose for terms within or extending beyond the duration of the Trust.
- m. To manage, control, improve, and repair real and personal property belonging to the Trust Estate.
- n. To partition, divide, subdivide, assign, develop, and improve any trust property; to make or obtain the vacation of plats and adjust boundaries or to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land or easement to public use with or without consideration.
- o. To make ordinary and extraordinary repairs and alterations in buildings or other trust property, to demolish any improvements, to raze party walls or buildings, and to erect new party walls or buildings as the Trustee deem advisable.
- p. To borrow money for any trust purpose from any person, firm, or corporation on the terms and conditions deemed proper by the Trustee and to obligate the Trust for repayment; to encumber the Trust or any of its property by mortgage, deed of trust, pledge, or otherwise, using procedures to consummate the transaction deemed advisable by the Trustee; to replace, renew, and extend any encumbrance and to pay loans or other obligations of the Trust deemed advisable by the Trustee.
- q. To loan or advance their own funds for any trust purposes to the Trust; the loans or advances may be made by any one or more of the Trustees; the loans or advances shall bear interest at the then current rate from the date of advancement until repayment and shall, together with interest, constitute a first lien on the entire Trust Estate until repayment.
- r. To enter into oil, gas, and other mineral leases on terms deemed advisable by the Trustee, and to enter into any pooling, unitization, repressurization, community, and other types of agreements relating to the exploration, development, operation, and conservation of mineral properties; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals, to contract for the installation and operation of absorption and repressuring plants, and to install and maintain pipelines.
- s. To procure and carry at the expense of the Trust insurance of the kinds, forms, and amounts deemed advisable by the Trustee to protect the Trust Estate and the Trustee against any risk or hazard.
- t. To enforce any deed of trust, mortgage, or pledge held by the Trust and to purchase at any sale thereunder any property subject to any such hypothecation.
- u. To extend the time of payment of any note or other obligation held in the Trust Estate, including accrued or future interest, in the discretion of the Trustee.

v. To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against the Trust Estate.

w. To commence or defend at the expense of the Trust any litigation affecting the Trust or any property of the Trust Estate deemed advisable by the Trustee.

x. To pay all taxes, assessments, compensation of the Trustee, and other expenses incurred in the collection, care, administration, and protection of the Trust Estate.

y. To employ any attorney, investment advisor, accountant, broker, tax specialist, or any other agent deemed necessary in the discretion of the Trustee; and to pay from the Trust Estate the reasonable compensation for all services performed by any of them.

The Trustee shall not be liable for any neglect, omission, or wrongdoing of any attorney, investment adviser, accountant, broker, tax specialist, or any other agent employed by the Trustee, provided that reasonable care was exercised in his selection.

The Trustee may consult with the attorney employed by them concerning any question which may arise with regard to the duties of the Trustee and, provided reasonable care has been exercised in selecting him, the opinion of the attorney shall be full and complete authorization and protection in regard to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of the attorney.

z. To terminate in the discretion of the Trustee any separate trust held for an income beneficiary if the fair market value of the separate trust at any time becomes less than \$50,000.00 and, regardless of the age of the income beneficiary, to distribute the principal and any accrued or undistributed net income to the income beneficiary, or to his guardian, conservator, or other fiduciary.

aa. On any partial or final distribution of the Trust Estate, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests in the manner deemed advisable in the discretion of the Trustee and to sell any property deemed necessary by the Trustee to make the distribution.

bb. To do all the acts, to take all the proceedings, and to exercise all the rights, powers, and privileges which an absolute owner of the same property would have, subject always to the discharge of their fiduciary obligations; the enumeration of certain powers in this Trust Estate shall not limit the general or implied powers of the Trustee; the Trustee shall have all additional powers that may now or hereafter be conferred on them by law or that may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations specified in this Trust Agreement.

cc. To determine in their discretion what is income and what is principal of each trust established under this Trust Agreement, and what expenses, costs, taxes and charges of all kinds shall be charged against income and what shall be charged against principal, and the decision of the Trustee with respect to these matters shall be conclusive upon all parties.

dd. To make any and all elections permitted by any tax law applicable to any trust, the Settlor or the estate of the Settlor, and no adjustments shall be necessary among the beneficiaries of any trust as to the income or principal of such trust as a result of the exercise of such election.

ARTICLE 6. SPENDTHRIFT TRUSTS

Section 6.1. Each trust created by this Trust Agreement shall be a spendthrift trust. No beneficiary of any trust established under this Trust Agreement shall have any right or power to sell, transfer, assign, pledge, mortgage, alienate or hypothecate his or her interest in the principal or income of the Trust Estate in any manner whatsoever. To the fullest extent of the law, the interest of each and every beneficiary shall not be subject to the claims of any of his or her creditors or liable to attachment, execution, bankruptcy proceedings, or any other legal process. The Trustee shall pay, disburse and distribute principal and income of the Trust Estate only in the manner provided for in this Trust Agreement, and not upon any attempted transfer or assignment, whether oral or written, of any beneficiary nor by operation of law.

ARTICLE 7. DEFINITIONS

Incapacity

Section 7.1. For all purposes under this Trust Agreement, the incapacity of any person shall be deemed to exist if:

- a. A court of competent jurisdiction determines that such person is legally incapacitated to act in his or her own behalf; or
- b. At least two (2) licensed physicians render duly executed, witnessed and acknowledged written certificates, each certifying that such physician has examined such person and has concluded that, by reason of accident, physical or mental illness or other similar cause, such person had become incapacitated to act rationally and prudently in financial matters.

ARTICLE 8. GENERATION SKIPPING TRUST

Allocation of Exemption

Section 8.1. If a trust created by this Trust Agreement would be partially exempt from generation-skipping tax by reason of an allocation of generation-skipping tax exemption to it, before the allocation the Trustee, in the Trustee's discretion, may divide the trust into two separate trusts

of equal or unequal value, to permit allocation of the exemption solely to one trust which will be entirely exempt from generation-skipping tax. In addition, if a trust created by this Trust Agreement is entirely exempt or nonexempt from generation-skipping tax and adding property to the trust or combining it with another trust would partially subject it to generation-skipping tax, the Trustee, in the Trustee's discretion, may hold that property as a separate trust in lieu of making the addition or combination. Except as otherwise provided in this Trust Agreement, the two trusts shall have the same terms and conditions, but the Trustee shall not make discretionary distributions from the income or principal of the exempt trust to beneficiaries who are non-skip persons so long as any readily marketable assets remain in the nonexempt trust.

Disproportionate Distribution

Section 8.2. Upon division or distribution of an exempt trust and a nonexempt trust created by this Trust Agreement, the Trustee in the Trustee's discretion, may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur.

Augmenting Distribution

Section 8.3. If the Trustee considers that any distribution from a trust created by this Trust Agreement other than pursuant to a power to withdraw or appoint is a taxable distribution subject to a generation-skipping tax payable by the distributee, the Trustee shall augment the distribution by an amount which the Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

Payment of Tax

Section 8.4. If the Trustee considers that any termination of an interest in trust property created by this Trust Agreement is a taxable termination subject to a generation-skipping tax, the Trustee shall pay the tax from the portion of the trust property to which the tax relates, without adjustment of the relative interests of the beneficiaries.

ARTICLE 9. CONSTRUCTION OF TRUSTS

Trusts to Include Shares or Partial Shares

Section 9.1 The terms "trust", "trusts", or the phrase "any trust provided for in this Trust Agreement" shall, as used in this Trust Agreement, unless otherwise specifically provided herein, refer to each of the separate trusts provided for, respectively, and the trust estate of each trust. There need be no physical segregation or division of the various trusts except as segregation or division may be required by termination of any of the trusts, but the Trustee shall keep separate accounts for the different individual interests.

Law For Construction of Trusts

Section 9.2. The trusts provided for in this Trust Agreement have been accepted by the Trustee in the State of Nevada, will be administered by the Trustee in Nevada, and their validity, construction, and all rights under them shall be governed by the laws of the State of Nevada.

Disclaimers

Section 9.3. Any beneficiary of any trust created by this Trust Agreement, or such beneficiary's personal representative without the necessity of any prior court authorization or approval of any kind, may disclaim all or any part or portion of his or her benefits or powers, including benefits or powers which qualify for the marital deduction, by written instrument delivered to the Trustee or in any other manner recognized by law.

Contest

Section 9.4. If any beneficiary of any trust created by this Trust Agreement contests or attacks in any manner, directly or indirectly, this Trust Agreement or any of its provisions, any share or interest of any trust created by this Trust Agreement given to the contesting beneficiary is revoked and shall be disposed of in the same manner provided herein as if the contesting beneficiary had predeceased the Settlor without issue.

Singular and Plural Interchangeable

Section 9.5. As used in this Trust Agreement, any words used in the singular shall be construed as if used in the plural, and vice versa, if necessary, to properly carry out the Settlor's

intent.

Perpetuities Saving Clause

Section 9.6. Unless sooner terminated in accordance with other provisions of this Trust Agreement, each trust created under this Trust Agreement shall terminate twenty-one(21) years after the death of the last survivor of the group composed of the Settlor and the issue of the Settlor living at the death of the Settlor. All principal and undistributed income of any trust so terminated shall be distributed to the then income beneficiaries of that trust as are then entitled or authorized in the Trustee's discretion to receive income payments.

Payments to Minors or Incompetents

Section 9.7. The Trustee, in the Trustee's absolute discretion, may make payments to a minor or other beneficiary under disability by making payments to the guardian of his person with whom he resides or the Trustee, in the Trustee's absolute discretion, may make payments directly to a minor if, in the Trustee's judgment, he or she is of sufficient age and maturity to spend the money properly.

EXECUTED this 27th day of February, 2004, at Reno, Nevada.



SAMUEL S. JAKSICK, JR., Settlor and Trustee



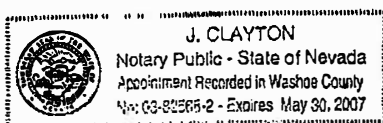
TODD B. JAKSICK, Settlor and Trustee

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on February 27th, 2004, by SAMUEL S. JAKSICK, JR., as Settlor and Trustee of the 49 MOUNTAIN TRUST.



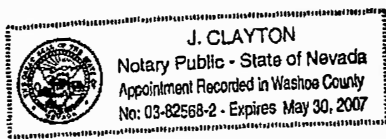
NOTARY PUBLIC



STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on February 27th, 2004, by TODD B. JAKSICK, as Settlor and Trustee of the 49 MOUNTAIN TRUST.


NOTARY PUBLIC



SCHEDULE A

**PROPERTY INITIALLY CONVEYED TO
SAMUEL S. JAKSICK, JR., and TODD B. JAKSICK, TRUSTEES OF THE
49 MOUNTAIN TRUST**

Cash in the amount of \$20.00.

SCHEDULE B

OTHER 49 MOUNTAIN RANCH RESTRICTIONS

**THIRD AMENDMENT TO AND COMPLETE RESTATEMENT OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST AGREEMENT**

Samuel S. Jaksick, Jr., a married man, as Settlor, hereby amends the Samuel S. Jaksick, Jr. Family Trust Agreement, dated December 4, 2003, as further amended by the First Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement, dated February 27, 2004, as further amended by the Second Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement, dated May 25, 2004, each pursuant to the provisions of Section 1.8 thereof, to read in full as follows:

ARTICLE 1. DECLARATIONS

Conveyance to Trustee

Section 1.1. He has conveyed and transferred, without consideration, to the Trustee named in this Trust Agreement all the property described in an inventory hereto attached, marked Schedule "A". All property now or hereafter conveyed or transferred to the Trustee to be held pursuant to this Trust Agreement is the sole and separate property of the Settlor, and shall retain its character as the Settlor's separate property as it was before the conveyance or transfer.

Name of Trust

Section 1.2. This Trust shall be known as the SAMUEL S. JAKSICK, JR. FAMILY TRUST.

Identity of Trust Estate

Section 1.3. All property described in Schedule "A", and any other property that may hereafter be transferred or conveyed to and received by the Trustee to be held pursuant to the terms of this instrument, is herein called the "Trust Estate" and shall be held, administered, and distributed by the Trustee as provided in this Trust Agreement.

Identity of Settlor

Section 1.4. As used in this Trust Agreement:

- a. The term "Settlor" shall mean SAMUEL S. JAKSICK, JR.,

JSK001930

WJ 004749

Family

Section 1.5. Settlor is married to JANENE BARGER ("JANENE"), however, Settlor entered into a pre-nuptial agreement with JANENE, dated July 22, 1993, and as a consequence thereof, has intentionally limited the amounts he desires to provide for JANENE pursuant to this Agreement. Settlor has three (3) living children, namely STANLEY S. JAKSICK ("STAN"), WENDY ANN JAKSICK SMRT ("WENDY"), TODD BRUCE JAKSICK ("TODD"), and several grandchildren as more particularly set forth herein.

Designation of Trustee

Section 1.6. Settlor is hereby designated as the sole Trustee of all trusts created by or to be created pursuant to this Trust Agreement. Should Settlor become unwilling or unable, for whatever reason, to serve as Trustee, STAN, TODD, and RAY BENETTI ("RAY") shall thereafter serve as Co-Trustees. Should any one of STAN, TODD, or RAY become unwilling or unable, for whatever reason, to serve as a Co-Trustee, the remaining two of them and KEN HUFF ("KEN") shall thereafter serve as successor Co-Trustees. Should any two of STAN, TODD, RAY or KEN, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining two of them and a Named Successor Trustee, shall thereafter serve as successor Co-Trustees. Should any three of STAN, TODD, RAY or KEN, become unwilling or unable, for whatever reason, to serve as Co-Trustees, then the remaining one of them and one or more Named Successor Trustee(s) shall thereafter serve as successor Co-Trustees. In the event all of the above-named individuals are unwilling or unable, for whatever reason, to serve as Co-Trustees (including any individuals designated to serve as a Named Successor Trustee) or if a Named Successor Trustee has not been effectively designated pursuant to the provisions of Section 1.8 hereof, then Nevada State Bank shall thereafter serve as a Trustee.

The term "Trustee" or "Trustees" as used in this Trust Agreement shall refer to Settlor so long as he shall serve as Trustee and thereafter to such person(s) or entity(ies) as may serve as Trustee. Nothing in this Section 1.6 shall be construed to limit to one the number of persons(s) or entity(ies)

who may concurrently serve as Trustees. No bond or other security shall be required of any of those named as Trustee, notwithstanding any provisions of law to the contrary.

Removal of Trustees

Section 1.7. Any person or entity who shall serve as a trustee, successor trustee or a Named Successor Trustee of one or more of the separate trusts established pursuant to this Agreement, with the exception of the Settlor, TODD and/or STAN, may be removed as a trustee of any or all such trusts, at any time and from time to time, with or without cause, in the sole and absolute discretion of TODD, by delivery of ten (10) days' written notice of such removal to all of the then acting trustees of each of the separate trusts for which such person or entity is being removed as a trustee. If TODD is unable or unwilling, for any reason, to act with respect to the removal of any trustee, successor trustee, or named successor trustee, then STAN shall have the right, power, and authority to remove any such trustee pursuant to this Section 1.7.

Appointment of Successor Trustees

Section 1.8. In the event of any vacancy in the office of trustee, whether by resignation, removal or otherwise, TODD, in his sole and absolute discretion, shall have the right, power and authority to designate and appoint, without requiring the consent or approval of any court or any other person, any qualified and competent individual or entity to serve as a successor trustee of any one or more of the separate trusts established pursuant to this Agreement (herein referred to as a "Named Successor Trustee"). If TODD is unable or unwilling, for any reason, to act with respect to the designation and appointment of any Named Successor Trustee, then STAN shall have the right, power and authority to designate and appoint a Named Successor Trustee pursuant to this Section 1.8.

Designation of Institutional Trustee

Section 1.9. Notwithstanding the designation in Section 1.6 of this Agreement for Nevada State Bank to ultimately serve as Trustee of the trusts established pursuant to this Agreement.

TODD, in his sole and absolute discretion, shall have the right, power and authority at any time, and from time to time, with or without cause, to change the designation of Nevada State Bank, or any subsequently named institution, to serve as the "Institutional Trustee" if a Named Successor Trustee has not been effectively designated. If TODD is unwilling or unable, for any reason, to act with respect to any change in the designation of Nevada State Bank, or any subsequently named institution, to serve as the Institutional Trustee if a Named Successor Trustee has not been effectively designated, then STAN shall have the right, power and authority to change the designation of the Institutional Trustee pursuant to this Section 1.9.

Additions to Trust

Section 1.10. The Settlor may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer, beneficiary designation, or Will. Such property, when received and accepted by the Trustee, shall become part of the Trust Estate and be subject to all the terms and provisions of this Trust Agreement. Notwithstanding any other provision of this Trust Agreement, no Trustee shall accept any property as a contribution or addition to this Trust, including but not limited to the initial conveyance and transfer by the Settlor, which may jeopardize the character of the interest of the Settlor or any other beneficiary of this Trust as his or her sole and separate property.

Revocation or Modification of Trust

Section 1.11. The Settlor reserves the right at any time, and from time to time, without any consent of any person and without notice to any person other than the Trustee, to revoke or modify any trust created by this Trust Agreement in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the Trust Estate by delivering notice of such revocation, modification, change or withdrawal to the Trustee, provided, however, that this section shall not apply to any trust which has become irrevocable and not subject to amendment.

designated a significantly large amount to be allocated to the Credit Shelter Trust with the knowledge and understanding that in the event said amount cannot be prudently achieved, the Trustee would disclaim such portion thereof as is appropriate, in favor of the Marital Trust, to maintain appropriate liquidity for the payment of taxes and the overall administration of the Trust Estate as a whole. By creating the SSJ Interim Holding Trust, it is the Settlor's intention that the Trustee thereof exercise any such disclaimer as a single unit and, thereafter, that any undisclaimed portion be thereafter allocated in accordance with the provisions of Section 5.1

To further facilitate any such disclaimer at the level of each of the individual beneficiaries named in Section 5.1, TODD is hereby designated to act as a "general attorney-in-fact" authorized to execute valid and effective disclaimers on behalf of each of the individual beneficiaries named in Section 5.1, consistent with the disclaimer determination and recommendation of the Trustee of the SSJ Interim Holding Trust. In the event TODD is unable or unwilling to act as general attorney-in-fact for the disclaimer purposes described above, STAN is hereby designated to act as general attorney-in-fact for such purposes.

ARTICLE 7. TERMINATION OF TRUST

Section 7.1. This Trust shall terminate at such time as the entire Trust Estate has been distributed in accordance with the provisions of this Trust Agreement.

ARTICLE 8. POWERS OF TRUSTEE

Section 8.1. In order to carry out the purposes of any trust or trusts established by this Trust Agreement, the Trustee, in addition to all other powers and discretions granted by this Trust Agreement or by law, shall have the following powers and discretions, subject to any limitations specified elsewhere in this Trust Agreement:

a. To hold and exercise all of the powers and discretions enumerated in N.R.S. 163.265 to N.R.S. 163.410, inclusive, as such powers and discretions exist at the time of the execution of this Trust Agreement; and such powers and discretions are incorporated herein by reference with the same effect as if set forth verbatim. In the event any of such powers or discretions are inconsistent with any of the powers or discretions hereinafter set forth, the most liberal shall control to give the greatest latitude and discretion to the Trustee.

b. To continue to hold all or any part of the Trust Estate in the form in which the same may be at the time of the receipt thereof by the Trustee, including, but without

limitation, any shares of stock, uninvested cash, balances in banks, and property of any kind, whether marketable or otherwise, without any obligation to convert the same, and without regard to the limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason of such retention.

c. To invest and reinvest in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, common and preferred stocks, cash or other funds though unproductive, and any other securities, obligations or property, including gaming investments, without regard to limitations imposed by law on the investment of trust funds, and without liability for any loss of principal or income by reason thereof.

d. To exercise, respecting securities held in the Trust Estate, all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and to pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers, regardless of any limitations elsewhere in this Trust Agreement relative to investments by the Trustee.

e. To hold securities or other trust property in the name of the Trustee as Trustee under this Trust Agreement or in the Trustee's own names or in the name of a nominee or unregistered in a condition where ownership will pass by delivery.

f. With respect to any business interest that may become a part of the Trust Estate, whether organized as a sole proprietorship, partnership, or corporation, and on such terms, for the time and in the manner that the Trustee may deem advisable, to retain and continue to operate any such business solely at the risk of the Trust Estate and without liability on the part of the Trustee for any losses resulting therefrom: to dissolve, liquidate, or sell at the time and on the terms that the Trustee may deem advisable; to incorporate the business and hold the stock as an asset of the Trust Estate; to use the general assets of the Trust Estate for the purposes of the business; to borrow money for business purposes and pledge or encumber the assets of the business or the other assets of the Trust Estate to secure the loan; to employ such officers, managers, employees, or agents as they may deem advisable in the management of such business, including electing directors, officers, or employees of any Trustee to take part in the management of the business as directors or officers; to receive compensation for the services of the Trustee, to be paid from the business or from the other assets or from both as the Trustee in their discretion may deem advisable; and the Trustee shall have such additional powers as may now or hereafter be conferred on them by law or as may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations that may be provided for herein. Settlor hereby acknowledges that he has historically utilized excess cash flow from certain of his business interests as loans or advances to fund various cash flow deficits or other cash requirements of his other businesses. Settlor hereby authorizes the continuation of this historical practice, as deemed advisable by the Trustee in the Trustee's sole discretion, to facilitate the effective cash flow management of each of the Settlor's business interests. In addition to the foregoing, the Settlor hereby acknowledges that his sons, STAN and TODD, currently provide services in the management of many of the Settlor's business entities, which management duties would be significantly increased in the event of the Settlor's death as further described in Article 7, Section 7.1(y) hereof.

Accordingly, the Trustees are hereby authorized and instructed to increase the compensation currently payable to STAN and TODD from these various business entities in accordance with the additional workload and responsibilities each will be assuming in the event of the Settlor's death.

g. It is the Settlor's desire that the Trustee continue to hold any corporate securities received by the Trustee or subsequently added to the Trust Estate, subject to the need to sell or dispose of the same for tax or other reasons. The foregoing is not intended to prohibit the sale of any or all such securities should the Trustee deem that course advisable, but, as the Settlor believes that it will be beneficial to the Trust Estate to retain such securities, they authorize their retention at the risk of the Trust Estate.

h. To sell for cash or on deferred payments at public or private sale, to exchange, and to convey any property of the Trust Estate without approval of any court.

i. On any division of the Trust Estate into separate shares or trusts, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests, in the manner deemed advisable in the discretion of the Trustee. After any division of the Trust Estate, the Trustee may make joint investments with funds from some or all of the several shares or trusts, but the Trustee shall keep separate accounts for each share or trust.

j. To abandon any trust asset or interest therein at the discretion of the Trustee.

k. To grant an option involving disposition of a trust asset and to take an option for the acquisition of any asset by the Trust Estate.

l. To lease any real or personal property of the Trust Estate for any purpose for terms within or extending beyond the duration of the Trust.

m. To manage, control, improve, and repair real and personal property belonging to the Trust Estate.

n. To partition, divide, subdivide, assign, develop, and improve any trust property; to make or obtain the vacation of plats and adjust boundaries or to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land or easement to public use with or without consideration.

o. To make ordinary and extraordinary repairs and alterations in buildings or other trust property, to demolish any improvements, to raze party walls or buildings, and to erect new party walls or buildings as the Trustee deem advisable.

p. To borrow money for any trust purpose from any person, firm, or corporation on the terms and conditions deemed proper by the Trustee and to obligate the Trust for repayment; to encumber the Trust or any of its property by mortgage, deed of trust, pledge, or otherwise, using procedures to consummate the transaction deemed advisable by the Trustee; to replace, renew, and extend any encumbrance and to pay loans or other obligations of the Trust deemed advisable by the Trustee.

q. To loan or advance their own funds for any trust purposes to the Trust: the loans or advances may be made by any one or more of the Trustees; the loans or advances shall bear interest at the then current rate from the date of advancement until repayment and shall, together with interest, constitute a first lien on the entire Trust Estate until repayment.

r. To enter into oil, gas, and other mineral leases on terms deemed advisable by the Trustee, and to enter into any pooling, unitization, repressurization, community, and other types of agreements relating to the exploration, development, operation, and conservation of mineral properties; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals, to contract for the installation and operation of absorption and repressuring plants, and to install and maintain pipelines.

s. To procure and carry at the expense of the Trust insurance of the kinds, forms, and amounts deemed advisable by the Trustee to protect the Trust Estate and the Trustee against any risk or hazard.

t. To enforce any deed of trust, mortgage, or pledge held by the Trust and to purchase at any sale thereunder any property subject to any such hypothecation.

u. To extend the time of payment of any note or other obligation held in the Trust Estate, including accrued or future interest, in the discretion of the Trustee.

v. To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against the Trust Estate.

w. To commence or defend at the expense of the Trust any litigation affecting the Trust or any property of the Trust Estate deemed advisable by the Trustee.

x. To pay all taxes, assessments, compensation of the Trustee, and other expenses incurred in the collection, care, administration, and protection of the Trust Estate.

y. To employ any attorney, investment advisor, accountant, broker, tax specialist, property or ranch manager, development managers and consultants; sales representatives and personnel, business and water rights consultants, analysts and engineers, or any other agent or representative deemed necessary in the sole discretion of the Trustee; and to pay from the Trust Estate the reasonable compensation for all services performed by any of them. Settlor acknowledges that STAN and TODD currently provide and/or involved in helping to administer and develop many of the Settlor's business activities and opportunities, but their roles and responsibilities in these capacities will likely be greatly increased in the event of the Settlor's Death. Accordingly, the Trustee is hereby authorized and instructed, from time to time, to review and adjust (especially to increase their respective levels of compensation based upon the increase in their then current responsibilities.

The Trustee shall not be liable for any neglect, omission, or wrongdoing of any attorney, investment adviser, accountant, broker, tax specialist, or any other agent employed by the Trustee, provided that reasonable care was exercised in his selection.

The Trustee may consult with the attorney employed by them concerning any question which may arise with regard to the duties of the Trustee and, provided reasonable care has been exercised in selecting him, the opinion of the attorney shall be full and complete authorization and protection in regard to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of the attorney.

z. To terminate in the discretion of the Trustee any separate trust held for an income beneficiary if the fair market value of the separate trust at any time becomes less than \$50,000.00 and, regardless of the age of the income beneficiary, to distribute the principal and any accrued or undistributed net income to the income beneficiary, or to his guardian, conservator, or other fiduciary.

aa. On any partial or final distribution of the Trust Estate, to apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, even if shares be composed differently, or in undivided interests in the manner deemed advisable in the discretion of the Trustee and to sell any property deemed necessary by the Trustee to make the distribution.

bb. To do all the acts, to take all the proceedings, and to exercise all the rights, powers, and privileges which an absolute owner of the same property would have, subject always to the discharge of their fiduciary obligations; the enumeration of certain powers in this Trust Estate shall not limit the general or implied powers of the Trustee; the Trustee shall have all additional powers that may now or hereafter be conferred on them by law or that may be necessary to enable the Trustee to administer the assets of the Trust Estate in accordance with the provisions of this Trust Agreement, subject to any limitations specified in this Trust Agreement.

cc. To determine in their discretion what is income and what is principal of each trust established under this Trust Agreement, and what expenses, costs, taxes and charges of all kinds shall be charged against income and what shall be charged against principal, and the decision of the Trustee with respect to these matters shall be conclusive upon all parties.

dd. To make any and all elections permitted by any tax law applicable to any trust, the Settlor or the estate of the Settlor, and no adjustments shall be necessary among the beneficiaries of any trust as to the income or principal of such trust as a result of the exercise of such election.

ARTICLE 9. SPENDTHRIFT TRUSTS

Section 9.1. Each trust created by this Trust Agreement shall be a spendthrift trust. No beneficiary of any trust established under this Trust Agreement shall have any right or power to sell, transfer, assign, pledge, mortgage, alienate or hypothecate his or her interest in the principal or income of the Trust Estate in any manner whatsoever. To the fullest extent of the law, the interest of each and every beneficiary shall not be subject to the claims of any of his or her creditors or liable to attachment, execution, bankruptcy proceedings, or any other legal process. The Trustee shall pay, disburse and distribute principal and income of the Trust Estate only in the manner provided for in this Trust Agreement, and not upon any attempted transfer or assignment, whether oral or written, of any beneficiary nor by operation of law.

ARTICLE 10. DEFINITIONS

Incapacity

Section 10.1. For all purposes under this Trust Agreement, the incapacity of any person shall be deemed to exist if:

a. A court of competent jurisdiction determines that such person is legally incapacitated to act in his or her own behalf; or

b. At least two (2) licensed physicians render duly executed, witnessed and acknowledged written certificates, each certifying that such physician has examined such person and has concluded that, by reason of accident, physical or mental illness or other similar cause, such person had become incapacitated to act rationally and prudently in financial matters.

ARTICLE 11. GENERATION SKIPPING TRUST

Allocation of Exemption

Section 11.1. If a trust created by this Trust Agreement would be partially exempt from generation-skipping tax by reason of an allocation of generation-skipping tax exemption to it, before the allocation the Trustee, in the Trustee's discretion, may divide the trust into two separate trusts of equal or unequal value, to permit allocation of the exemption solely to one trust which will be entirely exempt from generation-skipping tax. In addition, if a trust created by this Trust Agreement is entirely exempt or nonexempt from generation-skipping tax and adding property to the trust or combining it with another trust would partially subject it to generation-skipping tax, the Trustee, in the Trustee's discretion, may hold that property as a separate trust in lieu of making the addition or combination. Except as otherwise provided in this Trust Agreement, the two trusts shall have the same terms and conditions, but the Trustee shall not make discretionary distributions from the income or principal of the exempt trust to beneficiaries who are non-skip persons so long as any readily marketable assets remain in the nonexempt trust.

Disproportionate Distribution

Section 11.2. Upon division or distribution of an exempt trust and a nonexempt trust created by this Trust Agreement, the Trustee in the Trustee's discretion, may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur.

Augmenting Distribution

Section 11.3. If the Trustee considers that any distribution from a trust created by this Trust Agreement other than pursuant to a power to withdraw or appoint is a taxable distribution subject to a generation-skipping tax payable by the distributee, the Trustee shall augment the distribution by an amount which the Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

Payment of Tax

Section 11.4. If the Trustee considers that any termination of an interest in trust property created by this Trust Agreement is a taxable termination subject to a generation-skipping tax, the Trustee shall pay the tax from the portion of the trust property to which the tax relates, without adjustment of the relative interests of the beneficiaries.

ARTICLE 12. CONSTRUCTION OF TRUSTS

Trusts to Include Shares or Partial Shares

Section 12.1 The terms "trust", "trusts", or the phrase "any trust provided for in this Trust Agreement" shall, as used in this Trust Agreement, unless otherwise specifically provided herein, refer to each of the separate trusts provided for, respectively, and the trust estate of each trust. There need be no physical segregation or division of the various trusts except as segregation or division may be required by termination of any of the trusts, but the Trustee shall keep separate accounts for the different individual interests.

Law For Construction of Trusts

Section 12.2. The trusts provided for in this Trust Agreement have been accepted by the Trustee in the State of Nevada, will be administered by the Trustee in Nevada, and their validity, construction, and all rights under them shall be governed by the laws of the State of Nevada.

Disclaimers

Section 12.3. Any beneficiary of any trust created by this Trust Agreement, or such beneficiary's personal representative without the necessity of any prior court authorization or approval of any kind, may disclaim all or any part or portion of his or her benefits or powers.

including benefits or powers which qualify for the marital deduction, by written instrument delivered to the Trustee or in any other manner recognized by law.

Contest

Section 12.4. If any beneficiary of any trust created by this Trust Agreement contests or attacks in any manner, directly or indirectly, this Trust Agreement or any of its provisions, any share or interest of any trust created by this Trust Agreement given to the contesting beneficiary is revoked and shall be disposed of in the same manner provided herein as if the contesting beneficiary had predeceased the Settlor without issue.

Singular and Plural Interchangeable

Section 12.5. As used in this Trust Agreement, any words used in the singular shall be construed as if used in the plural, and vice versa, if necessary, to properly carry out the Settlor's intent.

Perpetuities Saving Clause

Section 12.6. Unless sooner terminated in accordance with other provisions of this Trust Agreement, each trust created under this Trust Agreement shall terminate twenty-one (21) years after the death of the last survivor of the group composed of the Settlor and the issue of the Settlor living at the death of the Settlor. All principal and undistributed income of any trust so terminated shall be distributed to the then income beneficiaries of that trust as are then entitled or authorized in the Trustee's discretion to receive income payments.

Payments to Minors or Incompetents

Section 12.7. The Trustee, in the Trustee's absolute discretion, may make payments to a minor or other beneficiary under disability by making payments to the guardian of his person with whom he resides or the Trustee, in the Trustee's absolute discretion, may make payments directly

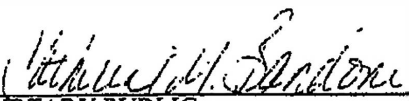
to a minor if, in the Trustee's judgment, he or she is of sufficient age and maturity to spend the money properly.

EXECUTED this 30th day of November, 2005, at Reno, Nevada.


SAMUEL S. JAKSICK, JR., Settlor and Trustee

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on 30 day of November, 2005, by SAMUEL S. JAKSICK, JR., as Settlor and Trustee of the SAMUEL S. JAKSICK, JR. FAMILY TRUST.


NOTARY PUBLIC



SCHEDULE A

PROPERTY INITIALLY CONVEYED TO SAMUEL S. JAKSICK, JR., TRUSTEE OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST

I. Real Property

A. All that real property located at:

1011 Lakeshore Blvd.
Incline Village, NV 89451
APN: 130-230-34

II. Personal Property

A. All of the bank accounts, savings accounts, investment accounts, brokerage accounts, time certificates, and all other cash, securities and/or investments of Settlor.

B. All right, title and ownership interest of the Settlor in any corporation, general or limited partnership, limited liability company, or any other entity, whether closely held or publicly traded, including, but not limited to, the following:

1. Juniper Trails Development Co.;
2. Pioneer Group, Inc.;
3. Pioneer Associates Limited Liability Company;
4. Montreux Unit 3 Association;
5. Saddlehorn Development Co.;
6. Lakecrest Realty, Inc.;
7. Lake-Ridge;
8. White Pine Lumber Co.;
9. Toiyabe Investment Co.;
10. Basecamp LLC, a Nevada limited-liability company;
11. Montreux South 51 L.L.C.;
12. Montreux Development Group, Inc.;
13. Montreux Golf & Country Club, Inc.;
14. Duck Lake Ranch, L.L.C.;
15. SJ Ranch, LLC;
16. Bright-Holland Co.;
17. Lakeridge Golf Course Ltd.;
18. Montreux Golf Club Ltd.;
19. Great Western Helicopters, Inc.;
20. Jaksick Family Partnership, Limited Partnership;
21. Montreux West 40 L.L.C.;
22. SJ Ranch Property Owners Association;
23. Southeast SJ Ranch Property Owners Association;
24. Montreux-South 80, a Nevada joint venture;
25. Jackrabbit Properties, LLC;
26. BBB Investments, LLC, a Nevada limited-liability company;
27. Home Camp Land and Livestock Co., Inc.;
28. Pronghorn, LLC;
29. Buckhorn Land and Livestock, LLC;
30. Washoe Winds, LLC, a Nevada limited-liability company;
31. Locnavar, LLC;
32. SST Westridge, LLC;
33. California Bighorn, LLC;

- 34. St. George Homes, LLC;
 - 35. Gerlach Green Energy, LLC; and
 - 36. Liquid Waste Management, LLC, a Nevada limited-liability company.
- C. All tangible personal property of the Settlor.

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6 IN THE SECOND JUDICIAL DISTRICT COURT

7 STATE OF NEVADA, COUNTY OF WASHOE

8 THE HONORABLE DAVID HARDY, DISTRICT JUDGE

9 In the Matter of the
10 Administration of the

Dept. No. 15

11 SSJ'S ISSUE TRUST.

Case No. PR17-00445

12 _____/

CONSOLIDATED

13 In the Matter of the
14 Administration of the

Case No. PR17-00446

15 SAMUEL K. JAKSICK, JR.
16 FAMILY TRUST.

16 _____/

17 Pages 1 to 252, inclusive.

18
19
20 TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 3
21 Tuesday, February 19, 2019

22 JOB NO: 529076

23 REPORTED BY:

Christina Amundson, CCR #641
24 Litigation Services 323.3411

1 A P P E A R A N C E S:

2 For Todd Jaksick MAUPIN, COX & LeGoy
3 Mike Kimmel and BY: DONALD A. LATTIN, ESQ.
4 Kevin Riley as 4785 Caughlin Parkway
5 Trustees/CoTrustees Reno, NV 89519

6 For Todd Jaksick ROBISON SHARP SULLIVAN BRUST
7 Mike Kimmel and BY: KENT ROBISON, ESQ.
8 Kevin Riley 71 Washington Street
9 Reno, NV 89503
10 tshanks@rsshblaw.com

11 FOR Stan Jaksick: McDONALD CARANO
12 ADAM HOSMER-HENNER, ESQ.
13 100 W. Liberty Street
14 10th Floor
15 Reno, NV 89102
16 ahosmerhenner@mcdonaldcarano.com

17 FOR WENDY JAKSICK: SPENCER & JOHNSON, PLLC
18 R. KEVIN SPENCER, ESQ.
19 ZACHARY JOHNSON, ESQ.
20 500 N. Akard Street, Ste. 2150
21 Dallas, TX 75201
22 kevin@dallasprobate.com

23 FOR WENDY JAKSICK: FOX ROTHSCHILD, LLP
24 MARK J. CONNOT, ESQ.
 1980 Festival Plaza Drive
 Suite 700
 Las Vegas, NV 89135
 mconnot@foxrothschild.com

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I N D E X

EXAMINATION OF:

DIRECT

Todd Jaksick

4

E X H I B I T S

NO.

ADMITTED

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1 RENO, NEVADA -- TUE. 2/19/19 -- 8:58 A.M.

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3 THE COURT: Good morning. The entire jury
4 is present. We will begin our trial day. To
5 Petitioner, you may call your first witness.

6 MR. SPENCER: Thank you, your Honor. We
7 call Todd Jaksick.

8 (Witness sworn.)

9 THE COURT: Please remember to use the
10 microphone, sir. Counsel, you may begin.

11 DIRECT EXAMINATION

12 BY MR. SPENCER:

13 Q. Good morning.

14 A. Good morning. Oh, sorry.

15 Q. Get used to it. However is comfortable.

16 A. Okay.

17 Q. Will you state your name for the record,
18 please.

19 A. Todd Jaksick.

20 Q. All right. And, Mr. Jaksick, you
21 understand we're here in relation to the estate and
22 trust of your father?

23 A. Yes, sir, I do.

24 Q. What was his name.

1 A. Samuel S. Jaksick, Jr.

2 Q. All right. And first thing I want to ask
3 you about is about Sam himself. What do you
4 remember about your father as far as the kind of man
5 that he was?

6 A. Most amazing guy that you could ever
7 imagine, best friend, extremely smart, participated
8 in all of our events when we were younger and took
9 us on trips and just the best guy you could ever
10 imagine.

11 Q. When you say "we," you're talking about the
12 family?

13 A. Yeah. He was very good to our entire
14 family.

15 Q. He was a nice guy, wasn't he?

16 A. Absolutely yes, sir.

17 Q. And he was a guy that was a family man?

18 A. Yes.

19 Q. And he loved his children, being you, Stan,
20 and Wendy?

21 A. I believe that to be the case.

22 Q. And loved his grandchildren?

23 A. Yes, sir, absolutely.

24 Q. Okay. And he was the only child of your

1 grandparents. What were their names?

2 A. Thelma Jaksick and dad's dad's name was
3 Sam, Sr.

4 Q. Okay. And he was their only child.

5 Is that right?

6 A. Yes. There was a half-brother that we
7 never met or anything like that, but for the most
8 part Dad was the only son but there was a
9 half-brother?

10 Q. And your grandparents left their estate to
11 Sam?

12 A. I believe so.

13 Q. All right. Apologize. There's a whole
14 bunch of Jaksicks here so I'm going to -- if your
15 Honor doesn't mind, I'll use first names so we can
16 keep them all separated. Is that all right?

17 A. Yes, sir.

18 Q. All right. And so your grandparents were
19 successful as far as their business and accumulation
20 of property. Is that right?

21 A. Early on yes, they were. As you mentioned,
22 my grandfather had a lumber mill and they were
23 successful. But at the time that my dad's dad
24 passed away, they had some major financial issues

1 and my dad explained it to me that they were
2 basically out of money and had a very serious tax
3 situation when my dad's dad passed away.

4 Q. When was that?

5 A. It was before I was born, so I don't know
6 the exact year but I'd say approximately like 1968
7 range.

8 Q. Okay. And then they continued on and they
9 passed property down to your father, Sam, right?

10 A. I believe that where the Lakeridge Golf
11 Course is today was a piece of property that Dad and
12 his family owned at that time. And I think that Dad
13 was able to salvage that property in about the time
14 his dad had passed away for him and his mom.

15 Q. When did your grandmother die?

16 A. In 1991.

17 Q. Okay. And did she leave property to her
18 grandchildren, you, Stan, and Wendy as well?

19 A. She did. She was able to do so. Her and
20 Dad were partners in business from the time that
21 Dad's dad passed away. And between my grandmother
22 and my dad they were successful in several different
23 businesses and my grandmother was able to gain
24 significant wealth due to that.

1 Q. Okay. And your father had a bunch of
2 friends, didn't he? Would you say he had friends?

3 A. Yes. Sure.

4 Q. People liked your father?

5 A. Absolutely, yes.

6 Q. And there was a closeness in the family as
7 far as everyone living in the area and seeing each
8 other fairly often, right, over the years?

9 A. Yes, over the years. Yes.

10 Q. And the children, I would say, you, Stan,
11 and Wendy, grew up here in the Reno area.

12 Is that right?

13 A. Yes.

14 Q. Okay. And the -- do you recall having --
15 well, let me ask you. You mentioned your father
16 loved his kids. I want to ask you, Do you believe
17 that your father, Sam, loved his kids
18 unconditionally?

19 A. For the most part, yes. I think that's a
20 true statement. As I alluded to previously, that he
21 was disappointed in Wendy quite frequently.

22 Q. Okay. My question was about did he love
23 his children unconditionally.

24 And that's true, isn't it?

1 A. I believe that to be the case.

2 Q. And your dad had issues with you when you
3 were younger also, didn't he?

4 A. I'm sure all of us, yes.

5 Q. And you had some problems back in high
6 school that caused you to have to go and move in
7 with Wendy for a time, right?

8 A. Yes, I did move in with Wendy for a while,
9 yes.

10 Q. You had issues with your father back in
11 high school that did not do -- destroy or harm your
12 relationship with your father, did it?

13 A. No, it did not.

14 Q. Notwithstanding that you were over living
15 with Wendy and her husband some part of your high
16 school years, your father got over the problems,
17 forgave you, or whatever related to those issues and
18 your relationship continued.

19 A. Yes, sir.

20 Q. And, for the most part, Sam was not a guy
21 who would hold a grudge, was he?

22 A. I would say for the most part, no.

23 Q. And, in other words, children disappoint
24 their parents here and there on occasion but that

1 love for the kids continued and that was your dad's
2 philosophy, wasn't it?

3 A. I would say for the most part that seems,
4 yes, accurate.

5 Q. And your dad -- I think you mentioned but I
6 want to make sure -- your dad was good business man,
7 right?

8 A. Yes, sir.

9 Q. And you mentioned through his partnership
10 with your grandmother they built up some wealth,
11 right?

12 A. Yes.

13 Q. And your father then even after her death
14 had built up even some more wealth, right?

15 A. Could you say that one more time?

16 Q. Your father continued to build wealth even
17 after Thelma, your grandmother, died, right?

18 A. Yes.

19 Q. And then primarily your dad's business was
20 -- was it real estate or how would you describe it?

21 A. I would say for the most part real estate
22 and the casino operation back in Colorado --

23 Q. Water rights.

24 A. -- to some degree.

1 Q. Uh-huh. And in relation to the work you
2 did with your father, he was sort of your mentor,
3 wasn't he?

4 A. Yes, sir.

5 Q. You graduated from high school where?

6 A. Reno High School.

7 Q. Around what year was it?

8 A. 1989.

9 Q. And after that did you attend college?

10 A. I did.

11 Q. And did you graduate?

12 A. Yes, sir, I did.

13 Q. From where did you graduate?

14 A. University of Nevada-Reno.

15 Q. And what was your major?

16 A. Ended up being general studies.

17 Q. Around when did you graduate?

18 A. '97.

19 Q. And following your graduation in '97, you,
20 essentially, went to work for your father, didn't
21 you?

22 A. Yes. I had worked for Dad prior to
23 graduating and then after I graduated, yes.

24 Q. And I guess I wasn't clear. Full time

1 after you got out of school, you may have been
2 working for him while in school but full time after
3 '97 when you graduated you went to work for your
4 father.

5 A. Yes.

6 Q. And you never really worked for anyone
7 else, did you?

8 A. Oh, I had a few odds-and-ends jobs here. I
9 went to Colorado for the casino operation. I worked
10 there in the summer months and I had, obviously,
11 different managers when I was there.

12 And I worked for the Hughs Brothers
13 Plumbing and Heating for a short period of time and
14 -- but for the most part, yes, I worked for Dad.

15 Q. As far as the income you've earned over
16 your lifetime or property you've accumulated, the
17 source of that or where that was generated was
18 working with your dad, correct?

19 A. Yes, I would say working with Dad and I as
20 a team, yes.

21 Q. As opposed to going out and working for
22 some company for a time and coming back, what you
23 have, what you've earned, what you've accumulated
24 was as a result of you working with your dad and him

1 showing you how to run the business.

2 A. A large part of it that would be the case.

3 Q. All right. And Stan operated some parts of
4 your dad's properties as well. Is that right?

5 A. Yes. He operated the Lakeridge Golf
6 Courses, what I recall back then around the time I
7 graduated from high school.

8 Q. Okay. And then were there other golf
9 courses that were acquired?

10 A. Not sure about the year, around 2000 or so,
11 but the Callahan Ranch was purchased and Dad and
12 Stan and I designed the Montreux Golf Club and then
13 built that.

14 Q. That became a major golf club, didn't it,
15 as far as being recognized on the PGA Tour?

16 A. Absolutely, yes.

17 Q. Okay. And then there was another golf
18 course acquired later or at some point, Toiyabe.

19 A. That was Stan purchased the Toiyabe Golf
20 Club on his own. The family didn't have anything to
21 do with that. That was after dad passed away.

22 Q. Well, the interest in Toiyabe was owned
23 prior to your dad's passing, right?

24 A. Dad had a -- Dad had a company called

1 "Toiyabe." It was an LLC, I believe. I'm not
2 positive about that. But Toiyabe was a company that
3 Dad had that owned the ownership interest in
4 Montreux Development but it didn't have anything to
5 do with the golf club.

6 And then after dad passed away, Stan
7 decided to purchase a golf club down in Washoe
8 Valley known as the Lightning W Ranch and when he
9 renamed it, he renamed it to "Toiyabe," but it's not
10 the same Toiyabe.

11 Q. And there's a whole bunch of entities in
12 this matter, isn't there?

13 A. Yes, sir, there are.

14 Q. We'll get into more of those later but --
15 so there's Montreux Development and Montreux Golf
16 Course. Those were separate, right?

17 A. Correct.

18 Q. And the development group had more to do
19 with the membership than it did the golf course.

20 Is that right?

21 A. The Montreux Development Group had more to
22 do with the development of the lots.

23 Q. Lots around it?

24 A. Correct.

1 Q. Okay. And then the golf course.

2 A. Then the golf course had to do more with
3 the golf course.

4 Q. Okay. But your dad was involved in the
5 process of building or acquiring these assets,
6 wasn't he?

7 A. Yes.

8 Q. And I'm just talking generally.

9 A. Are you talking about Montreux?

10 Q. No. Just generally the assets that he
11 accumulated.

12 A. Okay. Can you ask the question again?

13 Q. Your dad was involved, as far as
14 participating years ago as the wealth was being
15 accumulated, he was involved with that, right?

16 A. Yes.

17 Q. All right. And would you agree that your
18 father had accumulated property that approached a
19 value of \$100 million by 2006?

20 A. I'm not sure.

21 Q. All right. You're not sure because you
22 think it was more or it was less or what?

23 A. That sounds significantly higher than I've
24 ever heard.

1 Q. Okay. And have you seen the Bank of
2 America loan application where your father declared
3 his net worth at 92-plus million dollars in 2006?

4 A. I have not.

5 MR. SPENCER: Okay. Keith, let's show
6 Exhibit 573.

7 THE COURT: I just need to know, counsel,
8 as we go along what the evidentiary status is of
9 each of these exhibits. Stipulated or you'll cause
10 them to be marked and move for admission.

11 MR. SPENCER: I thought this one was
12 stipulated.

13 MR. ROBISON: I'm not sure.

14 No objection.

15 MR. SPENCER: 543, your Honor, I offer it.

16 THE COURT: It is admitted.

17 (Exhibit 543 admitted.)

18 THE COURT: So, I think we'll have the
19 binder there. That's the right thing, Deputy.
20 Unless the attorney asks the binder be opened, I
21 think we're going to follow through on the slides,
22 please.

23 BY MR. SPENCER:

24 Q. Mr. Jaksick, you can see this is a Uniform

1 Residential Loan Application.

2 Do you see that at the top?

3 A. Yes, I do.

4 Q. And if you flip to the back page, you can
5 see the date there of October 26th, 2006.

6 A. Sir, do you want me to flip to the back
7 page?

8 Q. You can look at the binder here. It's on
9 the screen. Do you see that?

10 A. I do.

11 Q. All right. And then on the second page of
12 Exhibit 543 at the bottom, very bottom of the page,
13 this is the Statement of Assets and Liabilities.

14 Do you see this? And do you see there at
15 the bottom it says "Total assets \$100,819,163"?

16 A. I do see that.

17 Q. And, then, in the right column it says
18 "\$8,226,526" worth of liabilities?

19 A. I see that.

20 Q. And, then, in the middle is where it's
21 netted out. The net worth of your father was
22 \$92,602,637. Do you see that?

23 A. I do.

24 Q. And you mentioned you didn't know that, per

1 se, but you see now that that's a declaration your
2 father made in 2006 of a net worth approaching \$100
3 million. Do you see that?

4 A. I do see that now.

5 Q. You don't have any reason to disagree with
6 that, do you?

7 A. I'd have to -- obviously, I respect what
8 Dad filled out on the application, but I have to
9 look to see what he was pledging as asset values at
10 that point in time to be able to ascertain how he
11 came to that number.

12 Q. Was your dad was an honest man?

13 A. Absolutely.

14 Q. He didn't lie that you knew of, did he?

15 A. No, he did not.

16 Q. You wouldn't have known him to lie on a
17 bank application, would you?

18 A. No, he definitely would not lie on a bank
19 application.

20 Q. All right. So knowing that about your
21 father, you don't have any reason to deny what your
22 father represented to the bank, do you?

23 A. I don't. If he put it there, that's what
24 his opinion was on that day.

1 Q. Okay. In, of course, 2008 we had the stock
2 market crash. Everybody really felt the brunt of
3 that, right?

4 A. Yes, sir, absolutely.

5 Q. And the Jaksick family properties,
6 enterprise, whatever you want to call it, felt the
7 brunt of that 2008 crash as well, right?

8 A. Absolutely, yes.

9 Q. Okay. We're going to come back to that in
10 a minute. I want to go back and ask you more about
11 the family, okay? You were working with your dad on
12 certain real estate deals, correct?

13 A. Yes.

14 Q. And Stan's working at Lakeridge Golf Course
15 on golf course-type deals. Is that right?

16 A. Yes.

17 Q. And your dad had a relationship with each
18 of you two, correct?

19 A. Yes.

20 Q. And Wendy also was trying to participate in
21 investments, wasn't she?

22 A. From what I recall, yes.

23 Q. And your dad tried to help her as well,
24 correct?

1 A. On -- I can't -- nothing's jumping out at
2 me as like an exact project right this second, but
3 yes, he was helping her from time to time.

4 Q. And he wanted to see, to the extent
5 possible, that Wendy find some success as well,
6 right?

7 A. Yes.

8 Q. He had a relationship with Wendy?

9 A. Yes.

10 Q. And you mentioned that earlier that Sam
11 loved his grandchildren.

12 That would include your kids, right?

13 A. Yes.

14 Q. How many do you have?

15 A. Two.

16 Q. And what are their names?

17 A. Ben and Amanda.

18 Q. And then Stan has how many children?

19 A. Three.

20 Q. Do you know their names?

21 A. Sawyer is a boy and Sidney and Reagan, two
22 twin girls.

23 Q. And Wendy has children?

24 A. Yes, sir.

1 Q. Do you know their names?
2 A. I do.
3 Q. What are their names?
4 A. Luke and Lexi.
5 Q. All right. And your dad had a relationship
6 with the grandchildren as well.
7 A. Yes, he did.
8 Q. And he was particularly close to Luke
9 because Luke was living in his house part of his
10 growing-up years, right?
11 A. Living in part -- where was he living?
12 Q. With Sam.
13 A. I don't recall that.
14 Q. You don't recall Wendy and Luke living with
15 Sam for any period of time?
16 A. Not that I recall.
17 Q. Do you recall Luke being treated by your
18 father as more like his son than a grandchild?
19 A. He was -- yes, he really wanted to try to
20 get Luke -- because Luke didn't have a dad, so Dad
21 was really trying to get Luke involved in the
22 outdoors and sports, all those types of things but,
23 yes, for sure.
24 Q. And your dad would attend the sporting

1 events of all the children, right?

2 A. Yes.

3 Q. And other events, not necessarily sporting
4 but other events too.

5 A. Yes.

6 Q. But Sam expressed to you that he was
7 particularly concerned with making sure that Luke
8 was taken care of, didn't he?

9 A. Yes, he did.

10 Q. Wanted to make sure that there were
11 provisions for Luke, or at least there was something
12 set up so that Luke would be taken care of.

13 A. Correct.

14 Q. What I mean by that is he wanted to make
15 sure you, Todd, knew about that, right?

16 A. He did. He wanted to make sure I was aware
17 of it, yes.

18 Q. Okay. And so that was a big concern for
19 your father, wasn't it, later on in his life?

20 A. Yes. He wanted to make sure that Stan and
21 I were aware of those circumstances. He was
22 concerned that Wendy could not take care of Luke so
23 he wanted to put provisions out there that would
24 segregate some of his assets so that Luke could be

1 taken care of separately.

2 Q. All right. And that was one of the reasons
3 that Sam -- I say "Sam" because -- just for
4 identification, with all due respect. But just to
5 identify him, Sam, your father, that was one of the
6 reasons that he put the property that he was going
7 to leave to Wendy in trust, right?

8 A. Yes, I believe that to be the case, yes.

9 Q. Wendy had some issues back in the late
10 '90s, early 2000s with property and her finances,
11 correct?

12 A. Yes.

13 Q. And she was not making as much money
14 working for the family entities as you and Stan
15 were, was she?

16 A. No.

17 Q. All right. And so one of the motivations
18 in the estate planning, which we'll get to shortly,
19 was to make sure that, because of Wendy's financial
20 issues in the past, just wanted to make sure that
21 Wendy's property was secure and protected in a
22 trust.

23 A. Yeah. He wanted it to be protected in a
24 trust and he wanted the trustees to make decisions

1 on her behalf. That is correct.

2 Q. And while he created trusts for you and
3 Stan, eventually it was expected that you and Stan
4 would receive your inheritance outright at some
5 point.

6 A. That's my understanding.

7 Q. But Wendy's, he wanted hers to remain in
8 trust for her lifetime.

9 A. Yes, that sounds accurate.

10 Q. And then to benefit her children Lexi and
11 Luke eventually.

12 A. Yes.

13 Q. And Luke actually, at least in one of the
14 documents, received a trust currently or now during
15 Wendy's lifetime.

16 A. Correct. Yes, he did.

17 Q. All right. And you recall that Sam and
18 Wendy had a relationship even -- remember we talked
19 about you having issues but it didn't affect your
20 dad's relationship?

21 Wendy had some issues as well and you
22 recall that Sam and Wendy maintained a relationship
23 after that, right?

24 A. They had a relationship around Luke, I

1 believe, for the most part, and sporting events and
2 horseback riding and things like that. But they
3 didn't have a business relationship anymore. It was
4 more just a father-daughter-grandson-type
5 relationship.

6 Q. Right. And they saw each other regularly
7 and went to sporting events together -- and "they"
8 being Sam and Wendy -- and went to Luke's sporting
9 events and spent time with each other, right?

10 A. Yes.

11 Q. Okay. And that would have been the case
12 with you and your kids and Stan and his kids as
13 well.

14 A. Yes.

15 Q. All right. And so sort of underscores that
16 Sam was a family man who loved his family members,
17 right?

18 A. He did.

19 Q. And Sam was also married at the time of his
20 death, wasn't he?

21 A. Yes.

22 Q. And who was he married to.

23 A. Janene Jaksick.

24 Q. All right. And then he had a marriage

1 prior to that. Who was that to?

2 A. Prior to that was Rebecca Jaksick and prior
3 to that was my mom, Gwendolyn.

4 Q. All right. And how did the marriage with
5 your mother -- Sam's marriage with your mother end?

6 A. I'm not sure. I think I was maybe two to
7 four range so I don't really know the details of it.

8 Q. You were very young?

9 A. Yes.

10 Q. Was it by divorce, though?

11 A. Yes, sir.

12 Q. The same with Rebecca?

13 A. Yes.

14 Q. It ended by divorce?

15 A. Yes. They did end up getting divorced.

16 Q. And then Janene was the surviving spouse of
17 Sam.

18 A. Yes.

19 Q. And was it your understanding that Sam and
20 Janene had a marital agreement?

21 A. Could you be a little more specific?

22 Q. Do you know if Sam and Janene had a marital
23 agreement of any sort, premarital agreement?

24 A. Yes, I do recall they had a premarital

1 agreement.

2 Q. Did you understand that your father would
3 take care of Janene in some way after his death?

4 A. What I understood was that Dad was giving
5 her annual payments as part of the premarital
6 agreement in years prior to Dad passing and Janene
7 had a significant amount of money from that.

8 And after she passed away, there was some
9 funds that were still -- that Janene was due but he
10 really wasn't taking care of her too much after he
11 passed away in the forms of the trust documents.

12 Q. Yeah. So I'm about to get to the trust
13 documents, but we'll see what he provided in that --
14 those documents for her.

15 But as far as outside of the
16 estate-planning documents, did you understand
17 whether your father had planned on taking care of
18 Janene some other way, so to speak, with some other
19 property?

20 A. Not that I recall. There was some
21 provisions in the trust document that would allow us
22 to disclaim some additional property to the marital
23 trust for tax purposes but we did not end up doing
24 that.

1 Q. Did you understand that your father loved
2 Janene?

3 A. Yes, absolutely.

4 Q. How long were they married?

5 A. Approximately twenty years.

6 Q. Okay. And did they have a close
7 relationship, would you say?

8 A. I'd say yeah, for the most part. Everybody
9 got along really good.

10 Q. All right. Janene was a little younger
11 than Sam?

12 A. Yes, she was. I don't know that difference
13 but I'd say about twenty years, maybe.

14 Q. Okay. And your dad some time ago back in
15 the -- I think it was the early '70s -- purchased a
16 house up in Incline Village on Lake Tahoe.

17 Is that right?

18 A. Yes. I believe it was '79.

19 Q. Seventy-nine, okay. And do you recall the
20 Tahoe house that's located at Lakeshore Drive?

21 Is that right?

22 A. Yes, it is.

23 Q. And he, Sam, owned that house continuously
24 up until he started doing some estate planning.

1 Is that correct?

2 A. Yeah. I would say he owned it
3 individually, I believe, until about 2006 where he
4 put it into his family trust.

5 Q. And that was the 2006 version of the family
6 trust, right?

7 A. Yes.

8 Q. There was an earlier version of the trust
9 as well, wasn't there?

10 A. Yes.

11 Q. And that trust had been amended several
12 times.

13 A. That's my recollection, yes.

14 Q. And then in 2006 it was restated?

15 A. Yes.

16 Q. Okay.

17 MR. SPENCER: Offer Exhibit 9.

18 MR. ROBISON: No objection.

19 THE COURT: Stipulated. Ms. Clerk.

20 THE CLERK: Thank you.

21 (Exhibit 9 admitted.)

22 BY MR. SPENCER:

23 Q. And so this is the -- you can see on the
24 screen this is Exhibit 9, the 2006 version of the

1 Sam L. Jaksick, Jr. Family Trust Agreement as
2 Restated, correct?

3 A. It looks like it, yes.

4 Q. Okay. And it was a revocable trust created
5 during your father's lifetime, correct?

6 A. Revocable? Yes, he could have revoked it,
7 yes.

8 Q. During his lifetime and then upon his death
9 it became irrevocable.

10 A. Correct.

11 Q. So during his lifetime it was designed to
12 hold his assets and make distributions, essentially,
13 to provide for Sam, his health, education and
14 support, right -- maintenance and support, right?

15 A. For Dad, yes, who was the grantor.

16 Q. And then turn to page two. Down at the
17 bottom there's a -- middle of the page there's a
18 subsection B and this is the dispositive provision,
19 how he disposes of his assets upon his death, right?

20 A. Yes.

21 Q. And you became -- your dad died
22 April 21st, 2013, correct?

23 A. Correct.

24 Q. And upon his death you became one of the

1 co-trustees of this Sam L. Jaksick Family Trust.

2 A. Yes.

3 Q. And if I call that "the family trust,"
4 you'll understand I'm referring to the Samuel S.
5 Jaksick Family Trust?

6 A. Yes.

7 Q. Who were the original co-trustees that
8 became or served as soon as your dad died on
9 April 21st, 2013?

10 A. My brother, Stan, and dad's longtime
11 accountant, Kevin Riley.

12 Q. There were some other gentlemen named as
13 trustees in this document that declined to serve.

14 Is that right?

15 A. Oh, I'm sorry. It would have been in the
16 2012 version that Stan and Kevin and I were
17 appointed to be the co-trustees. In this particular
18 document Dad had his other prior accountant, Ray
19 Minetti.

20 Q. And Mr. Minetti declined to serve, correct?

21 A. Yes. He had some health issues.

22 Q. Okay. And so in relation to what happened
23 to the property in the family trust after your
24 father died, looking at paragraph B1 right here, it

1 says that "the trustee must distribute the trust
2 estate as then constituted" -- and I'm -- I'm
3 skipping down -- "to such one or more persons and
4 entities including the estate of grantor and on such
5 terms and conditions either outright or in trust as
6 the grantor may appoint by will, specifically
7 referencing the general power of appointment."

8 Do you see that?

9 A. I see that.

10 Q. Okay. Your dad's will was what we call a
11 pour-over will, which, essentially, took anything
12 that was left in his name and poured it back into
13 the family trust. Is that right?

14 A. Yes. I recall that taking place in a court
15 proceeding we had that a few of the things were
16 outside of his trust and through the will got moved
17 into the family trust. I recall that.

18 Q. Okay. Who were appointed as executors of
19 your father's estate?

20 A. I believe it was the same as the trustees,
21 is what I recall, which was Stan, myself, and Kevin
22 Riley is what I recall.

23 Q. Okay. So you were appointed as the
24 executor of your father's estate and then you were

1 serving as the trustee of the family trust,
2 co-trustee of the family trust, right?

3 A. That sounds correct. I don't know the
4 exact terminology but I just know that we did have
5 to go to court for some of the matters that were
6 outside of his trust. I just recall that.

7 Q. Well, what I was getting at is you were the
8 executor and the co-executor of your father's
9 estate, correct?

10 A. I believe that to be the case.

11 Q. Co-trustee of the family trust?

12 A. That is correct.

13 Q. You'd been appointed as a trustee -- strike
14 that. Were you appointed as the executor of your
15 mom's estate?

16 A. I was.

17 Q. Okay. And then you were later appointed as
18 trustee of a trust that your mom had created for
19 Wendy, right?

20 A. I don't recall that right now but that's
21 certainly possible.

22 Q. You don't recall being a trustee of Wendy's
23 trust?

24 A. I think it was --

1 Q. In relation to your mom's estate.

2 A. I vaguely do but ...

3 Q. When did your mother pass away?

4 A. In 2004.

5 Q. Okay. And so you'd had some experience
6 serving as an executor of an estate prior to the
7 time you were appointed as executor of your father's
8 estate?

9 A. I'd say very limited experience. We had
10 hired Jones Vargas law firm to be able to help
11 assist in that matter but I did have a little
12 experience but it wasn't a lot.

13 Q. And then you had experience being a trustee
14 prior to being -- becoming a co-trustee of the
15 family trust.

16 A. I was a trustee of the SSJ's Issue Trust
17 since 2007 but, for the most part, I was a trustee
18 but Dad was always calling all the shots.

19 Q. Sir, I'm just asking about the capacities
20 in which you were serving. You'd been a trustee of
21 Wendy's trust in relation to your mother's estate,
22 right?

23 A. That sounds accurate.

24 Q. You were trustee of the SSJ's Issue Trust

1 since 2007.

2 A. Yes, sir.

3 Q. And then you became co-trustee of the
4 family trust when your dad died April 21st, 2013.

5 A. Correct.

6 Q. So you had held multiple fiduciary roles
7 prior to becoming the trustee of your dad's family
8 trust, right?

9 A. That sounds accurate, yes.

10 Q. And so one of the things that is clear when
11 you become a trustee is that you have to certainly
12 look at, study, and get familiar with the trust
13 document, right?

14 A. Yes.

15 Q. Because that becomes your rule book. Your
16 attorney said that in opening statement. The trust
17 becomes a rule book for how the trust will be
18 administered, correct?

19 A. Yes.

20 Q. All right. And one of the first and
21 foremost things that the trustee has to be concerned
22 with is making sure to administer a trust in
23 accordance with its terms, right?

24 A. Yes, sir.

1 Q. Okay. Flipping over to the next page,
2 Keith, page three of Exhibit 9, at the top there's a
3 paragraph three. And do you see that prior to that
4 there was property in the family trust already,
5 wasn't there, when your dad died?

6 A. Yes.

7 Q. And then his will poured everything else
8 that may not have been in the trust back into the
9 family trust, right?

10 A. Yes.

11 Q. So that, essentially, put the property that
12 was there and everything else that Sam owned outside
13 of a trust into the family trust.

14 A. That sounds accurate.

15 Q. And then paragraph three on page three of
16 Exhibit 9 says that "the decedent's trust shall
17 consist of all the grantor's property of the trust
18 estate including the grantor's residence at Lake
19 Tahoe, Nevada, hereafter referred to as 'Lake Tahoe
20 residence.'" Do you see that?

21 A. I see that.

22 Q. And that's what you were alluding to
23 earlier when your dad put that property he acquired
24 in 1979 into the family trust, correct?

1 A. No. Dad -- he put the Tahoe house into the
2 family trust in the 2006 document.

3 Q. Earlier.

4 A. Yes. But by the time -- when he passed
5 away the Tahoe house was no longer part of his
6 estate.

7 Q. And this is the June 2006 document --

8 A. Yes.

9 Q. -- dated June 29, 2006, Exhibit 9.

10 A. Yes. Okay.

11 Q. And the Tahoe residence was -- your father
12 indicates in paragraph three, page three of Exhibit
13 9, that he wanted the Lake Tahoe property to be part
14 of the family trust at least at this time.

15 A. Correct.

16 Q. Okay. Below that there is what you alluded
17 to a moment ago about the option of the trustee to
18 disclaim some property within nine months of Sam's
19 death. That's the next paragraph. About the first
20 three lines of that paragraph, first five lines --
21 six lines, I should say.

22 And then it says, "Any property or portion
23 thereof that is disclaimed by the trustee in this
24 manner shall be allocated to the marital trust."

1 Is that right?

2 A. Yes. That was a -- I recall those
3 discussions back then.

4 Q. And you said that no property was
5 disclaimed by the trustees.

6 A. We did not disclaim any property at that
7 time.

8 Q. Okay. And then flipping to the next page
9 of Exhibit 9, Keith, at the bottom, subparagraph
10 capital C -- strike that. Go to page three at the
11 bottom. Paragraph four, that's the paragraph that
12 said it would include -- the marital trust would
13 include property that was disclaimed, right?

14 A. Yes. I see that there.

15 Q. So the trustees didn't disclaim any
16 property that would have gone into the marital
17 trust. You mentioned that, right?

18 A. Correct. That was more of a tax-planning
19 strategy that wasn't needed at the time.

20 Q. But the marital trust would have been
21 created for Janene at that time, correct?

22 A. No, not at the time.

23 Q. He was married to Janene at the time of his
24 death, wasn't he?

1 A. Yes.

2 Q. Okay. And you're saying that when it was
3 created in -- restated in 2006 there wasn't a
4 marital trust for Janene. Is that what you meant?

5 A. No. It was my understanding that we had
6 the benefit of the attorney and the law firm that
7 drafted this document and so they went through it
8 line by line and helped us interpret the document as
9 it was written.

10 And at the time they said that we didn't
11 need to set up the marital trust because -- this is
12 when dad passed away -- that we didn't need to have
13 it because the Tahoe house was no longer in the
14 family trust as well as we didn't intend to disclaim
15 any of the assets at that nine-month window.

16 Q. Well, you answered a bunch of questions I
17 was gonna ask you, but the trust provides -- the
18 family trust provides that a marital trust be
19 created for Janene and what you just said is that
20 the trustees decided not to create the marital
21 trust, right?

22 A. Based off the advice of legal counsel.

23 Q. Well, sir, just a simple question. The
24 trustees decided and did not -- decided not to and

1 did not create a marital trust for Janene, did they?

2 A. That is what the attorneys told us to do.

3 Q. Is that a "yes," sir?

4 A. We did not create a marital trust.

5 Q. Okay. So that was one part of the rule
6 book here that the co-trustees decided didn't need
7 to be followed, right?

8 MR. ROBISON: Objection, foundation, your
9 Honor. This document was changed in 2012. It's an
10 unfair question.

11 THE COURT: I don't know the substantive
12 answer to the objection. I think that is subject to
13 argument and cross-examination. Overruled.

14 THE WITNESS: Could you ask the question
15 again, please?

16 BY MR. SPENCER:

17 Q. Yes. The marital trust that's called for
18 at page four of Exhibit 9 and subsequent paragraphs
19 provides for health, education, maintenance and
20 support -- I'm sorry -- health, support, and
21 maintenance of Janene was not -- was not created or
22 funded, right?

23 A. In 2013, yes, we did not do that.

24 Q. And my question was, That's a part of this

1 rule book, the trust document, that was not followed
2 by the co-trustees, right?

3 A. I don't believe that to be the case.

4 Q. All right. We'll get into the second
5 amendment in a moment. But the concept was to
6 provide a place for Janene to live for, at least in
7 this document, for a period of time after your dad
8 died.

9 A. In this particular document, yes, and
10 that's what we did do.

11 Q. Okay. Flipping over to page seven of
12 Exhibit 9, so halfway down the page at paragraph D,
13 Disposition of Decedent's Trust, is it your
14 understanding that the assets -- at least according
15 to this document, the assets in the trust would be
16 separated first amongst a value that would qualify
17 for generation-skipping tax exemption?

18 A. I don't recall that right now.

19 Q. All right. You see at the bottom of page
20 seven, "On the death of the grantor and subject to
21 the power of appointment" -- paragraph B1 above --
22 "the following property shall be held, administered,
23 and distributed pursuant to paragraph G below"?

24 A. I do see what you highlighted there, yes.

1 Q. Okay. And then the next page, page eight,
2 of Exhibit 9. And you see there that paragraph
3 three talks about the generation-skipping transfer
4 tax and using the exemption that would have been
5 available? Do you see that?

6 A. I do.

7 Q. And you're familiar with -- generally with
8 the concept of that, aren't you?

9 A. For the most part, yes, but we definitely
10 declined those interpretations to counsel and family
11 accountant.

12 Q. And the first distribution from the trust
13 is to determine assets that would be -- that would
14 amount to the remaining generation-skipping transfer
15 tax, put it into a separate trust so that it would
16 be exempt. Are you familiar with that?

17 A. Not totally. I'm sorry.

18 Q. And then after that whatever remained would
19 be divided one-third, one-third, one-third between
20 you, Stan, and Wendy with the caveat that Wendy's
21 share would be reduced by \$1.5 million, right?

22 Do you remember that?

23 A. I do.

24 Q. Okay. And that's on page nine of Exhibit 9

1 at paragraph four. So the remaining -- "after
2 setting up the generation-skipping transfer tax
3 trust, the remaining balance of the decedent's
4 estate shall be divided into three equal shares."

5 Do you see that in paragraph four?

6 A. Yes, I see what you cited.

7 Q. -- "subject to the adjustment provided in
8 subparagraph D-4-D."

9 A. Okay.

10 Q. And then 4-A is a provision providing one
11 such share to you and your descendants.

12 Do you see that?

13 A. I do.

14 Q. And subsection B, one share to Stan and his
15 descendants.

16 A. Yes.

17 Q. And then on the next page, page ten of
18 Exhibit 9 paragraph C provides one share for Wendy.

19 A. Yes.

20 Q. And then down below that -- and it's a long
21 document so I'm trying to summarize it as best as I
22 can.

23 A. Okay.

24 Q. You see that D-4-D, which is the paragraph

1 that has the reduction of \$1.5 million in Wendy's
2 share, right?

3 A. I see that highlight, yes.

4 Q. And then that 1.5 million is supposed to be
5 redistributed amongst the other beneficiaries, which
6 would be your share and Stan's share.

7 A. That sounds accurate.

8 Q. All right. And is it your opinion that the
9 second amendment to this trust, the family trust, is
10 also part of -- combined with this trust the
11 operative document that you've been working under?

12 A. Yes, sir.

13 Q. So this trust, Exhibit 9, and the second
14 amendment is the rule book for this trust, in your
15 mind.

16 A. Yes, sir.

17 Q. All right.

18 MR. SPENCER: Keith, flip to -- I offer
19 Exhibit 13, your Honor.

20 MR. ROBISON: No objection.

21 THE COURT: Thirteen -- excuse me -- is
22 admitted. Thank you, counsel.

23 THE CLERK: Thank you.

24 (Exhibit 13 admitted.)

1 BY MR. SPENCER:

2 Q. All right. It's up on the screen here.
3 This is the Second Amendment to the Samuel S.
4 Jaksick, Jr. Trust Agreement Restated pursuant to
5 the Third Amendment dated June 29th, 2016.

6 Is that the title?

7 A. Yes.

8 Q. Okay. And so this Exhibit 9 and Exhibit 13
9 together is the trust document that you've been
10 operating under?

11 A. Yes.

12 Q. And in the recitals to Exhibit 13, there
13 are some what we call "whereas paragraphs."

14 Do you see those?

15 A. I do.

16 Q. And the first one says "On or about
17 December 4th, 2003" -- sort of gives a history of
18 where this trust started and how it got to this
19 point. Is that right?

20 A. I believe that that was probably the intent
21 why that was put there.

22 Q. Sam -- December 4th, 2003, Sam entered into
23 the Samuel S. Jaksick, Jr. Family Trust Agreement.

24 Is that right?

1 A. I see that where you highlighted, yes.

2 Q. Well, was there a 1996 version?

3 A. I don't recall.

4 Q. The next whereas, February 27, 2004, Sam
5 executed the First Amendment to the family trust
6 agreement. May 25th, 2004, the Second Amendment to
7 the family trust agreement. And then
8 November 30th, 2005, the Third Amendment to the
9 trust agreement. It says "Entered into the Third
10 Amendment and Completely Restated Family Trust
11 Agreement." Do you see that?

12 A. Yes.

13 Q. And then June 29th, 2006, which is this
14 Exhibit 9, entered into the Sam L. Jaksick, Jr.
15 Restated Family Trust amending and restating his
16 trust in its entirety. Do you see that?

17 A. Yes, I do.

18 Q. The next one is May 14th, 2011, Sam Jaksick
19 entered into the Fourth Amendment to the Restated
20 Family Trust dated June 29th, 2006. This Fourth
21 Amendment should have been designated as the First
22 Amendment. First Amendment is terminated in its
23 entirety.

24 A. Okay. I see that.

1 Q. So there were some mixup over what
2 amendment it was and what it was called and how it
3 should have been phrased, et cetera. But this
4 purports to correct that error and states the Fourth
5 Amendment should have been the First Amendment,
6 right?

7 A. I see where it says that.

8 MR. SPENCER: I'll offer Exhibit 154.

9 MR. ROBISON: No objection.

10 THE COURT: It is admitted.

11 (Exhibit 154 admitted.)

12 BY MR. SPENCER:

13 Q. The Fourth Amendment, this is dated
14 March 14th of -- I'm sorry. Let me make sure
15 here. March 14th, 2011, on the back page.

16 Do you see that?

17 A. I do, yes.

18 Q. But the Exhibit 13, the Second Amendment
19 says it was executed May 14th, 2011.

20 That's an error, correct?

21 A. Could be, yes.

22 Q. And your dad was a -- you said was a good
23 businessman. He would be a guy that would read what
24 he was going to sign, wouldn't he?

1 A. Yes.

2 Q. And he'd be a guy who is confident enough
3 if there was an error or mistake in a document that
4 he would call it out and ask that it be changed,
5 wouldn't he?

6 A. If he noticed it, he would, sure.

7 Q. Well, and he was a smart-enough guy that,
8 if he read that and remembered the Fourth Amendment,
9 he would know the date was wrong, right?

10 A. I'm not sure.

11 Q. You don't know that about your father?

12 A. I know he read the documents and made
13 changes suggested. I just don't know --

14 Q. So that was --

15 THE COURT: Hold on. One at a time.

16 MR. SPENCER: I apologize, your Honor.

17 BY MR. SPENCER:

18 Q. I did not mean to step on your answer. Go
19 ahead.

20 A. Yes, sir. I didn't know if he would catch
21 that, an error on a date. I'm not sure.

22 Q. But we know he didn't catch that error in
23 the Second Amendment, correct?

24 A. It looks to be the case.

1 Q. Okay. And then go back to Exhibit 13 for a
2 moment. I want to go back to the "Whereas"
3 paragraphs. A, B, C, D, E, F and then there's
4 another F. Do you see that?

5 A. I do.

6 Q. A typographical error that Sam did not
7 catch, right?

8 A. I assume so because it's still there, but
9 I'm not sure.

10 Q. And then it says, "Sam now desires to
11 terminate and replace in its entirety the First
12 Amendment and enter into this Second Amendment to
13 the Restated Family Trust Agreement," right?

14 A. I see that, yes.

15 Q. So, that First Amendment reference there,
16 would it be the First Amendment dated February 27th,
17 2004, or the Fourth Amendment that should have been
18 called the First Amendment dated -- it says
19 "May 14th" but it's really March 14th of 2011.

20 A. Yeah. That would be a question for Pierre
21 Hascheff, who prepared this document.

22 Q. Well, but it's a question that you as
23 trustee kind of need to know about in order to
24 operate and figure out which rule book applies,

1 right?

2 A. We definitely knew which rule book applied.

3 Q. Okay. Well, which was it, the First
4 Amendment or the Fourth Amendment that should have
5 been called the First Amendment?

6 A. What Dad had told us -- or myself -- that
7 the 2006 document and then his 2012 Second
8 Amendment, those are the two controlling documents.

9 And then when Dad -- after Dad passed away,
10 we had the benefit of being able to still contact
11 Mr. Hascheff and Mr. LeGoy and they both directed us
12 to the fact that the only two controlling documents
13 are the 2006 document and the Second Amendment that
14 was dated December 10th, 2012. And any of the
15 other documents that were referenced here or
16 anywhere else were not the controlling documents.

17 Q. So we can infer from the fact that the
18 Exhibit 13, the restated version of the family
19 trust, was dated June 29th, 2006, that the First
20 Amendment there referenced as being terminated was
21 the Fourth Amendment that should have been called
22 the First Amendment, because it postdated it, right?

23 A. It's possible.

24 Q. And you all have been operating under what

1 you just mentioned, that it's the trust and the
2 Second Amendment, not the one in between that
3 controls.

4 A. Right.

5 Q. Okay. And then down below in Exhibit 13,
6 the -- paragraph one of Exhibit 13, second to the
7 last sentence says, "Pursuant to Article B, Samuel
8 S. Jaksick replaces and eliminates the First
9 Amendment dated May 14th, 2011, in its entirety with
10 the Second Amendment to the restated trust
11 agreement."

12 A. I see what you highlighted there.

13 Q. It says "with this Second Amendment."

14 And so down there there's -- it eliminates
15 a First Amendment and the date's wrong again. So
16 your dad did not catch that error either, did he?

17 A. It's certainly possible. It looks to be
18 the case.

19 Q. But that references a First Amendment dated
20 May 14th, 2011, that doesn't exist, right?

21 A. I'm not sure about all those other
22 versions. I'm just familiar with the 2006 one and
23 the 2012 one, because that's what everybody told us
24 is regardless of what other documents are out there,

1 these are the two documents that are the rule books
2 for Dad's trust.

3 Q. Well, you didn't even not know about the
4 Fourth Amendment, did you?

5 A. I just focused on the 2006 document and the
6 2012 document based off of what Dad told me, Pierre
7 and Bob LeGoy, who are the trust attorneys that
8 drafted these documents.

9 Q. Understand. But you have to make an
10 analysis yourself as trustee to determine which of
11 the documents you're going to operate under, right?

12 A. We all went through this very extensively
13 and had those discussions with everybody and it was
14 very clear that the documents were the active
15 documents, were the 2006 and 2012.

16 Q. And that's -- that group that you're
17 talking about, that's what you've sort of coined as
18 "the team," the trust team that you've talked about,
19 right?

20 A. Not necessarily, no.

21 Q. Well, are you making the decisions or is
22 the trust team making the decisions?

23 A. Basically the trustees, Stan, Kevin Riley,
24 myself. And then we would work with Bob LeGoy and

1 Brian McQuaid and then we had the opportunity to
2 still ask Mr. Hascheff about Dad's estate planning.

3 Q. So the trustees were making the decisions
4 in regard to the trust, co-trustees?

5 A. Yes, that was our job.

6 Q. And so the co-trustees had to make a
7 decision regarding which of the documents you were
8 going to operate under, right?

9 A. Based off of what Dad had told us as well
10 as what Bob LeGoy and Pierre Hascheff told us, that
11 is correct.

12 Q. All right.

13 MR. SPENCER: Your Honor, I'll offer 155.

14 THE COURT: 155.

15 MR. ROBISON: No objection.

16 THE COURT: Admitted.

17 (Exhibit 155 admitted.)

18 BY MR. SPENCER:

19 Q. Lo and behold, there's a Fifth Amendment
20 that is dated April 27th, 2012, right?

21 A. Yes.

22 Q. And you were not aware of the Fifth
23 Amendment, were you?

24 A. It was in the file. But I was not aware of

1 it because Pierre Hascheff had told us that any of
2 those Third, Fourth, Fifth, whatever he had done,
3 were not the active documents, that the document
4 that Dad did on December 10th, 2012, superseded
5 all of these documents that he did here.

6 Q. Well, the December 10th, 2012, document,
7 Exhibit 13, which is the Second Amendment, never
8 even mentions the Fifth Amendment, does it?

9 A. I don't recall seeing that in there, no.

10 Q. We went down the "whereas" paragraphs and
11 he's listing the history of the trust amendments and
12 the Fifth Amendment is not even in there, is it?

13 A. And I don't see it in there. I remember
14 Pierre Hascheff in his testimony had a reason why
15 and I don't recall what that was.

16 Q. Then later in that document we saw where he
17 specifically eliminated the First Amendment with
18 this Second Amendment and never mentions the Fifth
19 Amendment, which is after that document, right?

20 A. I believe it looks to be accurate, yes.

21 Q. So to the extent that this Second Amendment
22 never revokes the Fifth Amendment, this Fifth
23 Amendment is part of the active operative documents
24 too, isn't it?

1 A. I don't believe so. Pierre Hascheff told
2 us no, that that was not the case.

3 Q. Well --

4 THE COURT: Counsel, if you'll pause for
5 just a moment. Ladies and gentlemen, let's stand.

6 Please be seated.

7 BY MR. SPENCER:

8 Q. So, looking at Exhibit 155, the whereas
9 provisions of that document, same sort of little
10 history of how the trust got to where it was, and
11 I'll run through the ones we've already talked
12 about.

13 But it's the December '03 version, then the
14 February 2004 First Amendment, then the May 25th,
15 2004, Second Amendment, November 30th, 2005, Third
16 Amendment, and then we have the Restatement, which
17 is Exhibit 9, June 29th, 2006, right?

18 A. Yes.

19 Q. No mention of the Fourth Amendment in that
20 document, is there, in those whereas provisions?

21 A. I don't see it jumping out at me, anyways.

22 Q. And then whereas paragraph F says, "Samuel
23 S. Jaksick now desires to enter into this Fifth
24 Amendment to the Restated Family Trust."

1 A. I see that.

2 Q. And this is dated April 27th, 2012, so it
3 would have been April 27th, 2012, right?

4 A. Yes.

5 Q. So it would have been in between the
6 March 4th, 2011, Fourth Amendment, which should have
7 been called the First Amendment, and the
8 December 10th, 2012, Second Amendment.

9 A. That sounds correct.

10 Q. Okay. Date-wise is what I'm getting at.

11 A. Yes.

12 Q. Okay. And have you reviewed Exhibit 155,
13 the Fifth Amendment, to determine where, if
14 anywhere, it conflicts with the rule book that
15 you're operating under, which is Exhibit 13 --
16 Exhibit 9, the trust and Exhibit 13, the Second
17 Amendment?

18 A. No.

19 Q. So, from that we're to understand that you
20 don't know whether -- you don't know whether this
21 Fifth Amendment changes or alters anything that
22 you've been operating under, do you?

23 A. No. I can just tell you that we had --
24 Pierre Hascheff explained to us, he's the one that

1 did all the these amendments that you're talking
2 about. And so he told us exactly what he did, how
3 he did it, and what the controlling document was.

4 Q. Sir, I wasn't asking you what Mr. Hascheff
5 told you. I was asking about you as the trustee.
6 You don't know whether this Fifth Amendment, Exhibit
7 155, changes or alters in any way the documents
8 you've been operating under, Exhibit 9, the trust,
9 and Exhibit 13, the Second Amendment, do you?

10 A. I do not.

11 Q. Do you believe Sam would have recalled
12 signing the Fifth Amendment, Exhibit 155, just eight
13 months before signing Exhibit 13, which is the
14 Second Amendment?

15 A. Yes.

16 Q. Okay. Another mistake your father did not
17 catch in the Second Amendment, right?

18 A. You'd have to talk to Pierre Hascheff and
19 Dad about that. I'm not sure.

20 Q. On the face of the documents, it wasn't in
21 the Second Amendment. If your dad could recall
22 eight months earlier that he signed a Fifth
23 Amendment, he would have caught the error that the
24 Fifth Amendment was not included in the Second

1 Amendment, right?

2 MR. ROBISON: Argumentative. Compound.

3 THE COURT: Sustained.

4 BY MR. SPENCER:

5 Q. Exhibit 13 does not mention the Fifth
6 Amendment. Your dad would have remembered, you
7 said, would have remembered signing it eight months
8 earlier. That's something that he missed in this
9 document, correct?

10 A. I'm not sure. Just because I know that the
11 discussions that him and Pierre had relating to that
12 that I think that all those prior amendments got
13 wiped out for various reasons.

14 Q. Well, the beneficiaries are entitled to
15 know which trust document applies to them, aren't
16 they?

17 A. Oh, yes, of course, absolutely.

18 Q. And so how would the beneficiaries
19 understand which documents control if you don't know
20 and only your dad and Mr. Hascheff talked about it?

21 Do you know?

22 A. I do know which documents control and so do
23 the beneficiaries. Dad told us which documents were
24 the controlling documents, so do Mr. Hascheff and so

1 did Mr. LeGoy.

2 Q. So how much of all of this outside
3 information relating to what your dad may have been
4 thinking do you use in administering the trust? And
5 by "outside information" I mean information outside
6 of the documents themselves. How much of that do
7 you use in determining how you're going to
8 administer the trust?

9 A. Basically this is our rule book and we're
10 supposed to rely on the rule book.

11 Q. All right. You've told the beneficiaries
12 that the trust and the Second Amendment are
13 controlling documents and have never told them
14 anything about the Fifth Amendment, right?

15 A. I believe that to be the case. I don't
16 recall anything about the Fifth Amendment.

17 Q. Are you aware of who was preparing the
18 Fourth, Fifth and Second Amendments?

19 A. Yes.

20 Q. Who?

21 A. Pierre Hascheff.

22 Q. All right. When did Pierre Hascheff become
23 your father's attorney? Do you know?

24 A. Approximately 2005 range.

1 Q. And the -- Mr. LeGoy, you mentioned him and
2 Mr. McQuaid. They're attorneys at Maupin, Cox,
3 LeGoy, right?

4 A. Yes.

5 Q. And they became your father's attorneys in
6 around 2004 time frame?

7 A. That sounds about right.

8 Q. And then another attorney that did some
9 work was Nicholas Palmer.

10 A. Yes, I recall that.

11 Q. And he became an attorney of your father
12 back in 2013?

13 A. That sounds about right. 2012, 2013.

14 Q. I'm sorry. And in those attorneys all --
15 Maupin, Cox, LeGoy, Mr. Hascheff, Mr. Palmer -- they
16 were all of your attorneys also, weren't they?

17 A. To some extent they did some work for the
18 family, yes, for sure.

19 Q. The family, but I'm talking but you, Todd
20 Jaksick, each of those law firms did work for you as
21 well, didn't they?

22 A. Yes.

23 Q. And that involved estate-planning work for
24 you?

1 A. Yes.

2 Q. Okay. And representation of you personally
3 in your individual capacity, right?

4 A. I believe that to be the case but -- that
5 sounds right.

6 Q. They're doing estate planning for you,
7 that's personal. That's your individual capacity.

8 A. Okay.

9 Q. And so they were representing you
10 personally while they were representing Sam
11 personally, right?

12 A. That sounds accurate.

13 Q. And they represented Sam in his capacities
14 as trustees and executors.

15 A. Of his family trust?

16 Q. Yes.

17 A. Yes.

18 Q. All right. And then shift gears a little
19 bit and now we'll talk about the SSJ's Issue Trust.

20 A. Okay.

21 MR. SPENCER: Offer Exhibit 10, your Honor.

22 MR. ROBISON: Stipulate, your Honor.

23 THE COURT: 10 is admitted, Ms. Clerk.

24 (Exhibit 10 admitted.)

1 THE CLERK: Thank you.

2 BY MR. ROBISON:

3 Q. And so we're going to hear a lot about this
4 particular trust. But looking at the description of
5 trust property, paragraph page one, which is TJ 870
6 of Exhibit 10, the first sentence about four lines
7 down, "The grantor as transferor will transfer to
8 the trust 490 shares of issued and outstanding stock
9 in Home Camp Land and Livestock Company, Inc. a
10 Nevada corporation," blank dollars, "in cash."

11 Do you see that?

12 A. I do.

13 Q. And so that was at least part of the
14 initial funding of this SSJ's Issue Trust Agreement.

15 Is that right?

16 A. Correct.

17 Q. Okay. There's some detail in here, but I
18 just want to talk to you more generally. The SSJ's
19 Issue Trust, you mentioned earlier you're the sole
20 trustee of that trust.

21 A. Yes.

22 Q. And it's dated February 21st, 2007.

23 A. That sounds very close, yeah.

24 Q. Okay. And that's what's reflected on page

1 37 and 38 of the Issue Trust.

2 A. Yes, I see that.

3 Q. All right. And what is your understanding
4 of the concept of the SSJ's Issue Trust as far as
5 what it's created for and dispositive provisions?

6 A. The purpose of the Issue Trust being
7 created initially was to take some ranch property
8 that Dad loved up in the Eagleville, 49 Mountain
9 area and to do some long-term planning with it.

10 Because there was concerns that, if it was
11 owned the way that it was owned, if Dad or I had
12 passed away, that there was a good chance that the
13 property would be lost for tax purposes.

14 So the Issue Trust here was -- basically,
15 the concept was for Dad to take 49 -- 490 shares
16 that he had of Home Camp, which Home Camp was the
17 Eagleville property, and 49 Mountain property, two
18 different ranch entities, and put those into a trust
19 where Dad basically gave away his 490 shares to the
20 Issue Trust.

21 And once that trust owned those shares, Dad
22 no longer owned them and the intent was for this
23 Issue Trust to own and control the shares for as
24 long as state law would allow, which was about 365

1 years.

2 Q. Okay. And for generations to come, right?

3 A. Yes. That was the plan. And the nice
4 thing about that is once it gets into the Issue
5 Trust, if either dad or future beneficiaries pass
6 away, the ownership isn't subject to any tax
7 consequences, so that the property could be held for
8 a very long period of time with that ability.

9 Q. And the idea was that the -- you mentioned
10 the Eagleville was a ranch that your father was
11 particularly fond of, right?

12 A. Yes.

13 Q. 49 Mountain was another ranch that he
14 loved, correct?

15 A. Yes.

16 Q. And, in fact, that's where he's buried,
17 isn't it?

18 A. No.

19 Q. I'm sorry. I apologize.

20 Where was he buried?

21 A. We put his ashes in Eagleville.

22 Q. I got them mixed up. Apologize.

23 Are you okay?

24 A. Yes, sir.

1 Q. And so the idea was that these ranches
2 would be held for as long as the Nevada Rule of
3 Perpetuity would allow, 365 years.

4 A. Yes, that was the intent.

5 Q. And the property -- the ranches would be
6 available for the use and benefit of SSJ.

7 That's your father, right?

8 A. Yes.

9 Q. His issue.

10 A. Right.

11 Q. So that would include, not only you, Stan,
12 and Wendy, but your descendants and their
13 descendants and so on for that period.

14 A. Yes, that was the goal.

15 Q. Okay. And the -- in order to do that,
16 these ranches needed -- were put into this trust
17 with you as trustee to be held and in your sole
18 discretion allow that issue to use those properties.

19 A. That's the way Dad set it up, that's
20 correct.

21 Q. There was the opportunity in the trust to
22 sell assets, if needed, to allow for its
23 perpetuation in a certain order, correct?

24 A. Yes, that is correct.

1 Q. Okay. And then there was also provision
2 there that would allow for the trustee to build a
3 house for each of you, Stan, and Wendy, in your
4 discretion that would be owned by the SSJ's Issue
5 Trust.

6 A. That is correct. Up in the Eagleville
7 area.

8 Q. So there were some, we'll call them
9 loopholes, but there were some outs in relation to
10 the property that would allow for the sale if it was
11 needed to perpetuate the intended goal, which was
12 for this to last, essentially, forever.

13 A. Yeah. We had a map that we designated
14 areas in red that we never wanted to be sold and
15 then we had other areas that were in green and
16 yellow that could be sold.

17 Q. Let me stop you there and help -- show you
18 page 23 of Exhibit 10. Before we do that, let's
19 bounce to TJ 908, 909 and 910. So just want to show
20 so it makes -- your testimony will make sense.

21 A. Okay.

22 Q. So there were these maps assigned certain
23 colors, right?

24 A. Yes.

1 Q. All right. Next page. And then green,
2 yellow, and orange. Next page. And then this was a
3 hand-drawn thing that we'll look at later.

4 But going back to the previous page, and
5 then the previous, these are the color schemes that
6 you're talking about in the trust. Flipping over to
7 page 23, that big middle paragraph there are --

8 A. Okay.

9 Q. The first premise of that is the grantor
10 prefers -- not requires -- but prefers the trustee
11 never sell or encumber the real property. Do you
12 see that first line? It's about four lines down, I
13 should say.

14 A. Yes.

15 Q. But that the trustee has the ability to
16 sell or encumber the real property in the order that
17 you were talking about. So if you want to continue,
18 if you're going to sell, then there was a hierarchy
19 or a priority of what he, the grantor, your father,
20 preferred be sold first.

21 A. Yes.

22 Q. And so about seven lines down, the first
23 one is the trustee must first sell or encumber the
24 real property designated in green on the map and

1 then the next, you mentioned, Todd, and then next
2 sell or encumber the real property designated in
3 yellow.

4 A. I see that, yes.

5 Q. Okay. And then it says the trustee is
6 prohibited from voluntarily encumbering or selling
7 the real property designated in red, except if for
8 any reason it becomes necessary in the trustee's
9 discretion to sell or encumber the real property
10 designated in red to save all or part of the real
11 property designated in red.

12 A. Yes. I recall those discussions.

13 Q. Was that your understanding?

14 A. Yes.

15 Q. All right. And so the concept is to last
16 way beyond all our lives, but if you have to sell,
17 do it in a certain order, preserve the property, the
18 red property before and sell the other ones first.

19 A. Yes.

20 Q. And what was the red property?

21 A. Red property is a portion of the Eagleville
22 Ranch and the 49 Mountain Ranch.

23 Q. Okay. And then do you know what the green
24 and yellow is?

1 A. I do.

2 Q. What is the green property?

3 A. The green property is portions of
4 Eagleville and same thing with the yellow, portions
5 of Eagleville as well.

6 Q. Okay.

7 A. And then there's another map that you don't
8 have attached here but there's a few other scattered
9 parcels out in Nevada.

10 Q. What colors would those be?

11 A. I believe those were all green.

12 Q. And then looking up above, the paragraph we
13 were just looking at on page 23 of Exhibit 10,
14 that's the provision, second line down that allows
15 for the payment -- strike that.

16 That's the provision that allows for the
17 building of homes for the beneficiaries. The
18 trustee in its discretion may also but is not
19 required to permit all or any of the beneficiaries
20 to build or occupy a home and live in it with
21 spouses, family, friends, as agreed by the trustee.

22 A. I see that.

23 Q. And that's not happened yet, has it?

24 A. Not yet, no, it has not.

1 Q. And so this trust was -- the dispositive
2 provisions of this trust was a little different than
3 the family trust in that it was for the issue of
4 Sam, not just the children of Sam, right?

5 A. Correct.

6 Q. And so in this trust you count the number
7 of heads of people, so you and Stan and Wendy, and
8 then your -- each of your children, and then if more
9 are born, then each of those children and so on.

10 A. Yes.

11 Q. And so all of the issue were intended to
12 benefit -- or at least Sam intended to benefit all
13 of the issue at the same time rather than through
14 their predecessors or parents.

15 A. Yes, that sounds accurate.

16 Q. Now, Home Camp, we've talked about.
17 There's a bunch of entities in this case and one of
18 them is Home Camp Land and Livestock Company, Inc.

19 You mentioned that --

20 A. Yes.

21 Q. -- 490 shares, 49 percent went into this
22 Issue Trust.

23 A. That sounds correct.

24 Q. That's not a controlling interest, is it,

1 in the Home Camp entity?

2 A. No. There's another 51 percent.

3 Q. Owned by you, right?

4 A. No.

5 Q. Owned by your trust, correct?

6 A. Not my trust.

7 Q. Whose trust?

8 A. For my kids. We did an exact, identical
9 arrangement that Dad did with his 490 shares. We
10 gifted 490 shares to what's called the TBJ Issue
11 Trust.

12 Q. And that's -- when I say "your trust,"
13 that's a trust that you created for your kids --

14 A. Okay.

15 Q. -- right?

16 A. Yes.

17 Q. Okay. And your branch of the family, let's
18 put it that way.

19 A. Yes.

20 Q. All right. And then the other 2 percent is
21 owned by another trust that you control.

22 A. That is correct.

23 Q. And what's that one called?

24 A. The TBJSC Trust.

1 Q. Okay. So Sam -- let me back up.
2 Eagleville and 49 Mountain were owned by Sam for how
3 long?

4 A. Since 1971 about.

5 Q. All right. And you were a baby when he
6 acquired those, right?

7 A. Yes.

8 Q. And fast forward to 2007, and how did the
9 Eagleville and 49 Mountain get into the Home Camp
10 entity?

11 A. We did what's called a 1031 exchange.

12 Q. With -- okay. And who was that with?

13 A. So, if you took the 49 Mountain property
14 and the Eagleville property, we exchanged it with
15 some other properties known as Home Camp. And we
16 did a 1031 but we did an exchange, which changed the
17 ownership.

18 Q. So Home Camp owns some land -- other land
19 somewhere else, right?

20 A. Yes.

21 Q. And in the 1031 exchange Sam owning
22 Eagleville and 49 Mountain in his individual name
23 swaps the land and puts that into Home Camp and the
24 land that Home Camp owns becomes his?

1 A. One of the things that you said there
2 wasn't accurate.

3 Q. Yeah. Correct me. What was it?

4 A. That Eagleville and 49 Mountain were in
5 Dad's individual name.

6 Q. What name were they in?

7 A. 49 Mountain was in the name of Duck Lake
8 Ranch and so Dad and I each owned 49 Mountain at
9 that time prior to Home Camp doing the 1031
10 exchange.

11 So Dad and I were both owners of 49
12 Mountain at that point in time and then Eagleville
13 was owned by White Pine and SJ, which were both
14 100 percent Dad's family trust at the time.

15 Q. White Pine Ranch, that's an entity?

16 A. Yes. White Pine Lumber Co. I'm sorry.

17 Q. White Pine Lumber Company --

18 A. Yes.

19 Q. -- is an entity?

20 A. Yes.

21 Q. And SJ Ranch, is that an entity?

22 A. Yes.

23 Q. And those two owned Eagleville?

24 A. Yes.

1 Q. The Eagleville Ranch?

2 A. Yes.

3 Q. And your father was 100 percent owner of
4 White Pine Lumber and SJ Ranch?

5 A. Yes.

6 Q. And then the 49 Mountain was in Duck Lake
7 Ranch?

8 A. Yes.

9 Q. That's an entity.

10 A. Yes.

11 Q. And that entity was owned 49 percent Sam,
12 49 percent your Issue Trust, 2 percent your SC
13 Trust. Is that right?

14 A. No.

15 Q. What was the ownership of that?

16 A. At the time I believe that it was
17 40 percent in Duck Lake Ranch LLC. What I recall
18 was at that time it was 40 percent myself and
19 60 percent dad, is what I recall.

20 Q. Okay. And how did you acquire 40 percent
21 of the entity that owned 49 Mountain?

22 A. It was a prior exchange that we did prior
23 to the Home Camp exchange, another 1031 exchange.

24 Q. What did you own that was swapped with Duck

1 Lake Ranch back then?

2 A. Duck Lake Ranch.

3 Q. What did it own?

4 A. A ranch.

5 Q. Which one?

6 A. Duck Lake Ranch.

7 Q. Okay. All right. So Duck Lake Ranch --
8 the entity owned Duck Lake Ranch the property?

9 A. Yes.

10 Q. Okay. And then how did you acquire Duck
11 Lake Ranch the property?

12 A. Dad and I purchased that ranch probably in
13 around 1998. We purchased it together.

14 Q. Okay. And you were fresh out of college at
15 that point, right?

16 A. Pretty close, yes.

17 Q. And you graduated in '97 and you bought a
18 property, a ranch property, in '98.

19 A. Yes.

20 Q. And what did you have to contribute to that
21 purchase? What did you own?

22 A. In '98 part of my Thelma Jaksick, my
23 grandmother's, estate. She had left some parcels to
24 Stan, Wendy, and I out at a place on Longley Lane

1 out here south of town. And so as part of that
2 purchase I had either gave to Dad or traded with Dad
3 one of the lots that we had there.

4 Q. How much was the lot worth?

5 A. It was worth about \$250,000, is what I
6 recall at that time.

7 Q. And how much was 49 Mountain worth at the
8 time?

9 A. I recall it being about \$1 million was the
10 appraised value.

11 Q. And your dad owned 49 Mountain in what
12 entity at that time?

13 A. Originally it was in White Pine and then we
14 bought Duck Lake in 1998 and then after 1998 we did
15 an exchange.

16 Q. Okay. And so your contribution to that was
17 \$250,000?

18 A. \$250,000.

19 Q. The lot.

20 A. Plus we got a loan from a lender called
21 American Ag Credit that we both got financing from
22 that bank and put those funds in towards the
23 purchase of the acquisition of the original ranch.

24 THE COURT: With that, we will break.

1 (Whereupon, jurors were
2 admonished and excused.)

3 (Recess taken.)

4 THE COURT: Please seated, please.
5 Counsel, you may continue.

6 BY MR. SPENCER:

7 Q. Mr. Jaksick, we were talking about
8 acquiring the interest in 49 Mountain Ranch, Duck
9 Lake Ranch exchange. Do you remember that?

10 A. Yes.

11 Q. And you mentioned that you'd had a property
12 that you inherited from your grandmother, Thelma,
13 that you contributed as an investment into that
14 entity.

15 A. That's what I vaguely recall back then.

16 Q. And you don't have any documents that show
17 that you did that, do you?

18 A. Not that I recall right at this moment.

19 Q. And so you don't have any evidence that you
20 invested anything into Duck Lake Ranch at the time,
21 do you?

22 A. You know, I do remember that one lot out
23 there at SJ Ranch on Longley Lane is -- best of my
24 recollection is I transferred that to my dad.

1 Q. And I'm sorry I wasn't clear. I meant you
2 don't have any documentary evidence that shows that
3 that actually happened, do you?

4 A. I may. I don't know.

5 Q. And other than what you may have inherited
6 from your grandmother, you did not own any other
7 assets at the time, did you, 1998?

8 A. Not -- I don't recall all the assets that I
9 would have had in 1998.

10 Q. You graduated from high school in '89 and
11 graduated from UNR in 1997. And fresh out of
12 college you would not have had accumulated any
13 assets other than something you might have
14 inherited, correct?

15 A. No. I believe I had a residence that we
16 lived in and vehicles and kind of the
17 traditional-type stuff. I believe Duck Lake Ranch
18 was our first ranch purchase, is what I recall.

19 Q. What I'm getting at is that you didn't have
20 any assets or collateral to put up to receive a loan
21 like that, you yourself. You needed your dad
22 involved with that, didn't you?

23 A. It was certainly helpful having Dad,
24 there's no doubt. But we put up the land, the Duck

1 Lake Ranch, as the land that's collateral for the ag
2 loans.

3 Ag loans are actually quite easy to get and
4 so that's what we did. We went to an ag lender and
5 we put up the Duck Lake Ranch itself as security.
6 That's what the bank would look to.

7 Q. Your name was on the ranch but your dad was
8 the main source or main ability to get that -- to
9 get a loan to buy that.

10 A. At that time yes, Dad would have certainly
11 been very helpful.

12 Q. All right. And this was a property that
13 you mentioned he owned from the early '70s, the 49
14 Mountain Ranch, and he loved that ranch.

15 A. Yes.

16 Q. And you ended up after the 1031 exchange
17 with 40 percent of the ranch that he owned for all
18 those years. Is that correct?

19 A. That is what I recall, yes.

20 Q. What's the current ownership of Duck Lake
21 Ranch?

22 A. The current ownership is 100 percent --
23 95 percent, I believe, my family trust and 5 percent
24 with a percentage my dad gifted to my kids, as I

1 recall.

2 Q. What entity owns 49 Mountain Ranch now?

3 A. Right now? It's an entity called "Nevada
4 Prong Horn II."

5 Q. Okay. And so how did the 49 Mountain Ranch
6 get out of Duck Lake Ranch into Nevada Prong Horn
7 II?

8 A. Well, first it went from Duck Lake Ranch to
9 Home Camp as part of the exchange and then at a
10 later point in time it was transferred from Home
11 Camp into Nevada Prong Horn.

12 Q. Okay. And that's Home Camp, the entity,
13 transfers it to 49 Mountain to Nevada Prong Horn II?

14 A. That's what I believe to be the case.

15 Q. And when did that occur?

16 A. I'm not sure but I would say sometime
17 around maybe 2010, 2011 range.

18 Q. And you were a manager of Home Camp?

19 A. Yes. I believe Dad and I both were.

20 Q. At that time?

21 A. Yes.

22 Q. And so the entity that's listed here in
23 Exhibit 10, the SSJ's Issue Trust, that would own
24 that 49 Mountain Ranch that your father wanted to

1 preserve for the family for 365 years was moved out
2 of that entity to another one. Is that right?

3 A. Not that I'm aware of. I mean, it was
4 owned by Home Camp and Home Camp still owns Nevada
5 Prong Horn.

6 But dad and Pierre put an additional layer
7 of an LLC between transferring the land from Home
8 Camp to Nevada Prong Horn as additional asset
9 protection, was what I recall the purpose of why
10 they did that.

11 Q. Okay. So Mr. Hascheff was involved in that
12 transaction.

13 A. Yes.

14 Q. And so now the entity SSJ Issue Trust that
15 you're the trustee of owns 49 percent of an entity
16 that owns another entity that owns the ranch.

17 Is that right?

18 A. That sounds correct.

19 Q. Okay. So that's get a little bit far
20 removed from the SSJ's Issue Trust intent, isn't it?

21 A. I don't believe so because they're all --
22 all these entities are tied together, the
23 ownership's the same and it's just -- I don't
24 believe so. I think it's the same structure that

1 was originally intended that -- the Issue Trust
2 still owns those assets.

3 Q. The ownership's the same meaning that
4 49 percent, so the Issue Trust, 49 percent to your
5 Issue Trust, 2 percent to the TBJSC trust.

6 A. Yes.

7 Q. Of the other entities as well?

8 A. Could you be more specific?

9 Q. Yes. I'm sorry. The Home Camp entity,
10 that's the structure, and then Nevada Prong Horn II,
11 that's the ownership structure?

12 A. That's what I recall.

13 Q. And you're the manager of Home Camp and
14 Nevada Prong Horn II now, right?

15 A. Yes.

16 Q. So you're in total control of 49 Mountain
17 Ranch through those entities, correct?

18 A. Yes. It's the same structure that Dad set
19 up.

20 Q. So 49 -- SSJ's Issue Trust never had
21 control over 49 Mountain, did it?

22 A. I believe Home Camp did but the Issue Trust
23 owned the -- Issue Trust owned the Home Camp shares.

24 Q. 490 shares, which is 49 percent of the

1 stock, which is a minority interest, right?

2 A. That sounds correct.

3 Q. So SSJ's Issue Trust could never vote its
4 shares to require or prevent Home Camp, or now
5 Nevada Prong Horn, from doing anything, could it?

6 A. We didn't look at it that way but I guess
7 that's technically possible.

8 Q. Technically, if you own 49 percent and it's
9 a minority interest, you can't vote your shares to
10 cause the entities to do anything one way or the
11 other, can you?

12 A. Not necessarily. And that's why Dad
13 actually set it up that way.

14 Q. He set it up so that his ranch that he
15 wanted to be in the family for 365 years would not
16 be in the family for 365 years, right?

17 Is that what you're saying.

18 A. No. He wanted it to stay in there for the
19 365 years.

20 Q. Well, Home Camp is not bound by this Issue
21 Trust agreement, is it, Exhibit 10?

22 A. I'm not sure. I'd have to -- I would
23 believe it to be the case.

24 Q. Well, Nevada Prong Horn has its own

1 operating agreement, doesn't it?

2 A. Yes.

3 Q. Home Camp has its own operating agreement,
4 doesn't it?

5 A. Yes.

6 Q. Where either of those entities can decide
7 to do anything they want with the assets that they
8 own, right?

9 A. I don't believe that to be the case. It
10 falls back to my understanding. We had a
11 significant legal team working on this, many
12 different attorneys and accountants.

13 My understanding was the structure was the
14 Issue Trust and these documents still control and
15 the asset will stay in there for the 365 years.

16 Q. Well, the entity operating agreements don't
17 require that perpetuity, do they?

18 A. I don't recall seeing that in Nevada Prong
19 Horn.

20 Q. And your TBJ Issue Trust doesn't have the
21 same perpetuity requirement, does it?

22 A. Yes, it does.

23 Q. Oh, it does? All right. And who has
24 possession of that document signed?

1 A. Could you ask that again, please?

2 Q. Yeah. Where is your Issue Trust documents?

3 A. I've got copies of them.

4 Q. Signed ones?

5 A. Yes.

6 Q. And you haven't produced those in this
7 case, have you?

8 A. I'm not sure. I believe we produced all
9 the documents that we had relating to Home Camp,
10 both Issue Trust documents, so I'm pretty sure they
11 were produced.

12 Q. I'm talking about your Issue Trust, not the
13 SSJ's, but the TBJ.

14 A. My understanding is they were produced.

15 Q. Okay. You understand that you did not
16 produce them through your -- you understand that
17 through your legal team.

18 A. That's correct.

19 MR. ROBISON: Your Honor, excuse me.
20 Clarification. What we got we got from our client
21 to produce.

22 THE COURT: Thank you. Keep going,
23 counsel.

1 BY MR. SPENCER:

2 Q. All right. And so do you recall providing
3 a signed copy of your TBJ Issue Trust to your
4 counsel?

5 A. They already had a copy and I believe I
6 provided an additional copy.

7 Q. They had a copy because it was drafted by
8 one of the law firms?

9 A. Yes.

10 Q. Do you know whether that's been produced or
11 not?

12 A. I believe it has been but I'm not sure. I
13 can't say for positive.

14 Q. All right. And so the Home Camp operating
15 agreement and now the Nevada Prong Horn operating
16 agreement, it's your contention that they have the
17 same restrictions on sale and perpetuity clauses
18 that the SSJ's Issue Trust have?

19 A. Yes.

20 Q. All right. Now, in the SSJ's Issue Trust I
21 wanted to point out a couple other things. Exhibit
22 10, page 35. There at the bottom, paragraph L,
23 Perpetuity Savings clause. That's the one that says
24 for as long as Nevada will allow property to be

1 owned in summary 365 years.

2 A. I believe so, yes.

3 Q. Exhibit 10, page 14, this is going to be a
4 little hard to find because of that big paragraph
5 there, but this is under the heading subparagraph K
6 on page 14 of Exhibit 10, "Trustee administrative
7 powers." Do you see that at the top?

8 A. Yes.

9 Q. Okay. And so this outlines some powers and
10 down below I wanted to point out -- it's six lines
11 up from the bottom starting over to the right it
12 says, "The trustee has a duty to diversify the
13 investments of the trust unless under the
14 circumstances it is prudent not to do so."

15 Do you see that?

16 A. Yes.

17 Q. Do you know what that means?

18 A. For the most part, yes.

19 Q. And just to be fair, let's read the next
20 sentence. "However, the requirement of
21 diversification is not to apply with respect to any
22 property contributed to the trust estate by the
23 grantor any life insurance policies purchased by the
24 trustee that ensure the life of the grantor, any

1 real property, paragraph B of Article 5, and any
2 tangible personal property, paragraph C, Article
3 five."

4 A. Okay.

5 Q. You see that.

6 A. Yes.

7 Q. And that references some life insurance
8 proceeds, the SSJ's Issue Trust owns a policy?

9 A. Yes.

10 Q. And that policy was on the life of your
11 father, correct?

12 A. Yes.

13 Q. \$6 million was the face amount?

14 A. Yes.

15 Q. And that \$6 million was received following
16 your father's death April 21st, 2013?

17 A. Yes.

18 Q. Okay.

19 MR. SPENCER: Your Honor, I offer Exhibit
20 537.

21 MR. LATTIN: No objection.

22 THE COURT: 537 is admitted, Ms. Clerk.

23 (Exhibit 537 admitted.)
24

1 BY MR. SPENCER:

2 Q. So Exhibit 537, the TBJ's Issue Trust
3 agreement.

4 A. Okay.

5 Q. Flip to the last page. So page 36, you
6 don't see your signature on that document anywhere,
7 do you?

8 A. Not on this one, I do not.

9 Q. Okay. And then the next page. No
10 signatures on that one either.

11 A. I don't see that, no.

12 Q. This is a document you produced, Exhibit
13 537 that does not contain your signature, it's not
14 executed. Do you have one that's executed?

15 A. Yes.

16 Q. Is there a reason you did not produce that
17 to us?

18 A. I'm not sure.

19 Q. But looking at this 537, the first page --
20 Keith, page one -- you see at the top the Article 1
21 transfers blank shares of issued and outstanding
22 stock in Home Camp representing 49 percent of the
23 issued and outstanding stock of the corporation.
24 It's right at the top.

1 A. Yes.

2 Q. So the other 49 percent of Home Camp,
3 correct?

4 A. Yes.

5 Q. This, you said, conceptually is the same as
6 the SSJ's Issue Trust of your father, right?

7 A. Yes. I don't know if the document you have
8 here is an earlier draft or whatnot since it doesn't
9 have the signature page on it and that first
10 sentence of that description of the trust property
11 looks a little bit different as well.

12 Q. All right. Flipping over to page five of
13 Exhibit 537, paragraph 5B -- on page five of Exhibit
14 537 it says, "On the death of the grantor, the
15 trustee must collect the proceeds of any life
16 insurance policies that are then owned by the trust
17 and that ensure the life of the grantor."

18 Did that trust own life insurance as well?

19 A. Yes.

20 Q. "Proceeds of such life insurance together
21 with any other property" -- again, paragraph five,
22 page five of Exhibit 537 -- "are to then be
23 distributed according to paragraphs A, 5-A and B."
24 Those are the ones right below. Do you see that?

1 A. Yes.

2 Q. The first paragraph 5-A allows a right of
3 withdrawal. It says "withdraw -- "a non-lapsing
4 withdrawal amount 90 days after the grantor's death
5 and then the residue to be distributed to such one
6 or more members of the group composed of and limited
7 to the issue of the grantor and the surviving spouse
8 and their surviving spouses on such terms and
9 conditions either outright in trust or as the trust
10 protector named is pursuant to paragraph E."

11 Do you see that?

12 A. Yes, I see what's highlighted.

13 Q. So that allows for the distribution of the
14 shares owned by Issue Trust following your death,
15 right?

16 A. I'm not exactly sure what that language
17 means. Like I said, I'm not sure if this was a
18 draft prior to. We need to get the signed version
19 for you.

20 But I do recall discussions that in this
21 particular trust there could be some distributions
22 of life insurance and various things like that.

23 Q. Well, it says "life insurance together with
24 any other property of the trust estate."

1 So the interest in Home Camp that owns the
2 49 Mountain property.

3 A. Okay.

4 Q. So your trust actually allows for
5 distribution, whereas the SSJ's, Sam's trust, the
6 Issue Trust, does not. Is that right?

7 A. I believe that there was some distribution
8 provisions allowed in there.

9 Q. Okay. And that's even in the final version
10 that has your signature, correct?

11 A. It should be, because I remember the life
12 insurance we would allow to have some distributions
13 out of there. If a piece of property was sold,
14 there could be some distributions out of there.

15 Q. Okay. And so the idea of the perpetual or
16 dynasty trust that's gonna last hundreds of years
17 only applied to Sam's trust, right?

18 A. No, sir.

19 Q. Well, how is that possible, if you can
20 distribute out of yours and you can't distribute out
21 of Sam's?

22 A. My understanding was what Dad and Bob LeGoy
23 told me at the time was it was specific to do with,
24 if in the event that there was life insurance, it

1 could be distributed, if some of the green or yellow
2 property that was sold, some of that cash value
3 could be distributed.

4 But it didn't have any effect on the
5 properties in red that were designated that they
6 could not be sold and that's consistent in this
7 document, with the two trusts mirroring each other
8 so the assets stay in there for the 365 years.

9 Q. Even though the ranch is now twice removed
10 from the trust itself?

11 A. I don't know that to be the case. That was
12 the work of Pierre Hascheff and Bob LeGoy who
13 analyzed that. They didn't have any issues with it
14 and I relied on them to be able -- and Dad to be
15 able to work on that structure.

16 Q. Well, you knew that to be the case because
17 you said that the trust owns interest in Home Camp
18 that owns an interest in Nevada Prong Horn II. So
19 it's now two places outside of the trust itself.

20 A. I do know that Home Camp has an ownership
21 in Nevada Prong Horn. I do know that.

22 Q. Okay. And the shares in Home Camp and then
23 shares -- then Home Camp owns shares in Nevada Prong
24 Horn II, which owns the property.

1 A. That sounds correct.

2 Q. Okay. And so you are the one that gets to
3 decide whether any of these -- talking about the
4 number of people -- any of Sam's issue gets to use
5 Eagleville and 49 Mountain, right?

6 A. That's what the trust document says.

7 Q. And the \$6 million was put in there to help
8 with the perpetuity provision that it have money to
9 fund this perpetual trust going forward for as long
10 as possible, right?

11 A. Not necessarily.

12 Q. Well, it was put in there, at least
13 initially, for that purpose and the trust terms
14 were, the rule book, dictate how it could be used.

15 A. Dad had anticipated us using those funds
16 for other purposes besides just leaving them sitting
17 in an account for the benefit of the ranch property.

18 Q. And where is that documented?

19 A. Discussions that we had with him. We
20 had -- for example, Wendy sent me an email or a text
21 with some notes that she had and discussions she had
22 with Dad where Dad told her as well that we should
23 use some of the life insurance proceeds to pay down
24 the Tahoe debt. So that's an indication that Dad

1 was thinking of other things to use those funds for.

2 Q. Which email was that? Do you know?

3 A. I don't know off the top of my head but I
4 know we discussed it earlier.

5 Q. All right. And those proceeds ended up
6 being the \$6 million life insurance proceeds that
7 were payable into the Issue Trust following Sam's
8 death ended up being invested into another asset,
9 right?

10 A. \$4,993,000 or so of the \$6 million did get
11 reinvested into the Tahoe house.

12 Q. Okay. And so that's where I want to go
13 next, the Tahoe house.

14 A. Okay.

15 Q. Well, hold on. Let me back up. I want to
16 ask you one thing before that -- or several things.

17 You can see -- we talked about the
18 different capacities that you've held, the executor
19 of your mom's estate, trustee of Wendy's trust,
20 trustee of the Issue Trust, co-trustee of the Family
21 Trust, and then manager of these various entities,
22 trustees of your family's trust and so on. You put
23 that -- you got that in your head as far as the
24 number of positions that you held?

1 A. Yes. I'm not trustee for some of the
2 family trusts that I have but for the most part.

3 Q. But you get the idea. You were in a
4 position in relation to all of those various
5 entities, right?

6 A. Yes.

7 Q. And that some, if not all, of those
8 positions required or establish that you're a
9 fiduciary, correct?

10 A. Yes.

11 Q. And you understand what a fiduciary is,
12 don't you?

13 A. For the most part, yes.

14 Q. What is your understanding of what a
15 fiduciary is?

16 A. Basically to look out for the best interest
17 of the beneficiaries and pay down debt and reinvest
18 assets. And I know there's a bunch of other
19 meanings to that but, for the most part, just really
20 look out for the best interest of everybody and the
21 properties and try to increase property values.

22 Q. To maximize values.

23 A. Sure, exactly.

24 Q. Pay down debt.

1 A. Yes.

2 Q. To manage the assets.

3 A. Yes.

4 Q. To generate income.

5 A. Yes.

6 Q. And follow the trust terms.

7 A. Yes.

8 Q. To provide accountings to the

9 beneficiaries.

10 A. In some respects, yes.

11 Q. And to fully disclose all information that

12 materially affects a beneficiary's interest.

13 A. For the most part, yes, that's accurate.

14 Q. To not be hostile towards your

15 beneficiaries.

16 A. Yes.

17 Q. Avoid hostility is a better way to put it.

18 A. Yes, I would agree.

19 Q. To avoid bias and not be biased against the

20 beneficiaries.

21 A. Yes.

22 Q. You certainly can't take property for

23 yourself from the beneficiary's share, can you?

24 A. It depends under circumstances. We did do

1 some of that.

2 Q. You believe that it's okay for a fiduciary
3 to take property of the beneficiary for themselves?

4 MR. ROBISON: Objection, foundation.
5 Depends on what the document says.

6 THE COURT: Overruled.

7 THE WITNESS: Based off the fact that the
8 documentation that we did provide some unique
9 circumstances after Dad passed away. We did
10 document some of those.

11 BY MR. SPENCER:

12 Q. You're talking about the -- I'm sorry. Go
13 ahead?

14 A. We did document some of those things we
15 thought were appropriate to make the decisions like
16 that.

17 Q. You're talking about the Agreement and
18 Consent to Proposed Action?

19 A. That was just something that came to mind
20 when you were asking me the question. Yes.

21 Q. All right. So that's what I understood
22 from your answer and so I want to put those aside
23 for just a second.

24 I'm talking generally that you would agree

1 that it's not okay that a fiduciary cannot take
2 property of the -- of his or her beneficiary for
3 themselves?

4 A. I would say that sounds accurate, but I do
5 recall some provisions in the document do allow some
6 things like that. I just can't tell you what that
7 is right now.

8 Q. And a beneficiary cannot self-deal, meaning
9 use trust or beneficial property for their own
10 benefit.

11 A. What I recall is the trust did allow for
12 self-dealing.

13 Q. Which trust?

14 A. The Family Trust.

15 Q. So can you answer my question generally?
16 I'm asking about your knowledge as a fiduciary --

17 A. Okay.

18 Q. -- and you understand that a fiduciary
19 cannot self-deal, right?

20 A. I guess there could be a couple different
21 definitions of self-dealing. It was my
22 understanding it was okay to do that under certain
23 circumstances.

24 Q. Use property of the trust to make a profit

1 for themselves.

2 A. I don't know exact definition, like I, said
3 but I just know that the documents do call for a
4 provision to self-deal.

5 Q. And you understand that a fiduciary in
6 relation to his or her duty of disclosure has to
7 tell on themselves.

8 If you have to tell on yourself, you have
9 to tell if something goes wrong or if you made a
10 mistake or anything, that you have an obligation to
11 tell on yourself, to tell the beneficiaries, Hey,
12 this went bad here.

13 A. Okay. Yeah. Sure.

14 Q. You'd agree with that, right?

15 A. Sounds normal, yeah.

16 Q. You certainly can't hide anything as a
17 fiduciary from your beneficiaries, can you?

18 A. For the most part, no, but in some
19 circumstances, yes.

20 Q. Okay. And you're talking about agreements
21 that you enter into that have confidentiality
22 provisions and that sorta thing?

23 A. That was one of the things I was thinking
24 about, yes.

1 Q. Okay. But that even questions whether the
2 fiduciary should enter into an agreement like that
3 if they're required to keep things from their
4 beneficiaries, right?

5 A. We didn't keep anything from the
6 beneficiaries. I was thinking more about, once we
7 were involved in the agreement, for example, the
8 Bronco Bill's Casino sale, there was a provision
9 there. We were told by counsel we shouldn't discuss
10 any provisions at a point in time.

11 Q. I'm not talking about anything
12 specifically. I'm talking in general.

13 A. I'm sorry.

14 Q. That it draws the question of whether the
15 fiduciary ought to enter into such an agreement if
16 that agreement requires the fiduciary not to tell
17 the beneficiaries about it.

18 A. We didn't really enter into the agreement.
19 It was the company that made the decision to do
20 that.

21 Q. Can you answer my question generally as a
22 fiduciary? That's what I'm asking. I'm not asking
23 about Bronco Bills yet. Nothing other than
24 generally speaking that a fiduciary ought to

1 question whether they should enter into an agreement
2 that contains a confidentiality provision that would
3 require him or her to keep information or hide
4 information from the beneficiaries.

5 A. And I would defer to our counsel on a
6 discussion like that.

7 Q. As a fiduciary you can't blame the
8 beneficiary of doing something or having done
9 something in the past. You would agree with that?

10 A. Yeah. You have to be more specific.

11 Q. You can't point to the beneficiary and say,
12 I don't like you and, therefore, I'm going to do X.
13 That would show bias and hostility, wouldn't it?

14 A. Yeah. Yes.

15 Q. So you don't have the luxury of being able
16 to say I don't like you or like what you've done,
17 therefore, I'm going to do X.

18 A. No. We just treated everything like a
19 business transaction.

20 Q. Okay. And you certainly as a fiduciary
21 cannot punish any beneficiary for anything that they
22 might have done that you disagreed with.

23 A. Yes. I would say for the most part. I
24 would agree with that except for if they're

1 challenging trust documents.

2 Q. Okay. You believe there's areas where a
3 fiduciary can punish their beneficiary?

4 A. I believe that if they're challenging the
5 trust documents where Dad specifically said, Don't
6 challenge the trust documents, then you have an
7 obligation to fulfill Dad's intent within the
8 documents.

9 Q. Well, that's different than punishing them
10 and saying, I'm gonna stop paying you money or I'm
11 gonna take a distribution away, or do something
12 retaliatory because you're mad at them or disagree
13 with something.

14 A fiduciary can't do that, can they?

15 A. I wouldn't think so. Those are different
16 circumstances but, yeah, no, we didn't do anything
17 like that.

18 Q. But I'm just saying in general you
19 understand that a fiduciary can't do that.

20 A. That sounds accurate.

21 Q. And the talking bad about your beneficiary
22 and treating them poorly would reflect upon your
23 fiduciary duties and ability to serve, right?

24 A. I don't know that to be the case.

1 Q. So a fiduciary can show hostility and talk
2 bad about a beneficiary and treat them poorly.

3 Is that what you think?

4 A. Doesn't sound accurate. It's not what we
5 tried to do. I'm just saying there could be a
6 unique situation. I'm not sure.

7 Q. In other words, you agree that a fiduciary
8 should not talk bad about their beneficiary or treat
9 them poorly in general.

10 A. I don't know all the details of exactly
11 what you're talking about, but when it comes to
12 their beneficial issue rights in the trust, no, we
13 shouldn't have any bias towards them.

14 Q. Bias against them --

15 A. Yes.

16 Q. -- against their beneficial interests in
17 the trust.

18 MR. SPENCER: Your Honor, I offer 23.17,
19 your Honor.

20 MR. ROBISON: No objection, your Honor.

21 THE COURT: 23.17 is admitted.

22 (Exhibit 23.17 admitted.)

23 BY MR. SPENCER:

24 Q. Blow the top part up a little bit. I just

1 want to ask you if you remember this particular
2 document, the general durable power of attorney?

3 A. I do, yes.

4 Q. And this is a document that appointed you,
5 Todd B. Jaksick, as attorney-in-fact for Sam.

6 A. I believe that to be accurate, yes.

7 Q. Do you know what that means exactly?

8 A. I don't. I just -- I don't know the exact
9 definition of that. I'm sorry.

10 Q. And this is dated December 17th, 2012. Go
11 to the last page -- second to last page.

12 A. Yes, I see that.

13 Q. And that -- and attached to that there's
14 actually two powers of attorney in this document.
15 Let me just make sure that we have a clear record on
16 that.

17 So page six of Exhibit 23.17 there's two
18 documents attached. One is a general durable power
19 of attorney and then the other is durable power of
20 attorney for health care decisions. That's at TJ
21 1116.

22 A. Okay. Yes, I recall both of those.

23 Q. I'm sorry. TJ 1118. That's the health
24 care power.

1 A. Yes.

2 Q. All right. And so you understand that this
3 made you a fiduciary for Sam, don't you?

4 A. It's possible. It was just explained to me
5 differently by Dad at the time that he got those
6 prepared.

7 Q. Well, if you're understanding conceptually
8 what a fiduciary is to act in the best interest and
9 do all the things that we've mentioned and you were
10 appointed for Sam with the ability to pretty much do
11 anything with his property or make health care
12 decisions for him, you would agree that that's put
13 you into a fiduciary position, right?

14 A. It certainly is possible. Like I said, it
15 was just -- the way Dad explained that to me before
16 his surgery was different than that.

17 Q. Well, did you not understand that you owed
18 your father fiduciary duties at the time that you
19 accepted being his attorney-in-fact?

20 A. At the time, no, I did not.

21 Q. And at what point in time did you figure
22 that out?

23 A. I'm not sure.

24 Q. And you understand that this power of

1 attorney gives you the power to -- in looking at it
2 on page two, TJ 1112 of Exhibit 23.17, without
3 reading all those word by word, two is to deal
4 with -- the power to deal with real property, deal
5 with personal property, collect and recover assets,
6 operate businesses, deal with insurance, and then
7 six is the one I want to look at specifically.

8 "Power to sign, seal, execute, deliver and
9 acknowledge such instruments in writing of whatever
10 kind and nature as may be necessary or proper in any
11 corporation, limited-liability company, or entities
12 that I'm a member, manager, shareholder, officer, or
13 any other capacity therein."

14 A. Okay. I see that.

15 Q. And then I'm sorry. I missed the first
16 one. "Invest, sell, purchase, lease, borrow and
17 encumber assets." so these are broad powers you were
18 given over Sam's property on December 17th, 2012,
19 right?

20 A. In reviewing that, yes, it sounds like that
21 could be the case.

22 Q. So all those, that list of things we went
23 through that fiduciaries have to -- the duties that
24 fiduciaries have to abide by, based on these

1 documents, you owe those to Sam as of December 17th,
2 2012, didn't you?

3 A. I just don't recall it that way. The
4 documents, obviously, speak for themselves but it
5 was more related to around his surgery and his
6 health care decisions.

7 Q. You don't know whether you owed your dad
8 fiduciary duties in December of 2012?

9 A. For this particular document, we didn't
10 discuss the document that way.

11 Q. Well, I'm not asking what you discussed.
12 I'm asking whether you, the attorney-in-fact for Sam
13 Jaksick, knew that you owed your father fiduciary
14 duties.

15 A. At the time I did not.

16 Q. Did you ever?

17 A. Could you state it again?

18 Q. Did you ever know that you owed your dad
19 fiduciary duties based on these powers of attorneys,
20 Exhibit 23.17?

21 A. It's not ringing a bell right now. I'm
22 sorry.

23 Q. All right. And 23.17, page six of the
24 first document, which is TJ 1116, just wanted to

1 bring that up at the bottom to show that was a
2 document that you signed as being a sample of your
3 signature, right?

4 A. Okay.

5 Q. Is that your signature?

6 A. Yes.

7 Q. Okay. So I want to switch -- I went
8 backwards to talk about fiduciary duties. We're
9 going towards the Lake Tahoe property and you
10 mentioned that the \$6 million, some of the \$6
11 million in the life insurance on Sam's death was
12 invested in the Lake Tahoe property.

13 A. Correct.

14 Q. And that money was used to purchase an
15 interest in an entity called Incline TSS.

16 Is that right?

17 A. Yes.

18 Q. And at the time Incline TSS was owned
19 100 percent by the trust that you'd created.

20 A. That sounds correct.

21 Q. And you were given a real estate option
22 that was dated November 1st, 2010.

23 Do you recall that?

24 A. I do.

1 Q. And when I say "you" in that context I mean
2 to say Incline TSS Ltd. was given an option.

3 A. Yes. I appreciate that clarification.
4 Thank you.

5 MR. SPENCER: And, your Honor, I offer
6 Exhibit 23.5.

7 MR. ROBISON: No objection.

8 THE COURT: 23.5 is admitted.

9 (Exhibit 23.5 admitted.)

10 BY MR. SPENCER:

11 Q. So this Real Option Agreement, just to
12 clarify a few of the details, there's a date written
13 into it at the top "November 1st, 2010."

14 Do you see that?

15 A. Yes.

16 Q. So that would be the only date that would
17 be in the document, correct?

18 A. I'm not sure.

19 Q. Flip to the last page, which is TJ 1057 of
20 Exhibit 23.5. No date written into the signature
21 line, but it says, "In witness whereof, this
22 agreement was entered into and executed the first
23 day above-written in Washoe County, State of
24 Nevada."

1 A. Okay. Yes, I see that.

2 Q. All right. So back to the top on the first
3 page, which is TJ 1053. So this option agreement is
4 made as of November 1st of 2010.

5 Do you see that at the top?

6 A. Yes.

7 Q. It's with Sam as trustee of the Family
8 Trust and Incline TSS Limited.

9 A. Yes.

10 Q. And, again, we have the whereas recital
11 paragraphs. Without going through those, we're just
12 going to summarize some of the details.

13 A. Okay.

14 Q. It says, "The appraised value of the Lake
15 Tahoe property" -- that's the one on Lakeshore,
16 right?

17 A. Correct.

18 Q. The appraised value is \$6.5 million.
19 That's Recital B. Do you see that?

20 A. Yes.

21 Q. And then Recital C says that "the Buyer
22 approached Seller and requested Seller to sell the
23 property, the Lake Tahoe property, to Buyer pursuant
24 to this option agreement. Is that true, that you as

1 manager of Incline TSS approached the trustee of the
2 Family Trust to get this option?

3 A. I don't know if I would have worded it
4 exactly that way. But it's basically Dad and I and
5 Pierre and Stan working together to get the option
6 on the piece of property per Dad's wishes.

7 Q. Anybody reading this document has no idea
8 about all those discussions behind the scene. They
9 have to rely on this document, Exhibit 23.5.

10 A. Correct, okay.

11 Q. So according to that you were the one that
12 approached your dad as trustee to get this option.

13 A. I did say we were willing to do it.

14 Q. And paragraph D, "Buyer's willing to pay
15 \$7.25 million since it's the buyer's desire to
16 retain the property for future generations, if
17 possible."

18 A. Yes, I see that.

19 Q. Future generations would be your
20 descendants, correct?

21 A. At the time we were thinking about more
22 Stan and -- Stan's family and my family.

23 Q. Well, but that's not how it turned out, is
24 it?

1 A. Stan and I were each going to be 50 percent
2 owners of this option. But Stan was going through a
3 divorce so Dad took Stan out of Incline TSS at that
4 point in time. So for the time being it was just
5 myself moving forward with the transaction with the
6 intent to get Stan back in at a later time.

7 Q. And it's your testimony that your dad was
8 intending that you and Stan get this very valuable
9 property and Wendy not get any of this.

10 Is that right?

11 A. As part of this transaction, yes, that's
12 accurate.

13 Q. And the Lake Tahoe property was a priority
14 property, wasn't it?

15 A. I don't know if I recall or heard it called
16 that but it was, yes, a unique, special property.

17 Q. You previously testified that it was a
18 priority property, that other property would be sold
19 or sacrificed in order to maintain Lake Tahoe.

20 A. That sounds accurate, yes. If we had to
21 sell something to try to keep this piece of property
22 funded, we would do that.

23 Q. So all of a sudden November 1st, 2010,
24 your dad decides, after including Wendy in the prior

1 estate-planning documents, decides to give up her
2 interest or take out her interest in this priority
3 property, Lake Tahoe.

4 A. That is correct.

5 Q. And the reason was because of all this
6 stuff that happened back in the late '90s and early
7 2000s relating to the financial issue she had?

8 A. I would say it was that plus it was other
9 things as well.

10 Q. Well, we heard that it was about -- I think
11 the phrase that was used was, He was worried that
12 she would bring down the family, right?

13 A. I've heard that on several occasions, yes.

14 Q. Who said that, besides your lawyer in this
15 case?

16 A. My dad has actually said that.

17 Q. And where is that documented?

18 A. I don't know where it's actually written
19 anywhere but I've heard him saying it several times.

20 Q. It's not written anywhere, is it?

21 A. I haven't seen it written.

22 Q. And you don't know of anyone that was there
23 when he said that to you, do you?

24 A. Yes. Pierre -- I heard him say that

1 before. Pierre was there once.

2 Q. Pierre, your attorney, Pierre Hascheff, was
3 there. Is that right?

4 A. The family attorney.

5 Q. Uh-huh. No. The attorney of you and your
6 father, correct?

7 A. Dad and I and Stan. He did work for all of
8 us.

9 Q. All right. And when did that statement
10 that you heard about Wendy bringing down the family
11 occur?

12 A. I've heard it several times before. I
13 recall one time in particular with respect to the --
14 when he was structuring a draft in the BHC Trust,
15 where Dad was.

16 Q. The one where she ended up getting the same
17 amount as you and Stan as far as her trust?

18 A. Yes. She wanted him -- Dad wanted Wendy to
19 have a trustee act on her behalf.

20 Q. And so all the problems that Wendy had had
21 with some of the financial issues had occurred prior
22 to 2006, hadn't they?

23 A. Yes.

24 Q. All right. And he still included Wendy in

1 the trust with that reduction of the \$1.5 million.

2 A. Yes.

3 Q. But then the Second Amendment -- we didn't
4 go over that and we will -- that removed the \$1.5
5 million reduction, didn't it?

6 A. It did.

7 Q. Okay. And it provided 20 percent of
8 Wendy's share would be go to Luke in trust.

9 A. Yes.

10 Q. So even after all the stuff that was
11 mentioned that Wendy had done, your dad included her
12 in his estate plan on multiple occasions following
13 that.

14 A. Correct.

15 Q. But all of a sudden in 2010 he doesn't want
16 her to have the house that she -- a piece of the
17 house -- her share of the house that she grew up in,
18 does he?

19 A. That is accurate, yes.

20 Q. And then you ended up with the whole thing,
21 didn't you?

22 A. What time frame are you talking about?

23 Q. Well, I'm sorry. Your trust ended up
24 owning the entity 100 percent that ended up with

1 Lake Tahoe, right?

2 A. Because Stan couldn't be involved because
3 of his divorce, yes, I took the lead and did acquire
4 the piece of property when dad told us to acquire
5 the piece of property.

6 Q. An then there was going to be a time when
7 Stan would be allowed to buy back in based on some
8 property that was going to be gifted to him from
9 Sam.

10 A. Correct.

11 Q. We're going to get into that in just a
12 second. I want to go back to this option agreement,
13 Exhibit 23.5.

14 A. Okay.

15 Q. Recital D whereas, 7.25 million dollars
16 since it is the buyer err desire to retain the
17 property for future generations if possible, that
18 being your future generations, right?

19 A. Stan's and mine.

20 Q. Well how would Stan have any entitlement if
21 your trust owned the entity that owned the whole
22 property?

23 A. Well, like I said, Stan was part of this
24 transaction early on and him and I were going to

1 each be 50 percent owners. So that language is
2 anticipated to talk about Stan's and my future
3 generations.

4 Q. And sir I asked you how would Stan be
5 entitled to anything based upon this if your entity
6 owned everything?

7 A. Because it was just common knowledge that
8 at some point in time Stan would come back in.

9 Q. But until he did he would have no rights,
10 correct?

11 A. Until -- yes, that sounds right.

12 Q. So November 1st 2010, which the option
13 agreement was entered, Exhibit 23.5, your trust was
14 the only one that would have been future generations
15 as referenced here.

16 A. Yes, because of Stan's divorce.

17 Q. Okay. And then Recital E recites that
18 there's a \$6.4 million mortgage owed to Bank of
19 America.

20 A. I see that, yes.

21 Q. That was a lien on the Lake Tahoe property,
22 right?

23 A. Yes.

24 Q. And prior to this option agreement -- I'm

1 sorry. Let me back up and restate that.

2 After the option agreement, the Lake Tahoe
3 property was transferred to an entity called SSJ's
4 LLC, right?

5 A. Yes.

6 MR. SPENCER: Your Honor, I offer Exhibit
7 23.8.

8 MR. ROBISON: No objections.

9 THE COURT: 23.8 is admitted.

10 (Exhibit 23.8 admitted.)

11 MR. ROBISON: May I have word with counsel,
12 your Honor?

13 THE COURT: Yes.

14 (Sotto voce discussion between counsel.)

15 BY MR. SPENCER:

16 Q. And so looking at Exhibit 23 --

17 MR. SPENCER: It was admitted, your Honor?

18 THE COURT: Yes.

19 BY MR. SPENCER:

20 Q. Thank you. Looking at Exhibit 23.8, second
21 page, which is TJ 1064, this is a deed that
22 indicates Samuel S. Jaksick, Jr., Trustee of the
23 Family Trust grants, bargains, and sells to the
24 SSJ's LLC entity the property described on Exhibit

1 A, which is the Lake Tahoe property.

2 A. Yes. I recall this.

3 Q. All right. And so the page before that, TJ
4 1065, and that was signed November 23rd, 2011.

5 Do you see that?

6 A. I do.

7 Q. And that's a signature page that has no
8 page numbers on it, does it?

9 A. I'm not sure.

10 Q. None of these have page numbers on the
11 document itself, does it?

12 A. I'm not sure.

13 Q. The deed -- the deed records department put
14 a page number on each at the top. Can you see that?

15 A. Yes, I see that.

16 Q. But as far as the document itself, none of
17 the pages have page numbers on them, do they?

18 A. I don't see any.

19 Q. And the page number down here at the
20 bottom, TJ 1065, that was put on as far as part of
21 the production --

22 A. Right.

23 Q. -- not part of the document, right?

24 A. Yes.

1 Q. Okay. And so that was -- the Tahoe
2 property, this deed was filed and the deed records
3 in Washoe County December 5th, 2011. That's at
4 the top of the very first page December 5th, 2011.

5 A. Okay.

6 Q. And so after -- this was after the
7 November 1st, 2010, option agreement.

8 A. Correct.

9 Q. So let me pull up Exhibit 96.

10 MR. SPENCER: Your Honor, I offer 96.

11 MR. ROBISON: No objections.

12 THE COURT: 96 is admitted.

13 THE CLERK: Thank you.

14 (Exhibit 96 admitted.)

15 BY MR. SPENCER:

16 Q. This is the Articles of Organization
17 Limited-Liability Company Form for SSJ's LLC.

18 Do you see that right there, the little
19 bitty type at the box?

20 A. Oh, yes, I do.

21 Q. Filed November 15th, 2011, in the upper
22 right-hand corner. Keith, flip to JSK 806 of
23 Exhibit 96. And you see that that SSJ's, LLC was
24 owned 100 percent by Samuel S. Jaksick, Jr., Trustee

1 of the Samuel S. Jaksick, Jr. Family Trust.

2 A. Yes, I see that.

3 Q. The Lake Tahoe property was in the Family
4 Trust, which was ultimately to be divided into
5 thirds, other than as we've mentioned with the Luke
6 trust. Then it was moved into the SSJ's, LLC where
7 it was still owned -- wholly owned by that family
8 trust.

9 A. Correct.

10 Q. Okay. And the option agreement, going back
11 to Exhibit 23.5, down below under "Option
12 Consideration," paragraph one on page one says, "The
13 buyer shall pay \$50,000 in initial option payment on
14 or before February 28th, 2011."

15 A. Okay, yes.

16 Q. -- "and then annual payments in the amount
17 of \$50,000 commencing on or before January 15th,
18 2012."

19 A. Yes.

20 Q. And then paragraph two has the purchase
21 price we mentioned of 7.25 million with those
22 deposits being applied to the purchase price,
23 correct?

24 A. Yes.

1 Q. And then on the next page, page two of
2 Exhibit 23.5, whenever the option was exercised the
3 buyer would buy it on a note to seller that will be
4 reduced by the amount of the lender's debt assumed
5 by the buyer. Do you see that at the very top?

6 A. Okay. Yes.

7 Q. "Delivery by buyer to seller of an
8 unsecured promissory note within 10 days of the
9 exercise of the option subject to seller's and
10 lender's approval and the buyer's note to seller
11 would be reduced by the amount of any lender's debt
12 assumed by the buyer."

13 A. Okay.

14 Q. "The note will include a 10-year maturity
15 date interest-only payments at two-and-one-quarter
16 percent, 2.25 per anum."

17 A. Yes, I see that.

18 Q. So Incline TSS could buy the property for
19 7.25 million on an unsecured note at
20 two-and-a-quarter percent. Is that right?

21 A. Yes.

22 Q. Okay. And you made a couple of the option
23 payments prior to exercising the option, didn't you?

24 A. That's what I recall, yes.

1 Q. And then some closing -- at the time of the
2 exercise of the option there were some closing
3 costs.

4 A. Yes, that sounds accurate.

5 Q. You exercised the option on December 28th,
6 2012. Is that right?

7 A. No, I don't believe so.

8 Q. December 21st, 2012.

9 A. That sounds correct.

10 Q. Let me pull up exhibit --

11 MR. SPENCER: Your Honor, I offer 23.18.

12 MR. ROBISON: So we're clear, we will
13 stipulate in evidence the 23.1 series all the way
14 through to 23.17.

15 THE COURT: So 23.18 is admitted. But just
16 in the future then identify a specific exhibit.
17 I'll note there is a stipulation but I want our
18 clerk to be able to track the exhibits.

19 (Exhibit 23.18 admitted.)

20 BY MR. SPENCER:

21 Q. Exhibit 23.18, Notice of Exercise of 1011
22 Lakeshore Boulevard, Incline Village, Notice of
23 Exercise of Option.

24 A. Okay. I see that.

1 Q. And that's December 21st, 2012. And if
2 you flip to the next page, that's your signature on
3 that page, isn't it?

4 A. Yes.

5 Q. And the last paragraph -- well, the first
6 paragraph says, "Attached hereto as Exhibit F the
7 bank's letter of consent approving both transfers of
8 property first to SSJ's LLC and subsequent transfer
9 to Incline TSS on December 28th, 2012."

10 A. Okay.

11 Q. Do you see that? And then that postdates
12 the date of the notice that you gave, doesn't it?

13 A. It looks like that could be the case.

14 Q. December 28th, 2012. So your notice is
15 referencing -- notice of December 21st, 2012, is
16 referencing a document to be attached that postdates
17 it by a week or that was created a week afterwards.

18 A. Correct. I see that.

19 Q. So this must have been created after
20 December 28th, right?

21 A. You'd have to ask Pierre Hascheff that one.
22 I'm not sure.

23 Q. Well, there's no other way that anyone
24 could have known about this Exhibit F December 28th,

1 2012, prior to it being sent.

2 A. I'm not sure. I just know that Pierre was
3 working with Bank of America and Kathleen Newby.
4 And there were discussions going back and forth that
5 the document was coming for the consent to approve
6 the transfer, so I'm not sure. But you could ask
7 him in a few days when he's here. I'm not sure.

8 Q. So Pierre Hascheff prepared this 23.18?

9 A. Yes, sir.

10 Q. And the next paragraph on the second page,
11 this outlines the amounts that were paid prior to
12 the option -- is that correct -- prior to the
13 exercise of the option -- I'm sorry -- a down
14 payment of \$46,244.68?

15 A. I see that.

16 Q. And then states what the note value is
17 gonna be \$7,103,255.32.

18 A. That sounds correct.

19 Q. After crediting option payments in the
20 amount of \$100,500.

21 A. Okay. I see that, yeah.

22 Q. So to simplify that, we start with
23 \$7.25 million and then subtract the \$46,244.58 and
24 the \$100,500 to get to the \$7,103,255.32.

1 A. Okay. Yeah, that sounds right.

2 Q. And so the \$100,500 plus 46,244.68 totals
3 \$146,744.68 --

4 A. Okay.

5 Q. -- is that right?

6 A. It looks like it.

7 Q. So as of the time of the option exercise,
8 December 21st, '12, Incline TSS had paid a little
9 bit shy of \$150,000 towards the purchase.

10 Is that right?

11 A. Yes, that sounds accurate.

12 Q. And that's what established the amount of
13 the promissory note.

14 A. Yes.

15 MR. SPENCER: Your Honor, Exhibit 23.20.

16 THE COURT: Yes. 23.20 is admitted.

17 (Exhibit 23.20 admitted.)

18 BY MR. SPENCER:

19 Q. So this document, 23.20 is the unsecured
20 promissory note that was created following the
21 amounts that we just went through that were prepaid,
22 correct?

23 A. It looks to be the case, yes.

24 Q. Date of the note is December 28th, 2012.

1 It's unsecured. Do you see that at the top,
2 correct?

3 A. Yes.

4 Q. The date of the note is December 28th,
5 2012. Do you see that?

6 A. Yes.

7 Q. And then this is a note from Incline to
8 SSJ's -- Incline TSS to SSJ LLC and then there's the
9 amount \$7.1 million at the 2.25 percent rate.

10 A. Yes. I see that.

11 Q. And this was an interest-only payment --
12 interest-only note, I should say, for a period of
13 time.

14 A. Yes. Interest-only. Next payment was due
15 December of 2013, that's correct.

16 Q. And how long did the interest-only amount
17 or requirement run?

18 A. It looks like right there where you
19 highlighted it, 12/28.

20 Q. Okay. And so for that period of time the
21 only thing Incline TSS had to pay to maintain the
22 property, to keep the property, the Lake Tahoe
23 property, was the \$159,823.235 which was the
24 interest on the note.

1 A. Are you asking is that all the obligations
2 that they had?

3 Q. According to this note, the only obligation
4 to keep this note current is to make the
5 interest-only payment in December.

6 A. Yes. According to that note, that's the
7 case, but the LLC would have had a substantial
8 amount of additional expenses.

9 Q. Maintenance and other things to keep the
10 Tahoe property current and rented.

11 A. Loan payments, property taxes.

12 Q. What other loan payments?

13 A. We were paying the Bank of America loan
14 directly.

15 Q. Okay. But you never assumed that Bank of
16 America loan, did you? And I'm talking about "you"
17 being Incline TSS.

18 A. Yes, we did.

19 Q. The loan was later paid off and there was a
20 refinance of an amount of money, which we'll get to.
21 But as far as switching places with SSJ's LLC and
22 becoming the person or the entity obligated on the
23 note, Incline TSS never did that, did it?

24 A. We planned to but we didn't have time

1 because when Dad decided to have us exercise the
2 option, there wasn't enough time to complete a
3 complete refinance of the property.

4 Q. And your dad was in -- or had to travel to
5 Los Angeles in December of 2012, right?

6 A. Yes.

7 Q. And he had to go there for open-heart
8 surgery.

9 A. Yes.

10 Q. And he went there on December 17th, 2012?

11 A. That sounds correct. Late in the evening,
12 maybe.

13 Q. And the surgery was on December 19th --

14 A. Yes.

15 Q. -- 2012?

16 A. Yes.

17 Q. And this happened -- the exercise happened
18 on December 21st, 2012?

19 A. That letter, yes, that's correct.

20 Q. And the note issued on December 28th, 2012,
21 correct?

22 A. That sounds right.

23 Q. And all of that happened while your dad was
24 in Los Angeles, correct?

1 A. Yes.

2 THE COURT: Ladies and gentlemen, that
3 concludes our trial morning.

4 (Whereupon, jury was admonished
5 and released for lunch.)

6 -o0o-

7 AFTERNOON SESSION

8 THE COURT: Good afternoon to all.

9 Counsel, you may continue your examination.

10 BY MR. SPENCER:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. I want to ask you just a few things about
14 some of the documents filed relating to the Lake
15 Tahoe property.

16 MR. SPENCER: The first is Exhibit 23.21,
17 your Honor. It's been offered and stipulated.

18 THE COURT: Yes. It is admitted.

19 (Exhibit 23.21 admitted.)

20 BY MR. SPENCER:

21 Q. So this is a deed filed on December 28th,
22 2012, and it's from SSJ LLC to Incline TSS Limited.

23 Do you see that first couple of lines of
24 the deed part?

1 A. Yes.

2 Q. So at the time of the option exercise,
3 December 28 -- it was December 21st, but the note
4 on the other documents we saw were December 28th.
5 So this is transferring the Lake Tahoe property --
6 "this" being Exhibit 23.21 -- transferring the Lake
7 Tahoe property to Incline TSS LLC --

8 A. Okay.

9 Q. -- or Limited. Is that right?

10 A. I would assume so.

11 Q. And the next page TJ 1156 of 23.21, that
12 was a document signed by you as manager of SSJ LLC.

13 A. Yes.

14 Q. Being received by you as manager of Incline
15 TSS Limited.

16 A. Okay. Yes.

17 Q. Next, your Honor, Exhibit 51. We offer it.
18 I think it's stipulated.

19 MR. ROBISON: No objection, your Honor.

20 THE COURT: Exhibit 51 is admitted.

21 (Exhibit 51 admitted.)

22 BY MR. SPENCER:

23 Q. On the second page of Exhibit 51, Amended
24 Notice of Assignment of Option to Purchase

1 Concerning Real Property. That was something that
2 was necessary because the option agreement was with
3 the Family Trust. We saw that earlier.

4 But the property was with SSJ LLC, correct?

5 A. Correct.

6 Q. So that option needed to be assigned to SSJ
7 LLC, the current owner -- the then-current owner of
8 the property.

9 A. Yes. Because it was a family trust
10 originally and then SSJ LLC, so that's exactly
11 right.

12 Q. Okay. And then you mentioned earlier that
13 there wasn't enough time for Incline TSS to take
14 over and assume the note that was owed -- the
15 mortgage note that was owed by SSJ LLC.

16 A. Well, we did do whatever Bank of America
17 allowed us to do, which is my understanding Incline
18 TSS assumed a 6.3 million debt as well as assumed
19 the obligations of \$7,250,000 due to -- I'm sorry --
20 due to SSJ LLC, but there just wasn't time to do all
21 the formal documents to do a complete refi.

22 Q. You assumed, then, the obligation to pay
23 the payments of the mortgage of SSJ LLC.

24 A. Incline TSS did.

1 Q. And I'm sorry. When I say "you," I mean
2 Incline TSS agreed to pay the payments that were
3 owed by SSJ LLC to Bank of America.

4 A. That's my understanding.

5 Q. But not become the official obligor on that
6 mortgage note.

7 A. I think Incline TSS was the obligor but we
8 had to leave SSJ LLC and that in place until we
9 could get a refinance in place.

10 Q. So at what point did Incline TSS take out a
11 \$6.3 million mortgage to discharge the mortgage of
12 SSJ LLC?

13 A. Well, it was a combination of life
14 insurance proceeds and \$5 million in life insurance
15 proceeds and then a refinance with Bank of America
16 in March of 2014. The combination of both of those
17 is when we paid down that note and got the family
18 trust and Dad out of the obligations for the loan.

19 Q. I understand that, but that wasn't my
20 question.

21 A. Okay.

22 Q. My question was, At what point in time did
23 Incline TSS Limited become the obligor on the \$6.3
24 million mortgage to discharge the one SSJ LLC had?

1 A. Well, we assumed Incline TSS assumed the
2 obligations of the Bank of America loan but we
3 couldn't discharge the \$6.3 million in debt to SSJ
4 LLC until we could get a refinance in place.

5 Q. The fact of the matter is that Incline TSS
6 never took out a mortgage sufficient to cover SSJ
7 LLC's mortgage, did it?

8 A. We had intended to.

9 Q. I understand.

10 A. We didn't have time to do that, obviously.

11 Q. Okay. And so Incline TSS never took out a
12 mortgage for that amount to discharge SSJ LLC. It
13 was paid later in the manner that you just
14 mentioned.

15 A. Yeah. And the full 7.2 million plus
16 interest due was paid in full in March of 2014.

17 Q. My question is about the \$6.3 million
18 mortgage that SSJ LLC owed to Bank of America.

19 A. Okay.

20 Q. Incline TSS never took out a loan to
21 discharge that, did it?

22 A. What time frame?

23 Q. At any time.

24 A. Again, when Dad decided that it was time

1 that he wanted that option to be exercised, we had
2 discussed that with Bank of America, but the bank
3 said there is not sufficient time to completely do a
4 new loan and take out the \$6.3 million.

5 So this is what was agreed to by Dad, Bank
6 of America, Pierre and myself. We would -- they
7 would allow the transfer to SSJ LLC and then the
8 transfer to Incline TSS knowing that we were gonna
9 be working on a refinance after the first of the
10 year.

11 Q. Incline TSS never took out a mortgage to
12 replace the one that SSJ LLC owed, did it, ever?

13 A. The loan was completely paid off in March
14 of 2014.

15 MR. SPENCER: Your Honor, I'll object as
16 nonresponsive.

17 THE COURT: It's overruled. The jury will
18 make whatever conclusions it will.

19 MR. SPENCER: Thank you, your Honor.

20 BY MR. SPENCER:

21 Q. All right. Since you want to get into
22 that, then in relation to the payoff of the \$7.25
23 million note to exercise the option, first of all,
24 did you just say that your dad wanted the option

1 exercised?

2 A. Yes.

3 Q. And why at that time did he want it
4 exercised?

5 A. He decided in November range that he wanted
6 the option to be exercised before the end of 2012.
7 So he -- Kevin Riley, Dad's accountant, had
8 indicated to Dad that that was his number-one
9 priority for Dad to get that house out of the
10 estate. In discussions with Dad and Pierre and
11 Kevin, Dad made the decision, Todd, I want you to
12 exercise the option in favor of Incline TSS before
13 the end of the year.

14 Because if the option went into 2013, there
15 was some additional excise tax that was going to be
16 effective starting 1/1/13, I believe, somewhere in
17 that time frame, which would have cost Dad about
18 \$500,000 in additional tax on the sale as well as
19 Dad wanted to make it effective to get it out of the
20 estate to save on potential estate tax purposes.

21 Dad wanted to get it out of the reach of
22 creditors and get it over to Incline TSS. There
23 were talks of capital gains rates that were at 20
24 percent that were anticipated to go higher in 2013.

1 Kevin Riley had also recommended it because Dad's
2 estate wouldn't qualify for an IRS tax deferment,
3 being able to pay the IRS debts over time.

4 So those and other factors all indicated
5 that Dad wanted that house out of -- I'm sorry --
6 Dad wanted Incline TSS to exercise the option prior
7 to the end of 2012, and that's what we did.

8 Q. So why didn't he do that before he left for
9 L.A. to get his heart surgery?

10 A. We just didn't have time. Pierre was
11 working with Bank of America. They were
12 corresponding back and forth with letters to
13 Kathleen Newby, who was the Bank of America
14 representative, on December 6th, December 9th,
15 December 12th range.

16 And it was just as fast as Bank of America
17 could move to try to get all the documentation done
18 that was needed and required to transfer the house
19 before year end.

20 Q. So, instead, you did it all while he, your
21 Dad, was gone in L.A. getting the surgery, right?

22 A. That happens to be where a lot of the
23 documents and things started coming back from Bank
24 of America. I don't think we got that Bank of

1 America letter of approval back until around
2 December 26th range.

3 Q. Okay. And your Incline TSS was trying to
4 get approved for a mortgage that would replace the
5 \$6.3 million mortgage at SSJ LLC owed?

6 A. My understanding is Bank of America said it
7 was impossible in that short of a time frame. So
8 what they allowed was for the house to be
9 transferred from the Family Trust to SSJ LLC, from
10 SSJ LLC to Incline TSS, but we went into 2013 and
11 they were gonna keep Dad's SSJ LLC and Dad on the
12 hook for the loan as well as Incline TSS would be
13 associated with the property and the loan and the
14 guarantee as well. And then moving down the road,
15 we were going to refinance the property and pay off
16 that \$6.3 million in debt.

17 Q. So, your Dad was gonna guarantee a mortgage
18 that was intended to discharge a different mortgage
19 that he was obligated on and under the option
20 agreement would no longer have the obligation,
21 right?

22 A. I'm sorry. I didn't understand that.

23 Q. Your dad was going to guarantee a mortgage
24 that replaced the mortgage he was already obligated

1 on. Is that correct?

2 A. No. He wasn't going to be on the new
3 mortgage that Incline TSS was going to get.

4 Q. All right.

5 MR. SPENCER: Your Honor, Exhibit 23.15,
6 that's in the 23 series.

7 THE COURT: It is admitted.

8 BY MR. SPENCER:

9 Q. This is from Pierre to Bank of America.
10 The subject is Bank of America and it's to Todd and
11 Jessica Clayton. "Please see attached," right?

12 A. Okay.

13 Q. And then the third page in, TJ 2577 in
14 Exhibit 23.15, there's a letter from Pierre to you
15 saying, "Enclosed is my proposed letter to Kathleen
16 Newby for your review and approval."

17 So Pierre Hascheff is corresponding with
18 you in relation to this transaction, right?

19 A. It looks like in that email or letter
20 there, whatever that is, yes.

21 Q. So he was representing you in relation to
22 the transaction, wasn't he?

23 A. No. Dad too, as you can see, he copied him
24 in the bottom left-hand corner. So Dad was

1 absolutely involved in every one of these decisions.
2 Dad was calling all the shots. I mean, there's --
3 I'm just sitting back and doing what I'm being told
4 to do, which is exercise the option.

5 Q. You're the beneficiary of all of that
6 transaction, correct, your trusts?

7 A. Yes. We didn't really look at it as --
8 yes, at the time, yes.

9 Q. And then the last page of Exhibit 23.15 is
10 that proposed letter that Mr. Hascheff forwarded to
11 Ms. Newby. And skipping the first paragraph, first
12 paragraph deals with the concept that was being
13 discussed regarding the new loan.

14 But down below the second paragraph key,
15 "You should also note the home is currently owed by
16 Sam Jaksick's wholly owned LLC." It says "owed" but
17 I think it meant "owned -- "SSJ LLC. Sam is a
18 100 percent owner of this sole-member LLC."

19 You see that?

20 A. Dad was the sole member of SSJ LLC,
21 correct.

22 Q. Well, the Family Trust was the sole member
23 of SSJ LLC.

24 A. Okay. That could be -- that's accurate

1 too, yes.

2 Q. All right. And so, well, that's actually
3 accurate. Mr. Hascheff was mistaken, wasn't he?

4 A. I'm not sure. Actually, you know what,
5 this is a draft letter. This actual letter didn't
6 go to Kathleen. It was the December 9th letter that
7 went to Kathleen, so I'm not sure what the
8 difference is between the two.

9 Q. Okay. And, then, obviously, the details
10 would have to be worked out including whether Sam
11 Jaksick would remain as an additional obligor or
12 guarantor under the new loan in addition to Incline
13 TSS LTD.

14 So that indicates that Sam was -- or
15 somebody was contemplating that Sam be a co-obligor
16 or grantor on the new loan that Incline was going to
17 take out.

18 A. Yeah. That's what it says there. But I
19 don't recall that ever being the case and I think
20 you'd have to look at the December 9th letter.
21 Maybe it says the same thing but that would be a
22 question for Pierre Hascheff. That was never the
23 intention after Incline TSS took ownership in the
24 end of the month.

1 Q. But that wouldn't have been fair for your
2 dad to be obligated on a mortgage and then enter
3 into a deal where someone else is going to pay that
4 mortgage off and then turn around and he has to
5 guarantee a loan back to discharge that other
6 mortgage, would it?

7 A. I'm not sure. Dad was trying to do
8 whatever he could do to make this transaction as
9 palatable as possible for Stan and I to accomplish
10 being able to keep it long-term. So I wasn't aware
11 of that and I don't believe that to be the case that
12 he was gonna do that.

13 Q. Okay. Well, you keep lumping Sam into --
14 let me start over.

15 You keep lumping Stan into all of this.
16 And the documents that we've seen, at least at this
17 point in time, Stan is not included at all.

18 A. At this time Stan was not included. Stan
19 was included in the front end. He would have been
20 included right here, had he not been going through a
21 divorce.

22 And my dad said that he did not want Stan
23 to be involved in this entity because Stan's ex-wife
24 was suing a bunch of the companies that Stan had an

1 ownership in. So that was Dad's decision, to pull
2 Stan out at that point in time. Otherwise, he'd
3 have been right here with me going right through
4 this whole thing.

5 Q. And you've said that. But the point is
6 that you were the one that was involved in this
7 entire transaction, not Stan, right?

8 A. I was the one that was -- Dad asked me to
9 take the lead on it and follow through and get it
10 done.

11 Q. And what was the good reason that Wendy was
12 taken out of Lake Tahoe? You explained the divorce
13 with Stan but what was the reason for Wendy? There
14 wasn't one, was there?

15 A. You'd have to ask, you know -- Dad,
16 obviously, can't ask him, unfortunately, but Dad had
17 reasons why he wanted to do that.

18 Q. So you don't know.

19 A. I may. I just don't recall it right this
20 second.

21 Q. Okay. And Incline TSS at the time had no
22 assets, did it?

23 A. What point in time?

24 Q. In December of 2012 when it's -- preparing

1 to enter into a \$7.25 million loan and agreeing to
2 replace at \$6.3 million loan, it's got no assets,
3 right?

4 A. No, it does.

5 Q. Some cash -- amount of cash in some bank
6 accounts?

7 A. Maybe a little bit of cash but it had this
8 option.

9 Q. Oh, the option was the asset.

10 A. Yeah, there's an option.

11 Q. So other than a little bit of cash in some
12 accounts and the option, Incline TSS had no
13 property, did it?

14 A. Incline TSS was set up specifically for
15 this purpose.

16 Q. So there's no assets in Incline TSS that
17 can be used to pay these loans, is there?

18 A. Not in Incline TSS. But the way we
19 typically run these transactions is fund monies into
20 the entity to be able to fund these loans.

21 Q. "We" being who?

22 A. Whoever the owner was at that point in time
23 would have funded -- transferred funds from those
24 trusts into Incline TSS to pay operating costs.

1 Q. So who did that in this case?

2 A. I was the owner of the house at that point
3 in time.

4 Q. All right. So let me pull up Exhibit 23.7,
5 your Honor.

6 A. The trusts were the owner.

7 THE COURT: 23.7 is admitted.

8 (Exhibit 23.7 admitted.)

9 BY MR. SPENCER:

10 Q. This is an account statement from
11 February 1, 2011. Do you know what account this is
12 on?

13 A. I can't quite see under your -- the red.

14 Q. Account No. 313-24471.

15 A. That doesn't look familiar, but if you
16 maybe -- yeah, if you go over to the left there.

17 Q. There's a transfer down below. Over to the
18 left.

19 A. Yeah. It might show down there. I see to
20 Samuel S. Jaksick, Jr. Yeah, I'm not sure. The 51
21 either came from the trust or from Incline TSS. The
22 trust could have put money into Incline TSS, Incline
23 TSS could have then funded the money to Dad. I'm
24 not sure.

1 Q. Was this an option payment?

2 A. It looks like an option payment, yes.

3 Q. And why was it paid almost nine months
4 before the option was exercised?

5 A. Because option payments were due annually
6 from the time we originally entered into the option.

7 Q. After the November 21st, 2010, option?

8 A. Yes. I don't know if it was actually
9 annually but there was a schedule set forth when
10 those option payments were due.

11 Q. All right. So that February 17th, 2011,
12 for \$50,000 transfer to Samuel Jaksick, Jr. was one
13 of the option payments you made?

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

15 Q. Okay. And why didn't you transfer that to
16 the Family Trust or SSJ LLC that owned the asset and
17 the option?

18 A. I don't believe SSJ LLC had been set up by
19 that point in time or that the house had been
20 transferred into SSJ LLC 2/17/11. And it would have
21 been direction from either Pierre or Kevin of where
22 the funds should go, so I'd have to defer to them.

23 Q. So you don't know why you did not pay the
24 option payment to the Family Trust?

1 A. I don't recall that right now.

2 MR. SPENCER: Your Honor, 23.9.

3 THE COURT: Yes. That is admitted.

4 THE CLERK: Thank you.

5 BY MR. SPENCER:

6 Q. You can see at the top this is on Incline
7 TSS letterhead, January 13th, 2012, right?

8 A. Yes.

9 Q. And this is in relation to the option
10 agreement written to Sam Jaksick, Manager, SSJ LLC.

11 A. Okay.

12 Q. And says, "Pursuant to the option agreement
13 and its subsequent assignment by you to SSJ LLC, on
14 December 5th, 2011." So that predates that
15 earlier 23.7 payment. "The \$50,000 option payment
16 is due January 15th, 2012. In accordance with the
17 option agreement, Incline is requesting the \$50,000
18 payment due on January 15th, 2012, be extended until
19 February 25th 2012." Do you see that?

20 A. I do, yes.

21 Q. Okay. And you signed that letter and then
22 it shows below "Accepted 1/15/2012, SSJ LLC."

23 A. Okay.

24 Q. And signature line for "Sam Jaksick,

1 Manager." And then there's an arrow that says, "Dad
2 and Todd agreed to March 9th, 2012."

3 A. Yes, I see that.

4 Q. So you first asked for an extension to
5 February 25th, 2012, and then there's an agreement
6 to extend it again to March 9th, 2012, right?

7 A. It looks like that, yes.

8 Q. And then there's notation "Paid 3/2/12."

9 A. Yes, I see that.

10 Q. Whose handwriting is the arrow and "Dad and
11 Todd agreed" and the "Paid" part?

12 A. That's my handwriting.

13 Q. Okay. So this indicates that Incline TSS
14 was having trouble making the option payment timely,
15 correct?

16 A. It's possible right there, yeah, we
17 probably would have needed more time to have some
18 cash.

19 Q. Well, not that it's possible. That's what
20 the letter you wrote is saying, correct?

21 A. Okay. Sure.

22 Q. And so the issue of having the assets that
23 were necessary to discharge the mortgage at Bank of
24 America or to discharge the promissory note owed to

1 SSJ LLC, it's -- the entity Incline TSS is having
2 problems just making the option payment, right?

3 A. It looks like at that point we did agree to
4 an extension for a few months. As we got closer in
5 towards the exercise of the option, we had other
6 transactions that we were working on that were
7 getting closer to closing.

8 Q. And those transactions involved other
9 entities --

10 A. That is correct.

11 Q. -- not Incline TSS or its assets.

12 A. That is correct.

13 Q. Because all it had was a little bit of cash
14 in some accounts and the option agreement.

15 A. That sounds accurate.

16 Q. Okay. Now, we looked at the promissory
17 note earlier. It's basically a contract where
18 Incline TSS promises to pay SSJ LLC the \$7.25
19 million less those option payments you paid.

20 A. Correct.

21 Q. All right. And the result of the
22 transaction was that your Dad transferred this
23 valuable priority asset out of the SSJ LLC into
24 Incline TSS and all it had was a piece of paper

1 that -- promising to pay. Is that right?

2 A. That sounds -- yeah, I guess that's
3 possible. Sure.

4 Q. Well, that's what the "unsecured" next to
5 the promissory note means. There's no security or
6 lien on the asset itself. It's just a promise to
7 pay.

8 A. Yes, I do recall that.

9 Q. And if Incline TSS said, Well, I'm just not
10 going to pay that note, then it would have the asset
11 and all SSJ LLC would have was this contract, right?

12 A. I don't recall that right now, but that was
13 planning on Dad's behalf that he wanted. He
14 specified that he wanted it to be an unsecured note
15 because he was afraid that some of the creditors he
16 had that were going after him could come in and go
17 after the asset.

18 And that was a lot of the planning, was to
19 get the house out of the way of the creditors. And
20 because of that, Dad specified he wanted an
21 unsecured note so that in the event they did go
22 after Dad and foreclose on Dad, they couldn't come
23 in and attach the note on the house.

24 Q. Exhibit 23.20. And so what I was getting

1 at is that, if Incline TSS decided to stop paying on
2 this unsecured promissory note, then the only remedy
3 SSJ LLC would have would be to file a lawsuit to get
4 a judgment in that amount against an entity that --
5 where it only had the house as an asset, right?

6 A. I'm not sure. I'd have to check with legal
7 counsel on that.

8 Q. But Incline ended up with the house and
9 your dad ended up with a note.

10 A. Yes. Dad ended up with a note -- SSJ LLC,
11 actually, was the one that ended up with the note
12 for the 7.1 million.

13 Q. Yes, you're right. Thanks for the
14 clarification. And so then Exhibit 23.16?

15 THE COURT: It is admitted.

16 BY MR. SPENCER:

17 Q. So Exhibit 23.16 was a residential lease.

18 Is that right?

19 A. It looks like it, yes.

20 Q. And it's a lease agreement between Incline
21 TSS Limited, the landlord, and Samuel S. Jaksick,
22 Jr., Trustee of the Family Trust.

23 A. That is correct.

24 Q. Okay. And so as your Dad is leaving for

1 L.A. to get his heart surgery, he enters into an
2 agreement where he has to pay \$22,000 per month to
3 continue to live in the Lake Tahoe property.

4 A. The lease was gonna start when -- in
5 January of 2013 and that was right. Dad was gonna
6 rent the house back from Incline TSS so he could
7 stay there.

8 And I believe that the mortgage payments
9 that were due on the house at that point in time
10 were about \$30,000 a month, somewhere in that
11 neighborhood -- maybe closer \$25,000, or something
12 like that. So, yes, Dad would rent the house from
13 Incline TSS for a period of time.

14 And then when he went to the ranch in the
15 summer months, we were going to be leasing it to
16 other -- through Tahoe Luxury Properties we would
17 lease the house to other clients.

18 Q. And so your Dad agreed to pay \$264,000 in
19 rental payment if he lived there the entire year,
20 right?

21 A. If you add -- I don't know exactly what
22 that number is but, yes, 22 times 12 minus whatever
23 we rented in the summer months through Tahoe Luxury
24 Properties.

1 Q. Well, but the lease agreement required your
2 dad to make those payments if he was living there,
3 right?

4 A. My understanding was what we had agreed to
5 was he was gonna be paying those payments when he
6 was actually staying there for the month and then it
7 would be prorated and then when we were renting it
8 through Tahoe Luxury Properties to other renters and
9 customers, that that would offset what was due under
10 his lease.

11 Q. He would get credit if somebody -- some
12 third party rented Lake Tahoe and made a payment of
13 some sort, it would be a reduction on his monthly
14 obligation.

15 A. That's what I recall. I don't know that we
16 get to there but that's what I recall the
17 discussions being.

18 Q. So he entered into this residential lease
19 agreement to pay \$264,000 a year while your
20 promissory note, the unsecured interest-only note
21 required you to pay is \$159,823.25, right?

22 A. Yes. The note was an annual payment of
23 \$159,000 and then the entity itself had significant
24 additional expenses on top of that.

1 Q. So the effect was that your dad was making
2 payments to Incline TSS and it was turning around
3 and paying him the interest only back to -- taking
4 out of one pocket and putting into another, right?

5 A. I guess you could look at it possibly that
6 way, but we also had property taxes due of 80-plus
7 thousand dollars. We had -- the house is an older
8 house and it needed a lot of repairs. We had a lot
9 of repairs monthly. We had a fee to the rental
10 company of about 27 percent. There was yard
11 maintenance and a bunch of other expenses that go
12 with operating a house.

13 Q. Also, your dad had to make sure that the
14 \$35,000 a month that was owed to Bank of America was
15 paid on top of that, right?

16 A. Yeah. I'm not totally sure about that
17 exact amount of payment because the payment was
18 interest only. And it was set to convert from
19 interest only to principal and interest.

20 And so I'm not sure exactly when that
21 happened but the payment was around, I'd say, 24,
22 25, and then it was going to jump up to well over
23 \$30,000 at that point in time.

24 Q. Well, the interest -- sorry. The taxes and

1 insurance --

2 A. I'm so sorry.

3 Q. -- the taxes and insurance were escrowed,
4 so that was on top of the interest-only payment,
5 wasn't it?

6 A. I don't recall that right now.

7 Q. All right. And so your dad had this very
8 sizable obligation to Bank of America and then
9 transfers the asset that supports it and then agrees
10 to pay \$22,000 on top of what he already owed,
11 right?

12 A. At that point in time, yes. He knew he
13 would make that monthly payment and he knew what
14 Stan's and my plans were to get the debt reduced.

15 Q. So he leaves down to go to Los Angeles to
16 get his heart surgery and he comes back and he
17 doesn't have a house to live in except under a
18 lease, right?

19 A. Yes. That's what he was wanting us to do,
20 that's correct.

21 Q. Right.

22 And the 23.5, it is admitted.

23 BY MR. SPENCER:

24 Q. So this is the Real Estate Option Agreement

1 that we've been talking about. This is the one that
2 applied, correct, 7.25 million unsecured at 2.25
3 percent per anum, maturity in ten years, interest
4 only.

5 A. It looks like it, from what I can see right
6 here.

7 Q. And that's what you recall the deal being,
8 right?

9 A. Yes.

10 Q. And then we looked at the promissory note,
11 Exhibit 23.20.

12 A. Okay.

13 Q. And there's that memorializing it. We've
14 looked at that already. These were the two
15 documents that were the agreement with -- in
16 relation to the Lake Tahoe property that you were
17 operating on.

18 A. Certainly they were a couple of them. I
19 don't know if there's more. I can't think of
20 anything else right now.

21 Q. Well, as far as the option itself and the
22 promissory note, these are the two documents, 23.5
23 and 23.20.

24 A. Could very well be.

1 Q. Okay. Do you know when the real estate
2 option agreement -- pull 23.5 up again. Sorry to
3 keep bouncing back and forth. Last page.

4 Do you see that that's -- I coined the
5 phrase "an orphan signature page" where there's
6 nothing else on it except for the footer and this
7 page number at the bottom. Do you see that?

8 A. It could be. I thought I saw a page two or
9 something.

10 Q. Yeah. So highlight, Keith, the footer and
11 page number, if you would.

12 Do you see there's a footer over there
13 where would have been the source of it, right? And
14 then there's a page number on the right-hand side.

15 A. Okay.

16 Q. And do you see that that page number has
17 writing on top of it?

18 A. Yes.

19 Q. And it appears to have been changed from a
20 four to a five.

21 A. Okay.

22 Q. Do you know who did that?

23 A. Yes.

24 Q. Who?

1 A. Pierre Hascheff.

2 Q. All right. Mr. Hascheff did that. And if
3 you look on the previous page, we're going to look
4 at the page numbers on each page. So that's the
5 first page of 23.5. It's got a typed 1, correct?

6 A. Yes.

7 Q. And then the next page, same thing. It's
8 got a typed number 2. Next page, typed number 4 --
9 we missed 3.

10 A. Okay.

11 Q. So the pages -- there's three and then page
12 four. And then the last page is what we just looked
13 at with the handwritten 5 over 4.

14 A. Okay.

15 Q. And do you know how that happened?

16 A. I don't.

17 Q. That would indicate that something was
18 added to this document after it was signed, wouldn't
19 it?

20 A. You'd have to ask Pierre. I'm not sure if
21 it was there before or after.

22 Q. What I'm saying is that, if the signature
23 page previously landed on page four, then in order
24 to push it down to page five, something had to be

1 added in the prior pages to get the signature page
2 down onto another page.

3 A. I'm not sure. I don't know.

4 Q. Or, stated more clearly, you have page one,
5 two, three -- and then there's a four and then
6 there's a second four.

7 So if we presume that was the first four,
8 then something was added above to add a page, right?

9 A. I really don't know.

10 Q. You don't know if that happened or not?

11 A. I do not.

12 Q. That's kind of the problem with an orphan
13 signature page, isn't it? Where it can be attached
14 to anything or pages can be switched out, right?

15 MR. ROBISON: Objection, speculation,
16 argumentative.

17 THE COURT: Sustained as to this witness.
18 Unless you want to lay foundation for his
19 familiarity with the concept.

20 BY MR. SPENCER:

21 Q. Let me just ask you, Did you prepare this
22 document?

23 A. I have no idea.

24 Q. I'm referring to 23.5.

1 A. Okay. That's the option agreement?
2 Q. Yes, sir.
3 A. No, I did not.
4 Q. That was Mr. Hascheff that did that?
5 A. Mr. Hascheff, yes.
6 Q. Okay. We'll talk to him about that.
7 A. Okay.
8 Q. But these are the agreements that you've
9 been operating under, 23.5 and 23.20.
10 A. The option agreement for sure. And what
11 was your last one that you just --
12 Q. 23.20, the unsecured promissory note.
13 A. After the close, yes.
14 Q. And when was the option agreement signed?
15 Do you know?
16 A. I believe around that November 1st, 2010.
17 Q. Okay. Why do you say you believe that? Do
18 you not know?
19 A. Well, because it says right up there.
20 Q. And that's a typed-in date, correct?
21 A. It looks like it, yes.
22 Q. So you believe that to have been signed
23 back in -- in or around November 1st, 2010?
24 A. That's what I recall. Time frame seems

1 accurate, yes.

2 Q. Okay. And it's true, isn't it, that the
3 advice that was received in relation to the option
4 agreement was that it was extremely risky.

5 Do you recall that?

6 A. The only thing I recall was Pierre did a
7 little bit of research in terms of, if we did do an
8 option just as we did in 2010 and recorded the
9 option, that Bank of America could have a
10 due-on-sale clause for the note and call the note,
11 is what I recall.

12 And in analyzing that with Dad, Pierre,
13 Kevin, possibly others, it was still determined that
14 it was such an important issue they wanted to move
15 forward with the option agreement regardless.

16 MR. SPENCER: Your Honor, I offer 23.4.

17 THE COURT: It is admitted.

18 (Exhibit 23.4 admitted.)

19 THE CLERK: Thank you.

20 BY MR. SPENCER:

21 Q. This is a letter from Mr. Hascheff to Sam
22 dated May 10th, 2010. Do you recall this letter?

23 A. I do, yes.

24 Q. And about midway down there's an underlined

1 sentence that starts "As a result." Mr. Hascheff is
2 advising that an option agreement would trigger the
3 due-on-sale cause that you mentioned.

4 A. I think he thought it was possible.

5 Q. And then down below where it starts
6 "Accordingly," he advises Sam -- he, Pierre
7 Hascheff, advises Sam that "an option would be
8 considered a breach. However, you may be able to
9 convince a court removal of the option cures the
10 breach and, therefore, the lender may not accelerate
11 the loan."

12 So in this letter Mr. Hascheff advises
13 you're gonna trigger the due-on-sale cause if you do
14 an option and it's going to be a breach of the deed
15 of trust, the security, right?

16 A. That's what it looks like Pierre is telling
17 Dad there, yes.

18 Q. And you went forward with the option
19 anyway, apparently.

20 A. Yeah. Those are Dad's notes on that page
21 so Dad was aware of that and we did move forward
22 with the option, that's correct.

23 Q. So handwriting at the top and the lines
24 were your Dad, you believe?