

1 violation.

2 And I've got to say two things on that. The
3 Bar's burden of proof is not a preponderance of the
4 evidence, the Bar's burden of proof is clear and
5 convincing evidence. They have to bring clear and
6 to show you that really beyond any reasonable
7 question there was a violation of that rule. That
8 evidence just isn't here. You didn't even hear about
9 5.3 in their opening statement, so that evidence
10 isn't here. And you can see for yourselves from the
11 evidence that you will get that that rule wasn't
12 violated.

13 The other issue, that's the fallout issues.
14 And Mr. Jimmerson is going to tell you that the three
15 things that the Bar is focused on, the three checks,
16 occurred and were drawn in the middle of the chaos
17 period, and that he reasonably believed that the
18 money was there. It wasn't, but it came in shortly
19 after those checks were drawn.

20 And what's happened here, and I think you'll
21 conclude this, is the Bar looks at the case and says,
22 you know, Mr. Jimmerson, you may have done a good job
23 here, we may not disagree with Judge Bare, but, you
24 know, in October of 2020, eleven months after this
25 happened, October of 2020 we'll exercise 20/20

1 hindsight to say to you --

2 MR. YOUNG: I'm going to object at this
3 time. I think the statement is outside a statement
4 and crossing over into argument, so I would object at
5 this time.

6 MR. KENNEDY: All I'm doing is talking
7 about what the State Bar said in their opening
8 statement.

9 CHAIRMAN EDWARDS: Mr. Kennedy, keep it
10 focused on the evidence that will be presented at
11 this hearing, I'd appreciate it.

12 MR. KENNEDY: Okay. The evidence will show
13 you that it was eleven months after the situation had
14 been resolved that the Bar files a complaint and
15 says, We think we've got violations here, even though
16 the Bar freely admits in the complaint no client
17 harm, no loss, only potential harm, and these are the
18 fallout issues from the main issue in the case.

19 We respectfully believe that you will agree
20 with Mr. Jimmerson and that you will find that there
21 certainly has been no violation of Rule 5.3; and that
22 on the fallout issues, which are the 1.15 issues,
23 there's no violation there because he was behaving
24 reasonably in accordance with his past conduct.

25 And what I will tell you in closing is that

1 our own Rules of Professional Conduct says not every
2 rule violation merits discipline. Not every rule
3 violation merits discipline. And if you find a
4 technical rule violation here, so be it, but that
5 doesn't necessarily require discipline. That's the
6 evidence. That's my opening.

7 CHAIRMAN EDWARDS: Thank you.

8 Mr. Young, are you prepared to call your
9 first witness?

10 MR. YOUNG: We are. The State Bar is going
11 to call Miss Louise Watson.

12 MR. GILMORE: Panel Chair, this is
13 Mr. Gilmore. In the meantime I'd like to now have
14 that additional screen turned on, if I may, so that
15 each of you panel members have an opportunity to see
16 Mr. Jimmerson as the respondent here.

17 CHAIRMAN EDWARDS: That's fine.

18 MR. GILMORE: Panel Chair, does that work?
19 Can everybody see him well?

20 CHAIRMAN EDWARDS: Yes.

21 MR. GILMORE: Okay. Great. Then, again, if
22 we get feedback, let us know. This is without audio
23 to try to void that very issue.

24 CHAIRMAN EDWARDS: Understood.

25 Debbie, can you swear in Miss Watson.

1 Thereupon--

2 LOUISE WATSON

3 was called as a witness by the Complainant, and
4 having been first duly sworn, testified as follows:

5 MR. YOUNG: I assume I have the Chair's
6 permission to proceed at this time?

7 CHAIRMAN EDWARDS: Yes, please.

8 MR. YOUNG: Great. Thank you.

9 DIRECT EXAMINATION

10 BY MR. YOUNG:

11 Q. Miss Watson, how are you employed?

12 A. I'm a senior paralegal investigator with the
13 Office of Bar Counsel with the State Bar.

14 Q. And how long have you been employed with the
15 State Bar?

16 A. Just over ten years.

17 Q. And what type of training did you receive to
18 become an investigator with the State Bar?

19 A. I have a certificate in paralegal studies,
20 and I'm a certified paralegal by the National
21 Association of Legal Assistants.

22 Q. Do you have any other professional
23 organization membership?

24 A. I'm a member of the Organization of Bar
25 Investigators.

1 Q. And for the State Bar of Nevada, how many
2 investigations have you conducted related to attorney
3 misconduct?

4 A. Around 1500.

5 Q. And how many of those investigations were
6 related to trust accounts?

7 A. Probably around a third.

8 Q. What types of records is an attorney
9 required to keep regarding his trust account?

10 A. Under Supreme Court Rule 78, an attorney is
11 required to keep their bank records, to include the
12 monthly statements, records of deposit, canceled
13 checks. They're required to keep client -- or an
14 account journal that details all of the records or
15 the transactions in the trust account, client
16 ledgers, and documentation to support every deposit
17 and disbursal from the trust account.

18 Q. What would trigger an investigation into a
19 trust account?

20 A. Any grievance or other information received
21 by the Office of Bar Counsel that indicates there
22 might be some issues with an attorney's safekeeping
23 property.

24 Q. And how would you go about investigating
25 that trust account?

1 A. We would ask -- it depends on the situation.
2 We can either ask the respondent for a response, we
3 can subpoena bank records for that account.

4 Q. When it comes to attorney fees, when would
5 you expect an attorney to withdraw his fees?

6 A. When they are earned or when a case is
7 closed and the fees are earned.

8 Q. And when do the fees become earned?

9 A. When the work is performed.

10 Q. What happens when an attorney fails to
11 withdraw his fees after earning them?

12 A. They would essentially be commingled in the
13 trust account with his client funds.

14 Q. What would happen if an attorney withdrew
15 his fees before they were earned?

16 A. Then he would be taking, potentially taking
17 funds that belonged to another client.

18 Q. What type of things would you look for when
19 you review a trust account in an investigation?

20 A. We look for cash withdrawals. We look for
21 unidentified transfers, particularly in even numbers.
22 We look for low balances, those kind of records.

23 Q. Is the trust account typically a pooled
24 account?

25 A. Correct.

1 Q. What is a pooled account?

2 A. It is a -- it's a pool of client funds so
3 the account would hold funds that belong to multiple
4 clients that the attorney is safekeeping in trust.

5 Q. How did you become involved in the case for
6 which you're here to testify today?

7 A. I was assigned a grievance that the office
8 had received by -- from a Nicole Cruz.

9 Q. What was the nature of the grievance?

10 A. She was a former employee of respondent that
11 alleged that he may have taken funds out of his trust
12 account before they were earned in order to make
13 payroll.

14 Q. And how did the grievance control your
15 investigation in this case?

16 A. In this case we subpoenaed the records first
17 to determine if there was any -- if Ms. Cruz's
18 allegations could be substantiated by the trust
19 account records themselves.

20 Q. And what records did you subpoena?

21 A. We subpoenaed the -- Mr. Jimmerson's IOLTA
22 account and other business records. We received his
23 corporate operating account, his payroll account, and
24 a number of other accounts related to his business
25 operations.

1 Q. And do you understand Mr. Jimmerson's IOLTA
2 account to be admitted as Exhibit 26?

3 A. Correct.

4 Q. And Mr. Jimmerson's operating account to be
5 admitted as Exhibit 27?

6 A. Yes.

7 Q. And Mr. Jimmerson's payroll account to be
8 admitted as Exhibit 28?

9 A. Yes.

10 Q. And did you have occasion to review an
11 account related to Mr. Jimmerson's family trust also?

12 A. Yes.

13 Q. Okay. Do you understand that exhibit to be
14 admitted or to be admitted as Exhibit 33?

15 A. Yes.

16 Q. With regard to Mr. Jimmerson's IOLTA
17 account, is that a pooled account?

18 A. Yes.

19 Q. Okay. Once you received those records, what
20 information in those records did you review?

21 A. I reviewed all the statements, the
22 transactions on the statements, and the deposits and
23 the canceled checks that we received as part of the
24 subpoena.

25 Q. Did you review -- in connection with your

1 review, did you look at any other records?

2 A. I looked at the corporate account records
3 and the payroll account records. I mean, I looked at
4 everything that we had received. Those seemed to be
5 the most relevant to the investigation.

6 Q. Okay. Did you reach out to Mr. Jimmerson
7 and ask him to provide a response?

8 A. I did.

9 Q. Okay. And did he provide a response to you?

10 A. Yes.

11 Q. Did he also provide records?

12 A. He did.

13 Q. Okay. Did you review the records that he
14 provided along with the bank records?

15 A. Yes.

16 Q. Okay. Did you do some sort of comparison or
17 analysis about those?

18 A. Well, I looked at all the records received
19 both from everyone trying to determine what had
20 happened in his trust account.

21 Q. Okay. And based on your personal review of
22 the records, did you observe any red flags in his
23 accounts?

24 A. Well, to substantiate the grievance that we
25 received from Ms. Cruz, I did find one occasion in

1 November that it appeared that without a transfer out
2 of his trust account to his payroll account by kind
3 of way of his corporate account, there wouldn't have
4 been enough funds in that period to make payroll.

5 Q. How much -- what was the amount of funds
6 that he had in his payroll account that you observed?

7 A. Prior to the transfer, it was \$2500.

8 Q. Okay. And I'm going to ask the witness if
9 she can turn to State Bar Exhibit 28, page 189.

10 Miss Watson, does this record reflect the amount that
11 you observed in Mr. Jimmerson's payroll account?

12 A. Correct.

13 Q. Could you show us on this document the
14 amount that you're talking about?

15 A. Here on November 18th through the 20th, the
16 closing balance was \$2513.

17 Q. Okay. Now, you had mentioned that there was
18 some sort of transfer after that; is that correct?

19 A. Correct.

20 Q. And what was the amount of the transfer that
21 you recall observing?

22 A. Well, Mr. Jimmerson on, I believe it was
23 November 21st, transferred \$45,000 from his IOLTA
24 account into his operating account, and then the same
25 day transferred I think it was 46,000 from his

1 operating account into the payroll account.

2 Q. Now, this record that we're looking at here
3 is a payroll account. Do we see any evidence of that
4 transfer?

5 A. Yes.

6 Q. And what do we observe? Can you please
7 explain that to the panel?

8 A. You will see here the transfer on the 21st
9 of November from his corporate account into his
10 payroll account.

11 Q. And does that bring the balance up from 2500
12 then?

13 A. Correct.

14 Q. And what did the balance become at that
15 time?

16 A. It was like 47 -- 47,000 and change. Let me
17 look again. Or 49. I'm sorry, 49,472.

18 Q. Okay. So that 49,472 includes the \$45,000
19 transfer out of his IOLTA account?

20 A. Correct.

21 Q. Okay.

22 A. By way of his corporate account.

23 Q. I'd like to have you turn to State Bar
24 Exhibit 26, which is his IOLTA account, page 195.

25 And could you explain if we see the \$45,000

1 withdrawal out of his IOLTA account at this time?

2 A. On November the 21st, this is the transfer
3 out of the account.

4 Q. Okay. And then if you could turn to
5 Exhibit 27, which is Mr. Jimmerson's operating
6 corporate account, page 1466 of that exhibit. And do
7 we see the back half of the transfer on this exhibit?

8 A. Correct. The 45,000 is deposited right
9 here.

10 Q. Okay. Did you have an opportunity after you
11 observed this transfer go from Mr. Jimmerson's trust
12 account to his corporate account and then into his
13 payroll account, were you able to ascertain if it was
14 connected to any client?

15 A. Yes. Mr. Jimmerson provided records
16 indicating that the transfer represented earned fees
17 on behalf of 10 clients, or, I'm sorry, 13 clients.

18 Q. Okay. And is that -- could I have you turn
19 to exhibit -- I'm going to back up a little bit here.
20 I apologize to the panel. Once the money was in his
21 payroll account, what happened to the money
22 thereafter?

23 A. It was disbursed between the 21st and the
24 27th to make payroll and pay taxes.

25 Q. Okay. And can you please turn to

1 Exhibit 28, page 187. And if you could explain to
2 the panel what we see with this record in relation to
3 those disbursements that you had talked about?

4 A. The deposit on the 21st, we do see these
5 disbursements here, the 22nd and the 27th. We also
6 see here there are a number of checks after the end
7 of the month, towards the end of the month to
8 disburse funds from the account.

9 Q. And what would happen to respondent's
10 payroll account at that time without him transferring
11 the \$45,000 out of his IOLTA account?

12 A. Without the deposit, there wouldn't have
13 been the funds in the account to make these
14 disbursements.

15 Q. As a result, what would have happened?

16 A. It would have overdrawn the account.

17 Q. And you had mentioned earlier that he, in
18 response to your inquiry, he did claim that this
19 transfer out of his IOLTA account was related to some
20 clients; is that correct?

21 A. Correct.

22 Q. Okay. Could you please turn to Exhibit 13
23 and go to page 26. And what is this record that
24 we're looking at here?

25 A. This is the, kind of an account journal that

1 Mr. Jimmerson provided as support for the
2 disbursements and deposits into his account for the
3 period I had requested from him.

4 Q. Okay. And does it show this \$45,000
5 transfer out of his trust account?

6 A. Correct. It does here.

7 Q. And it lists 13 clients which purport to
8 support the transfer; is that correct?

9 A. Correct.

10 Q. Were you able to investigate these clients
11 and these payments to verify if they had been made?

12 A. Yes. I reviewed the records and determined
13 that not all of the 13 clients, there were I believe
14 two whose funds were not actually on deposit in the
15 account on the 21st when he made the transfer.

16 Q. And of those two clients that you spoke
17 about, when did those funds, when did they become
18 deposited in Mr. Jimmerson's account?

19 A. On the 22nd of November.

20 Q. And was that after the transfer?

21 A. Correct.

22 Q. Okay. As a result, what other transactions
23 did you observe in Mr. Jimmerson's trust account?

24 A. I looked at -- there was two other
25 transactions with similar issues wherein

1 Mr. Jimmerson represented that funds were being
2 transferred for earned fees where the deposit from
3 the clients for those fees had not actually been
4 deposited into the account.

5 Q. Okay. And when was -- you said there was a
6 couple of other transfers. When was the first one
7 that you referenced?

8 A. November 14th.

9 Q. So on November 14th, I'm going to draw your
10 attention to Exhibit 26, page 195. And does this
11 record reflect this transaction or transfer that
12 you're discussing?

13 A. Yes, it was this \$40,000 on the 14th.

14 Q. And this is out of his IOLTA account?

15 A. Correct.

16 Q. And did he give you an explanation as to
17 what clients this transfer was related to?

18 A. Yes. This one I believe he represented
19 related to four clients.

20 Q. Okay. Can you please turn to Exhibit 13,
21 page 74. And what is this document that we're
22 looking at here?

23 A. This is one of the records that Mr. Jimmerson
24 provided in support of the transfer on the 14th of
25 November.

1 Q. So is that what we see observed at the top
2 of the record, the evidence of the transfer on the
3 14th having cleared?

4 A. Correct.

5 Q. And if you could explain what we observe
6 down on the bottom part of the record.

7 A. Well, if you look, the transfer was made on
8 the 14th. Three of these clients' funds were not
9 actually received and deposited into the trust
10 account until after the 14th.

11 Q. So, for example, on the bottom client here,
12 Miss Cashman, it lists an amount of \$31,000 roughly,
13 or \$32,000; is that correct?

14 A. Yeah, just shy of \$32,000.

15 Q. And Mr. Jimmerson's records shows that that
16 deposit was not made until the 22nd of November; is
17 that correct?

18 A. Correct.

19 Q. And is that approximately a week after the
20 transfer was made?

21 A. Yes.

22 Q. Okay. What happened when he had transferred
23 funds out of the IOLTA for the clients that didn't
24 have funds to transfer?

25 A. He was likely using funds that belonged to

1 other clients.

2 Q. Okay. And you had mentioned that there was
3 another transfer that was similar. Do you recall the
4 date of that transfer?

5 A. Yes. November 25th of 2019.

6 Q. Okay. And do you recall the amount that was
7 transferred out of his IOLTA at that time?

8 A. 60,000.

9 Q. Could you please turn to Exhibit 26, page
10 195. And do we see this transfer for \$60,000 that
11 you had discussed?

12 A. Right here.

13 Q. Okay. And this is out of his IOLTA account;
14 is that correct?

15 A. Correct.

16 Q. Were you able to ascertain whether or not
17 this transfer was connected to any clients of
18 Mr. Jimmerson?

19 A. Yes. Mr. Jimmerson explained this transfer
20 represented earned fees I believe on behalf of ten
21 clients.

22 Q. Okay. Could you please turn to Exhibit 13,
23 page 145. And do you recognize this record?

24 A. Correct. This is again received from
25 Mr. Jimmerson in support of his -- in his response.

1 Q. Okay. And again this record purports to
2 show the transfer on November 25th in the amount of
3 \$60,000 at the top; is that correct?

4 A. Correct.

5 Q. Okay. And can you explain the bottom part
6 of this record?

7 A. Well, again, this breaks the \$60,000 down
8 into the clients whose earned fees were included in
9 that transfer. And again you'll see some of these,
10 the dates which I confirmed in the bank records as
11 well, were not deposited into the account until after
12 the November 25th, 2019 transfer date.

13 Q. So the transfer was purportedly made on
14 November 25th, but as you highlighted in the record
15 here, some of these transfers were not made until
16 December 3rd or December 16th, as the case may be?

17 A. Correct.

18 Q. Okay. With regard to the last client here,
19 Miss Patricia Curtis, were you able to identify when
20 her transfer of \$20,000 was made?

21 A. Well, her -- yeah, the deposit for that I
22 believe was made around December, I want to say
23 December 19th.

24 Q. Could you please turn to Exhibit 13, page
25 177. And is this the deposit that you were

1 discussing?

2 A. Correct.

3 Q. And is this the one that relates to Patricia
4 Curtis?

5 A. Correct.

6 Q. And when can we tell that this deposit was
7 made?

8 A. It looks like her payment date was actually
9 December 20. I was off a day.

10 Q. Okay. Were you able to ascertain when the
11 funds actually were deposited in the account?

12 A. If I recall, I think they were deposited,
13 the actual deposit into the account cleared on
14 December 24th.

15 Q. Okay. Can you turn to Exhibit 26, which is
16 Mr. Jimmerson's IOLTA account, page 201. And in this
17 record do we see the deposit from Mrs. Curtis?

18 A. Correct. Represented right here, I believe.

19 Q. Okay. So the funds for Miss Curtis were
20 deposited in Mr. Jimmerson's trust account on
21 December 24th; is that correct?

22 A. Correct.

23 Q. Was that -- how much time after that, after
24 the withdrawal of Mr. Jimmerson, did Miss Curtis'
25 funds actually get deposited into the account?

1 A. It was about a month.

2 Q. And what had happened -- what happened when
3 Mr. Jimmerson transferred funds out of the IOLTA
4 account for clients that didn't have funds in deposit
5 to transfer?

6 A. Again he was likely using funds that
7 belonged to other clients.

8 Q. Okay. Did you observe any other red flags
9 with Mr. Jimmerson's trust account?

10 A. I did look and ask him about another
11 transaction that had occurred on December 19th. It
12 was a deposit related to his client, Jay Nady.

13 Q. Okay. Could you please turn to Exhibit 26,
14 page 201. I think we're already there. And does
15 that record show this deposit that you're
16 referencing?

17 A. Well, it was a transfer out of the account,
18 I'm sorry, for \$10,000.

19 Q. Okay. And did you inquire to Mr. Jimmerson
20 as to what this transfer was related to?

21 A. I did. Mr. Jimmerson explained that it was
22 earned fees on behalf of his client, Jay Nady.

23 Q. And did he provide any explanation other
24 than that or any documentation in support of that
25 claim?

1 A. Yeah. Mr. Jimmerson provided the invoice to
2 support the work performed for Mr. Nady, and that was
3 why I questioned it was because the invoice in
4 support of the payment indicated that the work was
5 not performed until January of 2020.

6 Q. And could you please turn to Exhibit 13,
7 page 227. And is this the invoice that Mr. Jimmerson
8 had provided to you in response to your inquiry about
9 Jay Nady?

10 A. Correct.

11 Q. And can you show us on this in this record
12 where Mr. Jimmerson references the transfer of the
13 \$10,000 out of his trust account for Mr. Nady?

14 A. Although the record here reflects that it
15 was made on the 25th of January, I don't believe
16 there was a transfer in the account on that day. We
17 were referencing the December 19th transfer.

18 Q. So does Mr. Jimmerson's invoice match what
19 had happened in his bank record?

20 A. No.

21 Q. Okay. What happened when Mr. Jimmerson
22 transferred the money out on December 19th before he
23 completed the work in January, as reflected on this
24 invoice?

25 A. It appeared that he had transferred the

1 money before the funds were earned.

2 Q. Okay. Did you observe any other red flags
3 in Mr. Jimmerson's trust account?

4 A. There was one other transfer that occurred
5 on December 20th, '19 I believe when Mr. Jimmerson in
6 his initial response just indicated it was a trust
7 transfer. It was \$15,000 that was transferred from
8 his IOLTA to a Jimmerson family trust.

9 Q. And can you turn to State Bar Exhibit 26,
10 page 201. And again Exhibit 26 is his IOLTA account;
11 is that correct?

12 A. Correct.

13 Q. And do we observe this transfer that you're
14 talking about in this record?

15 A. The \$15,000 on the 20th.

16 Q. Okay. And you had mentioned that when you
17 inspected the records, it went into -- out of this
18 account and into Mr. Jimmerson's personal family
19 account; is that correct?

20 A. Correct.

21 Q. Could you please turn to Exhibit 33, page
22 34. And this Exhibit 33 is Mr. Jimmerson's personal
23 family trust account; is that correct?

24 A. Correct.

25 Q. Where do we see that transfer coming into

1 this account?

2 A. Right here.

3 Q. Okay. And did you ask Mr. Jimmerson to
4 provide an explanation for this?

5 A. I did.

6 Q. Did he tie this transfer to a client?

7 A. No. Mr. Jimmerson represented that it was
8 an error on his part. He had intended to transfer
9 the funds into his family trust from his corporate
10 account and it picked the wrong account, so
11 ultimately the funds, the transfer was made from his
12 IOLTA.

13 Q. Okay. Did you observe any other red flags
14 during this time period that you were inspecting
15 Mr. Jimmerson's trust accounts?

16 A. No. I believe that was all.

17 MR. YOUNG: I'm going to ask for the panel's
18 indulgence for just a moment.

19 I think at this time I'm going to pass the
20 witness.

21 CHAIRMAN EDWARDS: Mr. Kennedy?

22 Mr. Kennedy, you're on mute.

23 MR. KENNEDY: Okay. Everybody can hear me
24 now?

25 CHAIRMAN EDWARDS: Yes.

CROSS-EXAMINATION

BY MR. KENNEDY:

Q. All right. Miss Watson, let's take the two easiest ones, at least in my opinion, first. You say there was a red flag on the Jay Nady payment. Isn't it proper, if a client has a retainer with a lawyer, let's say in this case a \$50,000 retainer, for the client to say to the lawyer, I'll pay you in advance for the work that I anticipate you doing this month or next month? Doesn't the client have a right to do that?

A. Correct, but the record --

Q. Okay. You've answered my question. Thank you. Did you ever talk to Jay Nady and ask him if he did that?

A. I did not.

Q. And yet that's an allegation in the complaint here against Mr. Jimmerson seeking discipline, correct?

A. Correct.

Q. And isn't it correct that if Mr. Nady told Mr. Jimmerson to go ahead and do that and pay in advance, that would be a proper transaction, correct?

A. Correct.

Q. Okay. Let's go to the \$15,000 transaction.

1 You said that you asked about that, and Mr. Jimmerson
2 said that that transaction had been done in the wrong
3 account and he simply, a week later, just to use a
4 nontechnical term, reversed it and put it in the
5 correct account, right?

6 A. Correct.

7 Q. And that's listed in this complaint as a
8 ground for discipline; is that right?

9 A. It's in the complaint, correct.

10 Q. Yeah. And yet people make errors and
11 reverse deposits all the time, don't they?

12 A. They do.

13 Q. Do you discipline every lawyer who does
14 that? I know you don't, so that's fine. That takes
15 care of two of the five. You said your initial
16 contact was by a woman named Nicole Cruz, right?

17 A. Correct.

18 Q. Had you ever met Nicole Cruz before
19 February 5, 2020?

20 A. No.

21 Q. Did you ever meet her ever, anytime?

22 A. No.

23 Q. Do you know if there's anyone named Nicole
24 Cruz who actually exists then?

25 A. I believe there is.

1 Q. Someone you never met?

2 A. I have not met her. We receive thousands of
3 grievances every year from people we never meet.

4 Q. And you also know, don't you, didn't Nicole
5 Cruz tell you, and I'm looking at paragraph five of
6 the complaint that's filed in this matter, and I'll
7 read it to you, "Cruz stated that she had no
8 firsthand knowledge of respondent, Mr. Jimmerson,
9 giving these instructions, but she allegedly saw
10 texts that he sent to Ballard." Now, that's correct,
11 isn't it? Didn't she tell you she has no personal
12 knowledge of what she's telling you?

13 A. Correct.

14 Q. So a women that you've never met calls you
15 and says, I have no personal knowledge of these
16 things, on the 5th day of February 2020, and on the
17 6th day of 2020, the very next day, after a person
18 you've never met, and a person who tells you she has
19 no personal knowledge of anything, you send out
20 subpoenas for all of Mr. Jimmerson's bank records,
21 right?

22 A. Correct.

23 Q. How many bank records did you subpoena?

24 A. We subpoenaed the IOLTA account, other
25 business accounts related to Mr. Jimmerson's

1 practice.

2 Q. And how many accounts did you get records
3 for?

4 A. I don't recall off the top of my head. I
5 know we referenced the primary ones that were
6 relevant today.

7 Q. You got all of his business and personal
8 accounts, didn't you?

9 A. I know we got more than the ones we
10 referenced, but honestly I don't recall off the top
11 of my head what we received.

12 Q. Now, you did all that without ever talking
13 to Mr. Jimmerson, right?

14 A. Correct.

15 Q. On the basis of something that was told to
16 you by a women you'd never met who told you she had
17 no personal knowledge of this, correct?

18 A. Correct.

19 Q. That's the way you do business?

20 A. I was assigned a grievance to investigate.
21 We take allegations of trust account violations very
22 seriously. And so the decision was made to subpoena
23 those records to determine if there was, in fact, any
24 truth to the allegations that Miss Cruz had raised.
25 We do do that, yes.

1 Q. Okay. Now, did Miss Cruz tell you that she
2 had worked at the Jimmerson Law Firm?

3 A. She did.

4 Q. Did she tell you how long she worked there?

5 A. For two weeks.

6 Q. Did she tell you why she was terminated?

7 A. I believe she actually represented that she
8 left voluntarily.

9 Q. Did she tell you she was terminated because
10 she had lied to Mr. Jimmerson about her qualifications?

11 A. She didn't tell me that, no.

12 Q. Did she tell you that she had represented
13 herself to be a third year law student at UNLV Boyd
14 School of Law?

15 A. No.

16 Q. Did she tell you that Mr. Jimmerson had made
17 an inquiry of the law school to confirm that?

18 A. She did not, no.

19 Q. You didn't ask her any of these things?

20 A. My focus, quite frankly, was on the activity
21 in the trust account, which was the primary
22 allegation she raised. The employment issue was not
23 a focus of the investigation.

24 Q. Let me go back then. You talk about the
25 primary allegation she raised. I'm looking again at

1 the complaint. She told you she had no personal
2 knowledge of this, correct?

3 A. Correct.

4 Q. Did it occur to you at that time to call
5 Mr. Jimmerson and ask him about this?

6 A. No. Again, the decision was made that I
7 thought it would be prudent to subpoena the records
8 first and determine if there was any truth to the
9 allegations, and that's what I did.

10 Q. Who made that decision?

11 A. I think I recommended it, and it was
12 supported by my supervising attorney.

13 Q. Who's that?

14 A. I believe Mr. Hooge signed the subpoena.

15 Q. And then you received a large number of
16 records, right, pursuant to your subpoenas?

17 A. Correct.

18 Q. Thousands of pages, and that might be an
19 understatement, correct?

20 A. Correct.

21 Q. You still hadn't told Mr. Jimmerson, right?

22 A. Shortly after we received the records and I
23 had had a chance to review them, then yes, we did
24 tell Mr. Jimmerson.

25 Q. Well, that's only after you got all the

1 records and looked at them, right?

2 A. Correct.

3 Q. Still had never met Miss Cruz, correct?

4 A. Correct.

5 Q. So you took all of those bank records, and
6 again I'll just call it thousands of pages, and you
7 started looking through them, correct?

8 A. Correct.

9 Q. And you were looking through all of the
10 business and personal records to see if you could
11 find any kind of errors, correct?

12 A. I was primarily looking to see if initially
13 it was to support the allegations she raised, if he
14 had only taken money out of the account in order to
15 make payroll, which was the allegation she raised.

16 Q. Yeah, but you had in excess of one year of
17 financial records?

18 A. I believe it was --

19 Q. A variety of accounts, right?

20 A. Uh-huh, correct.

21 Q. And you looked through all of them, didn't
22 you?

23 A. Yes.

24 Q. And you analyzed every single transaction,
25 didn't you?

1 A. I analyzed every transaction in the records
2 we talked about today. I believe I looked through
3 the other accounts that belonged to his other
4 businesses, but soon realized that they had no
5 relevance to his law practice.

6 Q. But you looked at them anyway, right?

7 A. I looked at them, yes.

8 Q. And when I say you looked at every
9 transaction, I see on February 27th of 2019, on
10 Exhibit 23, on the spreadsheet you did, there's a
11 transaction of 7 cents. Do you remember that
12 transaction, 7 cents?

13 A. I don't recall it, no.

14 Q. Were you thinking maybe Mr. Jimmerson had
15 done something improper on 7 cents?

16 A. The spreadsheet is just a reflection of
17 what's in the records. It helps me analyze the
18 account.

19 Q. And that's my point. You looked at every
20 single transaction, didn't you?

21 A. In the trust account, correct.

22 Q. Yeah. And then if the trust account related
23 to something else, you went to the other account,
24 didn't you?

25 A. Correct.

1 Q. Trust account, payroll account, business
2 account, and personal accounts all for over a year,
3 correct?

4 A. Correct.

5 Q. How long did it take you to do all of this?

6 A. I don't know off the top of my head. It
7 probably took a couple of weeks.

8 Q. And when you asked Mr. Jimmerson to respond
9 finally, your first letter of March 10 of 2020, he
10 responded right away, didn't he?

11 A. He did.

12 Q. And that response is truthful, isn't it? I
13 mean, he didn't alter any of the records?

14 A. No. I mean, he provided his response.

15 Q. And then you asked him again on April 21 --
16 pardon me, just before April 21 -- no, I take it
17 back. On April 21 he gave you a full response to
18 your letter of March 10th, correct?

19 A. Correct.

20 Q. And that response was accurate, wasn't it?

21 A. He provided a complete response to the
22 questions I had raised, correct.

23 Q. Okay. Okay. And then you raised several
24 other questions, and he responded on May 22nd of
25 2020, correct?

1 A. Correct.

2 Q. And he gave you a full and complete
3 response, didn't he?

4 A. He did.

5 Q. And none of these three responses contain
6 altered records or falsehoods or anything like that,
7 do they?

8 A. Not to my knowledge, no.

9 Q. And here's my question for you: In the
10 State Bar's trial brief, and I'm looking at page
11 three on line six, for those of you who want to
12 follow along, and this states trial brief has been
13 sent to all the panel members, the Bar accuses
14 Mr. Jimmerson of a cover-up. Have you seen that?

15 A. I have not reviewed the trial brief, sir,
16 no.

17 Q. Okay. So I assume that the allegation of
18 the cover-up doesn't come from you?

19 A. I have not seen the trial brief.

20 Q. Okay, have not seen it. I guess it doesn't
21 come from you, right?

22 A. I haven't seen the trial brief. That was
23 not something that I knew existed.

24 Q. Now, you have said that the three trust
25 account transactions in November were red flags for

1 you, correct?

2 A. They raised concerns, correct.

3 Q. I see you're suffering from allergies, so now
4 I don't feel so bad. I'm sitting here sniffing away.

5 These were the three transactions that
6 raised red flags, other than the other two we talked
7 about, the deposit that went into the wrong account,
8 and the Jay Nady matter, these were the three that
9 raised red flags, right?

10 A. Correct.

11 Q. Okay. In each of these three transactions,
12 did you determine that the fees that Mr. Jimmerson
13 talked about had been earned and billed but just not
14 received?

15 A. Yes. I believe he provided the invoices as
16 well, correct.

17 Q. Okay. Okay. So Ms. Cruz also said, and I'm
18 looking again at the complaint, paragraph five, that
19 she saw text messages from Mr. Jimmerson instructing
20 his employees to engage in improper acts. Do you
21 recall that being in the complaint?

22 A. In her grievance or in the State Bar formal
23 complaint?

24 Q. The State Bar's formal complaint.

25 A. I don't recall if that was in there.

1 Q. Did she ever provide these text messages to
2 you?

3 A. No.

4 Q. Did you ever ask for them?

5 A. We tried to reach Miss Ballard to obtain
6 them but we did not receive them.

7 Q. Okay. So you've never seen them, right?

8 A. Correct.

9 Q. Do you have any idea then why the complaint
10 would refer to them?

11 A. I don't.

12 Q. Now, there were never any bounced checks,
13 correct?

14 A. Correct.

15 Q. There was always money in the trust account
16 to cover them, correct?

17 A. Yes. There were other clients' funds in the
18 account.

19 Q. Give me a second.

20 Okay. Yeah, I'll go ahead and ask. I've
21 already asked this, but just so we're summed up and
22 clear, other than the 15-day period between November
23 the 11th, 2019 and November the 26th, 2019, and then
24 setting aside the Jay Nady and the \$15,000 check, did
25 you find any other improprieties with respect to the

1 trust account?

2 A. Not within the period that I looked at the
3 records, no.

4 Q. Okay. And we have all of those records, I
5 believe, are in evidence, so I don't have any further
6 questions.

7 CHAIRMAN EDWARDS: Mr. Young?

8 MR. YOUNG: Yeah, I just have a couple of
9 brief follow-up redirect questions.

10 REDIRECT EXAMINATION

11 BY MR. YOUNG:

12 Q. Miss Watson?

13 A. You're on mute.

14 Q. Miss Watson, based on the allegations in the
15 grievance, was there a time period in the records
16 that controlled your focus?

17 A. Yes, I focused the investigation from
18 November of 2019, which was the -- well, the only
19 period, or the only transaction I could find that
20 would support Miss Cruz's allegations.

21 Q. And as part of your investigation, did you
22 actually speak with Miss Cruz?

23 A. Yes.

24 Q. And how many times did you speak with her?

25 A. At least twice.

1 Q. And did she mention that she had observed
2 these text messages?

3 A. Yes.

4 Q. Do you recall with specificity exactly what
5 she had said she observed?

6 MR. KENNEDY: Well, I'm going to object to
7 hearsay, if we're going talk about what's in the text
8 message.

9 MR. YOUNG: I think that Mr. Kennedy already
10 opened the door by bringing up the subject of these
11 text messages between Miss Ballard and Mr. Cruz
12 (sic), so I think it's appropriate to follow up with
13 those with appropriate questions.

14 MR. KENNEDY: Those are not in evidence.

15 MR. YOUNG: And I --

16 MR. KENNEDY: They're not even produced. I
17 don't think they exist.

18 MR. YOUNG: Right. I'm not asking what the
19 text messages said, I'm asking what Miss Cruz had
20 mentioned, which is what you had already stated --
21 what Mr. Kennedy had already stated and asked
22 questions of this witness.

23 CHAIRMAN EDWARDS: Objection sustained.

24 BY MR. YOUNG:

25 Q. Miss Watson, is it appropriate for an

1 attorney to take fees before the work is completed?

2 MR. KENNEDY: I'll object. Lack of
3 foundation.

4 MR. YOUNG: Again this is just a follow-up
5 question to Mr. Kennedy's line of questioning
6 regarding Jay Nady and clarifying what Miss Watson's
7 understanding is.

8 CHAIRMAN EDWARDS: Overruled.

9 BY MR. YOUNG:

10 Q. Miss Watson, you can answer the question.
11 Is it appropriate for an attorney to take fees before
12 work is completed?

13 A. No.

14 MR. YOUNG: Okay. No further questions.

15 CHAIRMAN EDWARDS: Miss Hanson, any
16 questions for the witness? She's indicating no.

17 Mr. David, any questions for the witness?

18 EXAMINATION

19 BY CHAIRMAN EDWARDS:

20 Q. Miss Watson, if you don't mind, I am
21 confused by the testimony on whether an attorney can
22 accept fees in advance of being earned or not. Can
23 you please elaborate because I don't think I
24 understand your testimony.

25 A. Fee -- well, I'm sorry, could you repeat

1 what it is you want clarified?

2 Q. Sure. I was my understanding during
3 Mr. Kennedy's examination that you said that an
4 attorney can accept fees in advance of them being
5 earned, but upon Mr. Young's examination I believe I
6 heard you say that's not the case, and so I think I
7 misunderstand somewhere.

8 A. Yeah, maybe I misunderstood the question.
9 It's an -- with an -- with a client's permission an
10 attorney can accept advance -- my understanding is an
11 attorney can accept advanced payments for fees, but,
12 you know, they have to be reasonable. An attorney
13 can't take advanced funds for fees if they haven't
14 been earned and the client has not agreed to the
15 removal of those funds from his trust account.

16 Q. But if they have not yet been earned but
17 they obtain client approval, is that acceptable?

18 A. I believe so, yes.

19 CHAIRMAN EDWARDS: Okay. Mr. Young, any
20 follow-up on that question?

21 MR. YOUNG: No, I don't have any follow-up
22 on that question.

23 CHAIRMAN EDWARDS: Mr. Kennedy, any
24 follow-up on that question?

25 MR. KENNEDY: No, you've clarified it.

1 CHAIRMAN EDWARDS: Okay. All right. Thank
2 you, Miss Watson.

3 Mr. Young, your next witness?

4 MR. YOUNG: The State Bar is going to be
5 calling Mr. Jimmerson as the next witness.

6 MR. KENNEDY: Okay. Can we take five
7 minutes, because this will take some time.

8 CHAIRMAN EDWARDS: Certainly.

9 MR. KENNEDY: Thanks.

10 CHAIRMAN EDWARDS: See you back here at
11 11:10.

12 MR. KENNEDY: You got it.

13 (A recess was taken.)

14 CHAIRMAN EDWARDS: Let's go back on the
15 record and then please swear in the witness.
16 Thereupon--

17 JAMES J. JIMMERSON
18 was called as a witness by the Complainant, and
19 having been first duly sworn, testified as follows:

20 CHAIRMAN EDWARDS: Mr. Young, your witness.

21 MR. HOOGE: Mr. Chair, actually we're going
22 to split up the witnesses, if that's all right.

23 CHAIRMAN EDWARDS: No problem.

24 MR. HOOGE: I'm Mr. Hooge, for the record.
25 I'm going to be handling this examination. Thank

1 you.

2 DIRECT EXAMINATION

3 BY MR. HOOGE:

4 Q. Mr. Jimmerson, you've been licensed since
5 1976; is that correct?

6 A. Yes, sir. 45 years.

7 Q. And you were even on the Board of Governors
8 at one time, weren't you?

9 A. Both the State Bar Board of Governors for
10 eight years, and I was elected to be the American Bar
11 Association Board of Governors for two years. And,
12 yes, sir, thank you.

13 Q. Now, at the Jimmerson Law Firm, you're the
14 senior partner; is that correct?

15 A. I am, yes, sir, and sole shareholder at this
16 time. My son, James M. Jimmerson, is going to become
17 a partner here in 2021 as part of his growth and
18 development as a fine lawyer here in Las Vegas.

19 Q. Other than your son, how many attorneys do
20 you have in the firm?

21 A. Just one other, Josh Aronson, who emphasizes
22 family law. So three lawyers, two paralegals, a law
23 clerk and support staff.

24 Q. Now, how many people in the firm have access
25 to the client trust account?

1 A. Three people in the past. In 2019 it would
2 be three people, Mr. Hooge. Today they would be just
3 two.

4 Q. Okay.

5 A. And you're going to hear Amanda Kahn, or
6 Amanda Fisher. Fisher was her prior name. She
7 remarried and her name is Kahn, so we call her Amanda
8 Kahn, and myself. But in 2019, in November, there
9 would have been three, sir. Kim Stewart, Amanda
10 Kahn, or Leah Ballard for her 25 days of employment,
11 and myself.

12 Q. So would that include online access? Do
13 they have online access to the trust account?

14 A. Yes. I'm sorry. I'm sorry, I didn't mean
15 to interrupt. But, yes, sir, they do. And remote
16 access, too, from their home, if they need it.

17 Q. And who has check-signing authority? Who's
18 the signature on the account?

19 A. I have the only check-signing authority,
20 although oftentimes my stamp of my signature will be
21 applied on a check if I'm unavailable to sign and a
22 check is needed. And in that situation, Mr. Hooge,
23 as you would expect, I think as Ms. Hanson or
24 Mr. David would expect, there would be some oral
25 communication to have my approval of the check stamp

1 being used in almost every occasion. Maybe in the
2 course of 45 years that wasn't always the case, that
3 certainly is the vast majority of cases so that there
4 is some checks and balances between accounting and
5 between myself.

6 Q. You'd agree with me that every time you take
7 money from a client out of the client money that's in
8 the client trust account, it must be justified,
9 correct?

10 A. I do.

11 Q. And every withdrawal must be sufficiently
12 documented. You'd agree with that?

13 A. Yes, I -- the answer is yes, I do agree.

14 Q. And you'd agree that you, as the senior
15 partner, are ultimately responsible for the client
16 trust account?

17 A. My name is on the firm, yes, sir, I'm
18 ultimately responsible. You're absolutely right.

19 Q. What kind of supervision protocols do you
20 have in place to protect against misappropriation?

21 A. Very careful supervision protocol. I'll
22 offer it to you, if you want, but I know you're
23 cross-examining me so I'm not going to get -- I'm not
24 going to try to give my speech here. You can ask me
25 and I'll try to respond as best I can, sir.

1 Q. Okay. You have a written policy?

2 A. I do. I have both an office manual, office
3 booklet, you know, and of course we have oral. We
4 have performance. We do things repeatedly the same
5 way ultimately. So, yes, we have I think very
6 appropriate and detailed protocols.

7 Q. And you were obviously here during the
8 opening statements and also Miss Watson's testimony,
9 and you heard information about the \$45,000 transfer
10 on November 21st, 2019?

11 A. I did. I did. Yes, sir.

12 Q. But you were the who initiated that
13 transfer, correct?

14 A. I did the transfer, yes, Mr. Hooge.

15 Q. And that was -- it says on the statement
16 that was an electronic transfer. Was that by app or
17 by internet?

18 A. I don't know what you mean by the two. I
19 went online and made the transfer from IOLTA, our
20 trust account. We also ask for trust accounts for
21 clients who don't wish to have their, you know, the
22 interest of the State Bar, but we'll just focus on
23 IOLTA. The transaction with IOLTA to corporation.
24 So yes, sir. And did it by online. It's not a
25 check, it's, you know, I call it an online transfer.

1 If you'll accept that, that's how I describe it.

2 Q. And that was through the Nevada State Bank
3 website?

4 A. Yes, sir.

5 Q. And did Leah Ballard have any input into
6 that withdrawal?

7 A. Yes, sir. She had the authority to make
8 transfers by herself on her own without my
9 involvement. She would have the responsibility of
10 disclosing that to me, but we had trained her to do
11 so on a daily basis. And as you heard and you know,
12 because of you're familiar with the case, she failed
13 in that after about four days.

14 So, you know, if you -- just to give
15 background, she came to work approximately
16 October 20th, maybe the 19th, 20th of October. She
17 worked 17 days aside sort of shadowing our
18 accountant, Amanda Kahn.

19 In addition we had an office manager, Kim
20 Stewart, who had been my legal secretary for nine
21 years, a very capable woman, who retired in February
22 of 2020. My focus here is on November of 2019, which
23 is I think what this is about, that was --

24 Q. I know it's really tempting to --

25 A. No, I'm going to -- listen, I'm going to be

1 totally cooperative and responsive to you, so I'm not
2 going to volunteer. They'll have a chance, the
3 members of the board will have a chance to size me up
4 here in the questions.

5 Q. I think my question was more specific to the
6 \$45,000 transfer. She didn't take part in initiating
7 that transfer, or she didn't discuss that transfer
8 with you, correct?

9 A. Correct, sir.

10 Q. That was all you?

11 A. It was all me.

12 Q. Okay. Now, you didn't know what exact
13 amount you were entitled to transfer; is that
14 correct?

15 A. I believed I was entitled to transfer the
16 entire amount of the transfer that occurred.

17 Q. And how did you come to that belief?

18 A. That's an open-ended question, so let me
19 have a minute on it. We're a small firm but we're I
20 think a boutique firm. I think we're certainly
21 received. We're AV rated. And so we have a robust
22 practice for a small firm, I'm very proud of our
23 practice. So we emphasize civil litigation, family
24 law in our main practice. We do other things, but
25 that would be the focus.

1 So I know my clients, Mr. Hooge. And
2 particularly if they're, you know, family law
3 clients, but even in business litigation I know them.
4 They would have patterns of regular payments. They
5 would pay their bills monthly, and sometimes we don't
6 have clients that pay their bills monthly, as you
7 know, but these clients are particularly reliable.
8 They pay within 30 days, if not sooner.

9 And so you have an understanding, I had an
10 understanding of what is going on in terms of
11 payments, receipts and the like. And I had it on a
12 daily basis until the failure of my accountant,
13 Miss Ballard, in mid November.

14 So when you ask me how did I know, I know
15 what the account balances are. I know we have enough
16 money to pay the -- to make the transfer going
17 forward. But in this time, starting with the three
18 transfers that's at issue here, only in November and
19 not the other 15 months or 45 years, whatever time, I
20 was wrong when the transfer was made by me the 14th
21 of November, the 27th of November, and the 25th of
22 November, that there were not sufficient funds at
23 that moment in time from the clients who are
24 attributed to transfer in place, but I believed that
25 they were present.

1 I believe they were present because I knew
2 that they had been paying their bills, and but I
3 wasn't getting the information from Miss Ballard to
4 confirm, and that's my error, and that's why I have
5 the privilege of being here in front of you. And I
6 certainly don't wish to be. But I'm so respectful of
7 what you do, Mr. Hooge, because I did it. I was on
8 the Board of Governors for eight years. I was on the
9 disciplinary board for six years. Few people would
10 have the respect for your process that I have. So,
11 you know, I'm the respondent, but you're also going
12 to get the truth from me and you're going to get an
13 honest assessment of what occurred.

14 I made those three transfers believing that
15 there was sufficient funds from the appropriate
16 clients, the accounted clients, and I learned later
17 that they were not, that that was not true. But as
18 you know, the bank account trust, which you've see,
19 ran between 140 and \$190,000 in the time period in
20 November. You've seen that. So there was never an
21 issue of insufficient funds or the like.

22 But as Miss Watson said, there is the
23 possibility that other clients' money, for one day or
24 eight days, could have been the basis for that. So
25 you're a hundred percent right. Why did that happen?

1 It happened because we were being misinformed. I
2 wasn't informed or even misled when we get into the
3 details of the text messages, and that's that.

4 And so that's what this is about. And the
5 panel will assess that. They'll measure me as a man
6 who's a lawyer, you will, too, Mr. Hooge, did I act
7 responsibly or not. I think that's what this is
8 about. I certainly respect the process.

9 So that's my answer to you as to why I
10 believed it was entirely appropriate, because we had
11 the funds from the clients in place at the time of
12 those three transfers. And you can see from the
13 remaining 15 months, that you subpoenaed my records,
14 all the transfers that occurred were entirely
15 correct.

16 So the three times occur over eleven days
17 when Miss Ballard is in charge of our books and
18 records, and she just didn't follow her
19 responsibilities. And she is a nice lady, she just
20 deceived us. She covered up what she was doing. You
21 can see it because you see it in her text messages on
22 November 25th and 26th that she hadn't been honest.

23 And you see that my criticism of her was not
24 that she had failed to do her job, even though she
25 had, my biggest heartburn was why did you not tell me

1 the truth.

2 And you're going to get the truth from me
3 here because that's what this is all about. You can
4 spank me or not spank me, but it will be because you
5 do have the truth from Jim Jimmerson.

6 Q. Appropriate your honesty. Mr. Jimmerson, so
7 if I understand you correctly, you did not know what
8 you're entitled to transfer from the trust account,
9 but you did your best to estimate how much you
10 thought you could transfer without looking at
11 documentation?

12 A. I think you're partially correct in the
13 question. I had a conviction or a belief, you know,
14 that the money was there and that it was entirely
15 proper to transfer. I was mistaken about that.

16 Q. If I could, let me share my screen. Let's
17 take a look at Exhibit 13.

18 A. Where do I see that?

19 MR. KENNEDY: It will come up on the screen.

20 THE WITNESS: Okay.

21 BY MR. HOOGE:

22 Q. Let me pull it up. Okay.

23 A. Boy, that's hard to read.

24 MR. KENNEDY: Oh boy.

25 THE WITNESS: I won't be able to use that.

1 MR. KENNEDY: I'll find Exhibit 13 for you.

2 BY MR. HOOGE:

3 Q. It's too small for you?

4 A. My eyes aren't that good.

5 MR. KENNEDY: Here.

6 THE WITNESS: Okay. 13, is that the
7 April 21st letter, sir?

8 BY MR. HOOGE:

9 Q. Yes.

10 A. Yes, I have it now, sir. Yes, sir, I have.

11 Q. Okay. Now, just briefly we're on, let's
12 see, page -- I think it's marked here, page 26. And
13 we -- I know Miss Watson had gone over this before as
14 well, but I just want to look at one particular one.
15 Denise Cashman.

16 A. Is that JLF 26, Mr. Hooge?

17 Q. I have State Bar Exhibit 13, page 26.

18 A. I have that on page 26, so can I just ask
19 you what that looks like on the top?

20 Q. Let me see if I can zoom in a little bit for
21 you.

22 A. I don't think I have the right one, guys.
23 Can you help me here?

24 MR. KENNEDY: There should be a Bates number
25 on the bottom.

1 THE WITNESS: There is. It says 26.

2 Yes, I have it, sir. Go ahead, sir. Thank
3 you.

4 BY MR. HOOGE:

5 Q. So I'm just -- I'm not going to go through
6 all of it, I know Louise Watson already did that, and
7 we have the records, but I just wanted to point out
8 one in particular. And this Denise Cashman here for
9 \$36,314.91.

10 A. Yes, sir, I have it.

11 Q. Okay. Now, if you notice up here, out of
12 the 45,000 you had mentioned that 4,000 of that came
13 from Cashman, correct?

14 A. That's what it says, yes.

15 Q. Okay. But you didn't actually receive her
16 deposit until the next day. It was November 22nd,
17 correct?

18 A. Correct. I had been in communication with
19 her. We have the emails, we can probably produce
20 them to you, from her that her payment was coming.
21 And I don't know if you've ever run a law firm, but
22 you would have the common sense to know that the
23 payment, the manage pay company that we use, but a
24 payroll company will typically want the money the
25 night before the day that they distribute it, okay.

1 So in this case the payroll, they're telling
2 us there's only one payroll on all of this, it wasn't
3 multiple payrolls, it was on Friday November 22. So
4 I needed to transfer the money to the payroll company
5 on Thursday afternoon, the 21st, so the payroll
6 company then could issue payroll checks to our
7 employees on the 22nd.

8 And Miss Cashman had indicated I was going
9 to receive the money on the 21st. I didn't. I
10 received the money on the 22nd. So that's what -- so
11 there was a one day failure or 15-hour failure,
12 whatever you want to say, but it was my transfer that
13 predated by one day that money. So you're absolutely
14 right. You're right to bring it to my attention,
15 sir.

16 Q. You agree that the \$45,000 withdrawal was,
17 the principal purpose behind that was to make
18 payroll? Did I just hear you right?

19 A. Yes, and another bills, but yes, sir, you're
20 a hundred percent right. That's the only payroll
21 that these transfers related to. But, yes, sir,
22 that's right.

23 Q. I'm going to go to page 105 here.

24 A. Is that the same exhibit, Mr. Hooge?

25 Q. Same exhibit, different page, page 105.

1 A. I'll go to it right now.

2 I have it, sir.

3 Q. Now, I guess I'm going to cross you on your
4 recent statement where you said it was just one day.
5 And we know that the \$4,365 was just the one day
6 because we can see here that it was November 22nd
7 that the full 36,000 was deposited, but isn't it true
8 that you had also already withdrawn \$31,000 on 11-14?

9 A. Yes, sir, that's true.

10 Q. So you would agree with me that if
11 Miss Denise Cashman had not paid her bill, she hadn't
12 paid her 36,000 until November 22nd, when you took
13 \$31,000 out of your pooled client trust account, you
14 actually misappropriated from other clients?

15 A. Absolutely not. You know, listen, you can
16 use any verb you'd like but misappropriate would not
17 fit this situation. And, you know, I understand the
18 inquiring thing. I'm not objecting to the inquiry.
19 If I -- I've been in your role, so I understand it.
20 But the word of misappropriate from other funds is
21 not true.

22 I believed in good faith that these dollars
23 were on hand. I was not being advised by
24 Miss Ballard, my accountant, for example, that the
25 moneys were not there. After these transfers are

1 made, I don't get a word from Miss Ballard saying,
2 Oh, you overdrew your trust account, it was never
3 received, or we have to wait a day. I did what I
4 believed was the case, based upon, you know, many,
5 many years of doing it, but also based upon my
6 knowledge of what the work we're doing and the
7 payments we're having, because as you know, these
8 were all earned fees.

9 These payments are arrived from sending out
10 bills on October 20th for the time period of
11 September 21st through October 20th, the bills
12 getting to the clients, give or take, November 1,
13 October 31st, in that time period. That's why
14 they're earned funds. And that's why it's earned
15 funds properly billed.

16 But I learned after the fact, 20/20
17 hindsight, that they hadn't yet been paid. And then
18 you do know all of them were paid, which is why all
19 of this ties right to the zero dollar. That's why
20 you know there's no Jim sticking money into his
21 pocket. There's no misappropriation because
22 everything ties back to the dollar.

23 But you are right, there's a delay. It's
24 some occasions one day, some occasions eight days,
25 some occasions even a little longer than that.

1 Patricia Curtis, that payment was maybe 15 days late
2 for those three transfers. But they were not brought
3 to my attention by Miss Ballard. And you're right
4 about that, there was a delay. But I can't accept, I
5 think you're being unfair to me to call it
6 misappropriation.

7 Q. All right. Let me put it another way then.
8 We can see right here from, this is your own exhibit
9 that you provided, that you withdrew or transferred
10 \$31,000 from your pooled client trust account into
11 your corporate account on November 14, 2019.

12 Now, you would agree with me that because
13 Denise Cashman hadn't paid you until November 22nd,
14 that the money that you withdrew on November 14th was
15 not Denise Cashman's money, correct?

16 A. That's right. I mean...

17 Q. So that would have been someone else's money
18 that was withdrawn?

19 A. Correct, sir. That's right. But I didn't
20 know that at that time, and I learned about it on
21 November 26th or November 27th or November 28th, in
22 that time period. But you're right, that is in terms
23 of the accounting error, record bookkeeping error,
24 you're right, that's what the record shows, sir.

25 Q. Thank you. Take a look at -- I wanted to

1 look at, this is Exhibit 26, if you can go to that.
2 You have Exhibit 26 nearby? I want to go to page --

3 A. Yes, sir, I think I do.

4 Okay. Is there a page number, Mr. Hooge,
5 you want me to turn to?

6 Q. Yeah. 201.

7 A. Give me a second.

8 Is it Nevada State Bank? Okay, look at it.

9 Is it page one of five, December 31, 2019, Mr. Hooge?

10 Q. Let's see. Yeah.

11 A. Top right-hand corner. Okay, I have it in
12 front of me. I have it physically in my hands.

13 Thank you, sir.

14 Q. Okay. I want to point your attention to the
15 \$15,000 that was withdrawn on December 27th.

16 A. Yes, sir. I have it. I see it, sir.

17 Q. I want to clear some things up. It seemed
18 like today there was some statements made and during
19 opening statements that this was kind of a fee
20 advance to you from Jay Nady, but your statement to
21 the Bar originally was a little bit different. Could
22 you maybe clear that up? What exactly was this
23 withdrawal for? What was the purpose for this
24 \$15,000 withdrawal?

25 A. I'm sorry now. I have -- the \$15,000 that I

1 have, sir, is a credit on December 27th, 15,000
2 online transfer. So let me help you clear that up
3 because I think it's your mistake in terms of maybe
4 not understanding the testimony.

5 There's two sums. The Jay Nady issue, which
6 is no issue at all, as you heard, is a \$10,000 sum,
7 it's not 15,000. So this would not relate to
8 Mr. Nady. Also Mr. Nady's payment to me of \$10,000
9 was on December 19th, so it's not this transaction,
10 so this has nothing to do with Nady.

11 Q. You're correct --

12 A. What I believe you're speaking to, if I
13 could help you, is on December 20th, I hit the wrong
14 button in transferring money. Instead of from
15 corporation to my family trust account, I hit the
16 IOLTA account to my family trust account. In
17 45 years of managing my business, this is the one and
18 only time that I ever took a dollar from my IOLTA
19 account, the trust account, to myself personally or
20 to my family trust, which I consider myself
21 personally. Never happened before.

22 And on the 27th of December, seven days
23 later, six days later, we replaced that money from
24 the corporation account back into the trust account.
25 It was my error in pushing the wrong button. And one

1 of the reasons for the error, if you look at Nevada
2 State Bank when you dial in, I come up with about
3 seven, eight or nine accounts, you know, corporate
4 savings, corporate -- there might be another trust
5 account, the IOLTA account, my operating account.
6 There'd be one or two other accounts. You know, we
7 do construction defect, sometimes we have an account.
8 Anyway, seven accounts.

9 So right above the button I hit the wrong
10 button. Didn't know that I hit the wrong button.
11 You know, I didn't know when I did it, but three or
12 four days later, just after the Christmas day
13 holiday, Amanda says, Jim, you hit the wrong button,
14 and we replaced the money. So that's why it's not an
15 issue, and I think Miss Watson, you know, she kind of
16 acknowledged that. She's a bright woman. She's done
17 a good job for the Bar for many cases, including
18 mine.

19 Q. Yeah, I apologize. I was going to talk
20 about both of those and I got the wrong one, but I'm
21 glad you spoke about the one for the family trust. I
22 was going to ask about that next. So maybe --

23 A. No problem. No problem. It is what it is,
24 sir.

25 Q. So the \$15,000, it goes out on

1 December 20th, correct?

2 A. Yes, sir. Yes, sir.

3 Q. I'm looking at down here. And then it's
4 deposited back on the 27th?

5 A. Yes, sir. Now you have it right. That's
6 right.

7 Q. That was the week before and the week after
8 Christmas?

9 A. Yeah. It was the 20th, you know, four days
10 or before Christmas eve, and the first day back to
11 work, the 27th, Monday the 27th, we discovered it and
12 replaced it. Because one of the things that we do in
13 terms of having checks and balances, I think we ran a
14 very tight ship. I just have Amanda and maybe myself
15 and --

16 Q. Okay. Mr. Jimmerson?

17 A. Yes, sir.

18 Q. You answered my question.

19 A. Thank you.

20 Q. My next question is it didn't -- it went
21 into initially the Jimmerson family trust, why didn't
22 it come out of the Jimmerson family trust and back
23 into the IOLTA? Why did it come out of the corporate
24 account and into the IOLTA?

25 A. Because I -- because the mistake was made,

1 when it was discovered, instead of return it from the
2 trust to the corporate IOLTA, I gave it to the
3 corporation and took a distribution, which was
4 15,000, and you'll see it on my tax return, 15,000.

5 Q. Can you say that again? I'm sorry, I didn't
6 hear you.

7 A. I could have returned it from my personal
8 account, the account that received it, okay. I chose
9 to have the trust account reimbursed by the corporate
10 on that day. I certainly could have. You asked me
11 why, it's just a matter of the money was in my trust
12 account so I took it as a distribution or a payment
13 to myself, a bonus, if you will. I used the word
14 "distribution" because that's the appropriate term.
15 But absolutely could have returned it from my trust
16 account back to IOLTA. I could have done.

17 Q. Okay. Now, I mean, obviously it being
18 around Christmas, the State Bar's going to be
19 suspicious of that. Why did it take you a week to
20 return it?

21 A. It wasn't discovered until the 27th, the day
22 that it was returned. Because it was my error in
23 hitting the wrong button, I didn't know I hit the
24 wrong button. And that's on the 20th, and the
25 holiday's intervened, you know, so that was -- that's

1 why we returned back.

2 I don't have a better answer for that to say
3 that I just wasn't aware of it until Amanda brought
4 it to my attention and we immediately returned it.
5 As I said, listen, you do have 15 months records of
6 the trust account, Mr. Hooge. You have to give a
7 little bit of credit here. There's not a transaction
8 like that anywhere. And I'm telling you, for
9 45 years there's never a transaction like that. And
10 it was immediately returned, I say immediately, seven
11 days later, including Christmas eve, Christmas day.
12 And, you know, that's my answer to it. I'm not
13 looking for sympathy or the like. I want a fair
14 hearing.

15 I will tell you that there was something
16 else going on here that would cause part of that
17 delay. First, I was working on Mr. Nady's work. He
18 had a real crisis situation, lost a day in court,
19 judgment, and they were trying to attach his cab
20 company. And so I was working feverishly on that.

21 Secondly, and I'm not -- I'm telling you
22 this is not seeking sympathy, but the previous April
23 my son, my 25-year-old son died, and he was selected,
24 his image was selected to be on a float on January 1
25 in the Rose Bowl. So there was a lot going on

1 personally for me to see the floriograph of my son
2 made up of seeds and flowers. So there's other
3 things in my life going on which would cause a six or
4 seven day delay. I'll leave it at that.

5 Q. You certainly have my condolences for the
6 death of your son.

7 A. I'm not looking for that. I'm just saying
8 to you, you asked me why did it take seven days. The
9 answer is because I didn't know it when I did it, and
10 we learned it by examining books and records, which
11 we do every day. And we're really vigilant about our
12 books and records and accounts.

13 Q. I'm going to go back to my mistaken question
14 on the 10,000. So --

15 A. Yes, sir.

16 Q. -- on the \$10,000 was the Jay Nady matter
17 that I initially asked about.

18 A. December 19th, yes, sir.

19 Q. December 19th, right. So my question is,
20 and that was you again, right? That was -- you were
21 the one who initiated the --

22 A. That's right. Yes, sir.

23 Q. Was that through the website again?

24 A. It was, yes, sir, after I spoke to Mr. Nady.

25 Q. Now, initially during your response, in your

1 initial response you stated that it was for earned
2 fees, correct?

3 A. The answer is yes. I think that's right.
4 I'd have to look at my letter. If you could point me
5 to my letter, I could help you with it. Everything
6 in my letter to my knowledge is absolutely
7 100 percent accurate, because I'm writing it to the
8 State Bar. I know, because I've been on the other
9 side, you have had lawyers who aren't responsive, you
10 know what I'm saying. You ask for information, they
11 don't provide it. I'm giving you everything that I
12 have and I'm giving it to you on time.

13 So if you point it out to me, that would be
14 true. But the answer to the question is the full
15 \$10,000 wasn't earned until maybe the second week of
16 January of 2020. It began to be earned on the 16th
17 day of December, with was the first day of our new
18 cycle of billing, having cutoff on December 15th.
19 There would be fees that Mr. Nady would owe me for
20 work of December 15th, and then I earned the balance
21 of it in the 30 days between December 16th and our
22 cutoff date, which I think was the 20th of January.

23 So what we know and what I wrote to
24 Miss Watson, who you can see that, is that a portion
25 of the \$10,000 was earned by December 19th, and the

1 bulk of it, the majority of it, was earned in the
2 days that follow. So it was partially earned, but
3 the most of it was earned thereafter.

4 But I had spoken to Mr. Nady and asked him
5 if he would allow me to withdraw 10,000 of the
6 \$50,000 he deposited on that occasion, and his
7 response was, Jim, take all 50 if you need it, I need
8 your attention, help to this matter.

9 But that's my answer to it. So if the point
10 is, Jim, you took \$10,000 but it wasn't fully earned,
11 you're right. But as Miss Watson has acknowledged,
12 through Mr. Edwards' question, it is that if the
13 client authorized it, since it's the client's money,
14 it can't possibly be a violation. So that's a fact.
15 So you're a hundred percent right to quiz me about
16 not all \$10,000 was earned on December 19th, only a
17 small portion but I'm working on it during that time
18 period. The bulk of it was earned in the next, you
19 know, 25 days, but the client authorized the then
20 immediate payment of the \$10,000, which I asked for.

21 And as I wrote back, and you'll see it, I
22 said I probably didn't bill, I missed time, that I
23 worked for Mr. Nady, I didn't bill it on the
24 January 20th billing. I probably I guess inured in
25 his benefit because he didn't get billed for the

1 extra time because that was a primary area because
2 they were trying to attach his cab company. And
3 during that time, it was a difficult time because
4 it's Christmas and that's why he authorized the
5 payment. I hope I've answered your question.

6 Q. All right. So you would agree with me
7 though if we looked at his bill that you provided,
8 and we're not going to go to it, but it's Exhibit 13,
9 page 28.

10 A. Yes, sir.

11 Q. Would you agree that all the work that's
12 noted on that bill had occurred in January? There's
13 nothing noted on your invoice from December?

14 A. Can I look at it then? That's -- I know --
15 let me look at the bill. I know that in fact I
16 worked on the case after December 15th, but let me
17 look at the bill and just confirm what you're saying.
18 Exhibit 13, is that right, sir? Give me one second.
19 Yeah, I've got it right here. What page is that,
20 sir?

21 Q. All right. So when you look at -- this is
22 Exhibit 13, page 28. And you list Exhibit 34 as your
23 backup for this \$10,000 transfer --

24 A. Right.

25 Q. -- correct?

1 A. Yeah. The backup -- the backup is the oral
2 authorization by Mr. Nady, which the Bar never even
3 investigated. I mean, a phone call to Mr. Nady, you
4 wouldn't even mention this. I mean, I was a little
5 disappointed. And when I was here, 20 years ago when
6 I was at the State Bar, we invited our respondents to
7 come in and answer questions before you slam them
8 with a nasty complaint. You didn't do that here, and
9 you didn't inquire of anybody who was a witness to
10 this matter.

11 So, listen, I'm sore about it because I have
12 I think a very good reputation. I've worked very
13 hard to have it. I know and respect your work, but
14 this is a nonissue, and Miss Watson got it exactly
15 right.

16 Q. Mr. Jimmerson, I want to go back to my
17 previous question. So you would agree with me that
18 the backup that you provided for the December 19th
19 withdraw does not have any work done prior to
20 December 19th?

21 A. You are right. The first entry that I'm
22 looking at you're looking at, Mr. Hooge, is January
23 through 2020.

24 Q. Okay.

25 A. So you're right, sir. The time work between

1 December 16th and January 3rd is not noted on my
2 bill, which I wrote to you, to the State Bar, not to
3 you personally, to the State Bar and said, I guess I
4 missed time, because I did work on it in December of
5 2019.

6 So you're right, sir, in terms of how I
7 earned the \$10,000, on the bill that begins
8 January 3rd and ends on January 20th. And all
9 \$10,000 plus was earned, so you're right, earned
10 because Mr. Nady authorized the payment orally on
11 December 19th.

12 Q. So let me clarify. When you say it was
13 earned because he authorized the payment, I think
14 that's a different thing than stating that he gave
15 you authorization for an advanced payment.

16 A. I believe you're right. I shouldn't use the
17 word "earned." When they use the word "earned," and
18 you'll see it through all my work, I put in the time,
19 or my lawyers and those others earn the fees. And so
20 you're right, he authorized the advanced payment of
21 the bill on the 19th. The time records show earned
22 in January of 2020, so you're right. Although I'm
23 telling you that I worked on it in December of 2019.

24 Q. And when you made that withdrawal in
25 December of 2019, you weren't obviously relying on

1 Miss Watson's advice because you had never spoken to
2 Miss Watson previously, correct?

3 A. Miss Watson had nothing to do with it,
4 that's right. I'm just saying what she testified
5 here today, that's all I'll saying. You know, we're
6 working together here. Maybe, you know, maybe the
7 State Bar versus Mr. Jimmerson, but we're here to get
8 to the truth of this. That's why we're here.

9 MR. HOOGE: Thank you. No further
10 questions. I'll pass the witness.

11 CHAIRMAN EDWARDS: All right. For the
12 respondent?

13 MR. KENNEDY: For the respondent, let me do
14 this. You can sort of see me here, and I assume you
15 can hear me. What I will do at this time is I will
16 take Mr. Jimmerson and complete his testimony
17 totally; however, if the Bar says they're going to
18 rest and not call any further witnesses, then I won't
19 have to do that, I'll just call him as my first
20 witness. But I have the right to do my whole case
21 with him right now. I intend to do that, if the Bar
22 has other witnesses.

23 MR. HOOGE: We do plan to rest, Mr. Chair.
24 So either way is fine with us.

25 MR. KENNEDY: Yeah, and that would be very

1 easy then if they rest, then I can start with
2 Mr. Jimmerson as my witness.

3 CHAIRMAN EDWARDS: Fine with me.

4 THE WITNESS: How do you physically want to
5 do that? Do you want me to be sitting here?

6 MR. KENNEDY: Okay. Can we take a couple of
7 minutes to get our logistics in order here?

8 (Discussion off the record.)

9 DIRECT EXAMINATION

10 BY MR. KENNEDY:

11 Q. Okay. Mr. Jimmerson, you testified on
12 cross-examination as an adverse witness, and I don't
13 want to unnecessarily re-cover things, but do you
14 have anything to add about your history as a lawyer
15 and your qualifications and the things you've done?
16 I know you testified about it. Do you have anything
17 to add to that?

18 A. Well, I wasn't asked a lot about that. I
19 want to say a couple things. I need to answer the
20 question. First, I want to thank the panel members,
21 Miss Hanson; Tom Edwards, he's a fine lawyer; Ira
22 David is a fine mediator, for your service.
23 Regardless of how this turns out or how you vote, I
24 want to tell you, I respect what you're doing. I sat
25 in these kinds of chairs, I've been on this very

1 committee, board of governors. I take your work very
2 seriously and so thank you very much.

3 And I know of you and of your work. I don't
4 know Miss Hanson, but I know she owns her own
5 business. And running your own business, I love lay
6 members on the panel because they are always the
7 greatest source of common sense are the lay members
8 who kind of boil it down pretty quickly.

9 I'm a 45-year lawyer, licensed in 1976. I
10 graduated at George Washington University and then
11 Columbia Law School in New York City. I've had a I
12 think a very successful career and noted career. I'm
13 AV rated since 19, I guess '82 or '83. I'm in all
14 the books. AV Rater, the NAIFEH Best Lawyers, ABA
15 Martindale Hubble, AB Brim (phonetic) Lawyer for
16 35 years.

17 I'm a member of some very noted prestigious
18 academies, American academy of Matrimony Lawyers.
19 I'm noted as one of the top 100 trial lawyers in
20 family law in the American College of Family Trial
21 Lawyers. I was a fellow in that. I received the
22 Ellis Island award in 2012 and we celebrate that at
23 Ellis Island.

24 Q. What does that involve?

25 A. It's once a year selection of 100 of America

1 and the world's top contributors to humanity. And it
2 was sponsored by a Brooklyn judge and invited me. I
3 was accepted and won. I can say it was Brooke
4 Shields and Frankie Valli were two other award
5 members, and there were many, many professors and the
6 like. You go to Ellis Island and you enjoy a
7 wonderful meal and fireworks and the like at the
8 Statue of Liberty. It was just a recognition of, you
9 know, whatever I've been 40 years, 41 years of work
10 at that time. All the writing that I've done,
11 lecturing, teaching.

12 I've spent a lot of time, particularly since
13 the passing of my son, on drugs and alcohol and how
14 that draws down lawyers. And I sent that to
15 Mr. Young as well, Mr. Hooge. And I'm putting
16 another presentation on in October at the Nevada
17 Judicial Association's annual convention in Santa Fe,
18 New Mexico, and it emphasizes about lawyers in the
19 core are good people. They don't have a tendency or
20 desire to do anything other than serve their clients
21 and serve the public. I certainly subscribe to that.

22 But drugs and alcohol will cause any of us,
23 and certainly lawyers, because that's what I'm
24 focusing on, to stray. So when we talk about lawyer
25 discipline and we talk about these issues, they're

1 really sensitive to me. They're very, very keen to
2 me because I represented many lawyers before the Bar,
3 and not so many as you, Mr. Kennedy, but some.

4 And, you know, you -- it's a balance.
5 You're trying to, mostly importantly, protect the
6 public and protect the clients, but you also want to
7 make sure that the lawyer has a fair opportunity to
8 maybe redeem himself or to straighten out,
9 particularly if they're affected by addiction, which
10 was what the folks of my work has been.

11 And so I just will say that I do have a deep
12 appreciation for you as you result of this lifetime
13 of work of the State Bar's function and a great
14 respect for it because I've been a deep member.
15 That's why, candidly, if I could just say, the
16 allegations in the complaint are so overcharged and
17 over the top, they're outrageous that I think anybody
18 who is falsely charged would react the same. Maybe
19 anger. Certainly that wasn't me. Disappointment,
20 emotion.

21 That's my biggest gripe about this because
22 you have now -- you can see it, like the prosecution
23 doesn't even reference 5.3, yet it's the only issue
24 they I think really focuses on what actually
25 occurred. And they don't give credit for the fact

1 that never had a trust fund -- trust account issue in
2 45 years. No clients ever complained. No client was
3 harmed in this situation. It's just recordkeeping
4 errors on three occasions. My errors. Ultimately I
5 assume responsibility for Miss Ballard's mess up.

6 But you do have a unique function here
7 because you have a confession by Miss Ballard about
8 her divorce and her failure to do the work. She
9 called it "my complete failure. I've made a mess."
10 So I hope that would be exonerating to members of the
11 panel. Very unique that you have that kind of a
12 clear record that you don't normally have in
13 disciplinary cases.

14 Q. Okay. Let's cut to the chase on the
15 allegations made against you. The Bar has accused
16 you of theft, right?

17 A. They have.

18 Q. Did you commit theft against anybody?

19 A. I did not. And this is an example of what
20 I'm talking about. And we just need to do better,
21 all of us, including the State Bar. They need to be
22 more careful of what they say.

23 Q. The State Bar has accused you, and I
24 referenced this earlier with my cross of Miss Watson,
25 of a cover-up. Did you commit a cover-up?

1 A. No. Miss Watson would never suggest a
2 cover-up, as she correctly testified. I responded
3 quickly on every occasion and completely. And all
4 the documents I provided were true and correct. What
5 didn't get emphasized, I do want to mention, on the
6 March 10th letter from the State Bar to myself, which
7 I think was Exhibit 10, is it? I don't remember
8 exactly.

9 Q. Yeah, I think it is. Yeah.

10 A. On that very day that I got the letter, I
11 sent them my trust account and all the records
12 supporting it so that they would know on the 10th of
13 March of 2020 that my trust account matched to the
14 dollar.

15 Q. Yeah, you sent it on the 12th.

16 A. The 12th, because I mailed the letter on the
17 12th, it took two days to get there. Well, so my
18 point is that Louise could catch her breathe, she
19 could take a pause and know Mr. Jimmerson's accounts
20 are entirely appropriate, now let's go back and see
21 about whatever happened in the past. But my point is
22 she knew that everything was appropriate after
23 December 27th of 2019.

24 Q. Interestingly the Bar did not, in this case
25 where they accused you of theft and a cover-up, they

1 did not allege that actual harm had occurred to any
2 client?

3 A. They did not.

4 Q. Well, let me ask you. Did any harm occur to
5 any client?

6 A. No, sir. It was a bookkeeping error, a
7 records error, a mistake by my staff that ultimately
8 falls to me.

9 Q. Well, the Bar said in the complaint,
10 paragraph 30 and 37, that there was potential harm?

11 A. I disagree with that as well. It is true,
12 and Miss Watson I think phrased it properly, is it
13 likely or is it possible that other clients' funds
14 ended up getting used. Well, the answer is it's
15 possible, but we know that every single client that
16 totals the withdrawals paid. It was one day late or
17 it was already there or eight days late, we
18 understand that. So there is no potential harm.

19 Also the Bar so overreached on the subpoena
20 that they got into businesses, I own transportation
21 companies, those bank account balances were also
22 provided to the Bar. So they knew that there was
23 never a liquidity issue or a solvency issue or the
24 like.

25 So the answer to the Bar was saying, no,

1 there was no potential harm, unless you're going to
2 predict a crashed market, a market like 1929, I mean
3 something like that, you know, completely, you know,
4 outrageous; otherwise, no potential harm and
5 certainly no harm, it's just a records error on my
6 staff's part.

7 Q. Next up on the Rule 5.3 allegations,
8 Miss Watson was the Bar's only witness, and I think
9 it's fair to say that she didn't present any evidence
10 or testimony with regard to training or supervision
11 of employees. Nevertheless the complaint alleges
12 that you failed to train and fail to supervise your
13 employees, namely Miss Ballard. Are you aware of
14 that?

15 A. I am. And I also observed, as you clearly
16 pointed out very effectively, no reference to in the
17 opening statement by the State Bar. So it's like an
18 abandoned claim.

19 Q. Well --

20 A. That's the key, mostly explains key issue.
21 It explains what happened.

22 Q. Well, we have an expert witness that's going
23 to testify about the standard of care imposed by Rule
24 5.3 and your compliance therewith, so I have to go
25 through the training and supervision. Tell us about

1 in roughly September of 2019 the status of Miss Kahn
2 and the bookkeeper at your firm.

3 A. So 20 -- in September of --

4 CHAIRMAN EDWARDS: Mr. Jimmerson, I'm sorry,
5 can I interrupt for a second? Is the State Bar still
6 pursuing that claim, this Count Number 2?

7 MR. HOOGE: No, Mr. Chair, that was an
8 alternative claim in case he alleged that his
9 bookkeepers were the ones responsible for the
10 transfers, but he's already admitted that he was the
11 one who conducted the transfers so we would be
12 willing to dismiss those charges at this time.

13 CHAIRMAN EDWARDS: Okay.

14 MR. KENNEDY: Mr. Chair, I am not willing to
15 accept that because that's the key charge in the
16 case. The other collateral problems, that being the
17 three or the five checks, they all stem from the Rule
18 3.5 -- 5.3 charge. And if they're going to try to
19 dismiss the 5.3 charge, then the only condition I
20 would accept is if they also dismiss the collateral
21 matters that come out of 5.3, because 5.3 is the
22 heart of this case. That's our defense. And now
23 that they're losing that issue, they can't just walk
24 away from it and hope that the 1.15 charges exist
25 independently, because they can't stand

1 independently. That's the fallout from 5.3.

2 CHAIRMAN EDWARDS: Mr. Kennedy, I think if
3 that's right, and the State Bar's willing to dismiss
4 Count 2, then your client would win as a matter of
5 law. I'm not sure I agree with that, but I don't see
6 a basis for you to prevent the State Bar from
7 abandoning a claim.

8 MR. KENNEDY: Well, they have to get your
9 permission, and I'm objecting to that motion.

10 CHAIRMAN EDWARDS: Okay. For efficiency of
11 this hearing, I am going to allow the State Bar to
12 abandon Count 2 of the complaint.

13 MR. KENNEDY: And that is dismissed with
14 prejudice, I take it?

15 CHAIRMAN EDWARDS: State Bar's position on
16 that?

17 MR. HOOGE: Yes, we would dismiss with --
18 move to dismiss with prejudice.

19 CHAIRMAN EDWARDS: Okay. So dismissed with
20 prejudice.

21 MR. KENNEDY: Okay. I now have a dismissal
22 with prejudice of the main claim in the case due to
23 an absolute failure of proof. So let's -- that cuts
24 the hearing down significantly because Mr. Jimmerson
25 has already testified about the circumstances giving

1 rise to the issuance of those checks.

2 Do you have anything, Mr. Jimmerson, you
3 want to add to your prior testimony about how those
4 checks were came to be issued?

5 THE WITNESS: I do. But I want to shore it
6 up quite a bit.

7 BY MR. KENNEDY:

8 Q. Yeah. And that's what we'll do then because
9 that's the fallout and the collateral issues in the
10 case.

11 A. A brief overview will show that we run a
12 tight ship. We have good policies in place, strict
13 policies in place on how we do business. We do daily
14 cash reports, until Miss Ballard failed to do that.
15 We do checks and balances in terms of making sure
16 that a bookkeeper can't embezzle money. We do. We
17 have, I call it a Bible, but we have a
18 page-by-page-by-page step-by-step how you make a
19 trust transfer online, what button do you hit. You
20 have deposit instructions. We have an entire booklet
21 that was in place in October, November 2019 that
22 detailed all that.

23 I don't know another firm that has that kind
24 of detail besides our own. So all I'm suggesting to
25 you in why the State Bar now, as they withdraw the

1 claim, is that we really did a very, very good job of
2 once the problem occurred, rectifying it.

3 So we're talking about transfers, three
4 transfers in eleven days. 14th of November to the
5 25th of November, three transfers. 14th, 22nd and
6 25th. I believed the money to be there. Clients
7 were paying. I didn't have the information the money
8 was not there. I was never advised the money was not
9 there. Those were paying.

10 But as you know, every one of those clients
11 paid, and the paid, you know, on time in terms of
12 within 30 days of their bill. These are very, very
13 good clients, wonderful clients, people I enjoy
14 working with and working hard for. What happens on
15 the 26th when we learned? I think that's important
16 because they need to, the panel needs to understand
17 because the panel is -- this is --

18 Q. We're going to go over --

19 A. Life in their hands.

20 Q. When you're done, we're going to go to those
21 exhibits.

22 A. Okay. So now we've learned, we get a hint
23 of what's going on on the 25th. I didn't know she
24 was going through a marriage issue, divorce issue. I
25 didn't know she was ill. I didn't know that she was

1 unable to drive because she's taking prescription
2 drugs.

3 It's just a collection of unexpected,
4 unknown events, and what you do? I mean, Miss Hanson
5 runs her own business. What is Miss Hanson going to
6 do when this happens, okay. You have to grab the
7 bull by the horns. You have to get on it right away,
8 and we did.

9 Within one day I hired Miss Fisher,
10 Miss Kahn, back to the firm. So now I have two
11 bookkeepers, you know. She comes back. We work on
12 the time sheets. We get the bills out on
13 Thanksgiving evening, all right. We really worked
14 very hard.

15 And I can't imagine anybody doing much
16 better than we did, because you're responsible for
17 people. You have a responsibility to clients. My
18 clients are the most important people, the people I
19 owe a fiduciary duty to. They're the people I'm
20 going to honor.

21 Q. Okay. Now, we have heard your testimony
22 previously in a couple different context about how
23 you found out about the problems and the trouble that
24 Miss Ballard was having and how that affected you.

25 I would ask the panel to please turn to