

IN THE SUPREME COURT OF THE STATE OF NEVADA

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IN THE MATTER OF THE ADMINISTRATION OF THE SSJ'S ISSUE TRUST,	Case No.: 85927 District Court Clerk of Supreme Court PR17-00445 PR17-00446	Electronically Filed May 22 2023 06:45 PM Elizabeth A. Brown Clerk of Supreme Court
IN THE MATTER OF THE ADMINISTRATION OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST.		
SAMUEL JAKSICK, INDIVIDUALLY AND AS CO- TRUSTEE OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST, AND AS TRUSTEE OF THE SSJ'S ISSUE TRUST, Appellant, vs. JAMES S. PROCTOR, CPA, CFE, CVA, CFF IN HIS CAPACITY AS THE APPOINTED TRUSTEE OF THE JAKSICK FAMILY TRUST; KEVIN RILEY, INDIVIDUALLY AND AS FORMER TRUSTEE OF THE SAMUEL S. JAKSICK, JR. FAMILY TRUST, AND AS TRUSTEE OF THE WENDY A. JAKSICK 2012 BHC FAMILY TRUST; MICHAEL S. KIMMEL, INDIVIDUALLY AND AS CO- TRUSTEE 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; AND WENDY JAKSICK, INDIVIDUALLY, Respondents.	
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**APPENDIX TO OPENING BRIEF
VOLUME II**

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AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that **APPENDIX TO OPENING BRIEF VOLUME II** does not contain the social security number of any person.

DATED: May 22, 2023.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on this 22nd day of May, 2023, a copy of the foregoing **APPENDIX TO OPENING BRIEF VOLUME II** was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex) and served via electronic mail:

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6 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE
--oOo--

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10 In the Matter of the Case No. PR17-00445
Administration of the Dept. No. 15

11

SSJ'S ISSUE TRUST.

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CONSOLIDATED

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In the Matter of the
Administration of the

14

Case No. PR17-00446
Dept. No. 15

15

SAMUEL S. JAKSICK, JR.
FAMILY TRUST;

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TRANSCRIPT OF PROCEEDINGS

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HEARING ON MOTION TO APPROVE PURCHASE AND SALE AGREEMENT
AND TO SELL PERSONAL PROPERTY OF THE TRUST AND THIRD
20 INTERIM APPLICATION FOR APPROVAL AND PAYMENT OF
21 COMPENSATION TO FLETCHER & LEE

22

THURSDAY, DECEMBER 8, 2022

23

24

Reported By: PEGGY B. HOOGS, CCR 160, RDR, CRR

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4 BENEFICIARY CAPACITY:

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6 MICHAEL KIMMEL & KEVIN MAUPIN, COX & LeGOY
7 RILEY:

8 FOR STANLEY JAKSICK, ADAM HOSMER-HENNER, ESQ.
9 INDIVIDUALLY: McDONALD CARANO LLP

10 FOR JAMES PROCTOR, CECILIA LEE, ESQ.
11 TRUSTEE: FLETCHER & LEE

12 ALSO PRESENT: JAMES PROCTOR, CPA

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2 RENO, NEVADA; THURSDAY, DECEMBER 8, 2022; 1:31 P.M.

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5 THE COURT: I strive to be prepared, Counsel,
6 each time I take the bench, and with that, I tend to talk
7 too much at the outset. I don't know whether to talk now
8 and just listen or tell you what I think and then hear
9 your responses.

10 MR. ROBISON: Talk now.

11 THE COURT: All right. So I know that there is
12 a disagreement about the priority of Ms. Lee's fees
13 versus other attorney's fees. I acknowledge that.

14 Also, despite what you may have inferred at the
15 last hearing, I want to hear all of you, I do, but there
16 has to be some orderly process to this. I don't really
17 have a problem, generally, with the sale proposal for two
18 reasons.

19 Did I bring my handwritten notes in? I'm going
20 to do it from memory.

21 I think it was on the Buckhorn valuation, there
22 is this connection to a value that the brothers agreed
23 between themselves. It's not precise, there are
24 differences, but I felt somewhat satisfied by that.

1 For intrafamily valuation disputes, I just want
2 to see who's willing to pay what, and if Stan doesn't
3 like what Todd is paying, then I invite Stan to increase
4 the value to the trust by beating his offer. That's
5 just -- whether there's one zero or five zeroes, that's
6 kind of the way we handle these intrafamily valuation
7 disputes. If Stan is concerned that Todd is laughing to
8 the bank, then, Stan, please offer more, and you will get
9 the deal.

10 And then, finally, the one real question that
11 may be disruptive is White Pine, that 100 percent
12 interest. It can be pulled out of the portfolio that
13 Todd wishes to purchase and just put on the open market,
14 and I don't know if \$262,000 is its sale value, and so I
15 wanted some questions -- I want some answers about that.

16 I don't fully understand the \$750,000 loan
17 that's not going to be repaid and how that could be
18 recapitalized, so I want a little information on that,
19 but I thought, you know, if the worst is worse, then I
20 would pull White Pine out and just tell Mr. Proctor, find
21 a realtor in White Pine County, I presume.

22 MS. LEE: No. Northern Washoe County, Your
23 Honor.

24 THE COURT: So this is also Northern Washoe

1 County?

2 MS. LEE: Yes, it is.

3 THE COURT: I'm confused by the title, then.

4 And let's see what someone is willing to pay,
5 because it's 100 percent, and we don't need to deal with
6 the minority fractional discounts and so forth.

7 So those are all my thoughts.

8 MS. LEE: Thank you, Your Honor.

9 Cecilia Lee on behalf of the trustee, James
10 Proctor, who is also present in court.

11 I will deal with the issues that Your Honor has
12 raised, and I'd like to start with White Pine, if I
13 could.

14 THE COURT: Please.

15 MS. LEE: White Pine is troublesome for a
16 number of reasons, as are many of these properties.

17 White Pine's marketability, as the trustee has
18 set forth in his declaration, is affected by the
19 existence of the conservation easement on that property
20 as well.

21 THE COURT: That's the expired easement, maybe
22 has 20 years left?

23 MS. LEE: It has more than 20 years, Your
24 Honor, and it does affect the ability of what can be done

1 with the land, but there are other reasons why including
2 it in this particular deal are important.

3 Number one, this is an integrated transaction.
4 The parties put various prices, allocations, with respect
5 to the interests that are being sold, the four interests
6 that are being sold, but, nonetheless, it is an entire
7 transaction. The only change in allocation that can be
8 made is by the trustee in terms of how he may allocate
9 things for tax purposes. That's the only carve-out with
10 respect to that.

11 The other point that I'd like to make with
12 respect to White Pine is that -- two important points,
13 and that is that even in the family trust financial
14 statements, the most recent financial statements that
15 Kevin Riley prepared, so dated as of February 26, 2021,
16 in his listing of the values of the various interests
17 that the family trust owned in all of these different
18 entities, White Pine received a zero value, a zero value,
19 no value at all.

20 THE COURT: Because of the debt?

21 MS. LEE: Because of the debt. That's a big
22 part of it. It's an uncollectable debt.

23 THE COURT: I'm sorry. A what?

24 MS. LEE: It's an uncollectable debt because

1 White Pine doesn't have the money to be able to pay it.

2 So that leads to the third point, which is how
3 does that \$750,000 account receivable figure into all of
4 this? The \$750,000 would be -- if White Pine were flush,
5 if it were really a solvent entity, the trust could
6 collect that and then sell the assets of White Pine, and
7 that would be the end of it. That's a perfect world that
8 does not exist. White Pine does not have the ability to
9 pay that. Even if the trustee were able to sell the real
10 property, it almost certainly would not be for anywhere
11 near that amount of money.

12 THE COURT: I think I understand that, but why
13 can't the parcel be listed for sale on the open market?

14 MS. LEE: It probably could, Your Honor, but
15 the concern is that it just has such a huge marketability
16 issue because of the conservation easement and the way in
17 which the NCRS is interpreting the conservation easement
18 and how it can be applied. It's very restrictive.

19 THE COURT: I have no doubt that conservation
20 easement, for which the trust has been compensated --

21 MS. LEE: Absolutely.

22 THE COURT: -- I have no doubt that that
23 affects the value to a third-party purchaser, but that's
24 how we would know its value. The third-party purchaser

1 would kind of integrate those restrictions into what it
2 offered, and it would either offer less or more than
3 262-.

4 MS. LEE: You know, if that were possible, that
5 would be great, Your Honor, but this seems to be the deal
6 that is on the table that allows the trust to liquidate a
7 number of its assets all in one package and thereby be
8 able to generate income with which to be able to pay its
9 debts.

10 THE COURT: What I'm hearing you say is if I
11 pull that one parcel out, the entire deal folds.

12 MS. LEE: I can't say that affirmatively, but I
13 think from the buyer's perspective, that is the case. It
14 certainly was all structured as an entire transaction,
15 and I have grave concerns about now having to go back to
16 the table with the buyer and saying, this comes out; are
17 you still in the deal for the rest of it? That's the
18 problem that I have.

19 THE COURT: So Todd -- excuse me -- if Stan
20 thought that White Pine County was worth more than 262-,
21 I guess he could just beat his brother's offer as it is
22 presented right now.

23 How do you respond when I say that? It seems
24 like -- it's too simplistic. I don't understand why we

1 just don't have a bidding war between brothers.

2 MS. LEE: You could have a bidding war, Your
3 Honor, but it would be for the entire transaction rather
4 than carving out a certain portion of it.

5 So the entire transaction is a \$1.3 million
6 deal and involves all four of these interests in four
7 different properties. So just simply carving one out I
8 don't think is feasible based on the way that the
9 transaction is written right now.

10 But certainly there's no impediment, and the
11 transaction is written in such a manner so that there
12 could be overbids in the court if there were an
13 interested bidder to show up to say, I would be willing
14 to pay more than \$1.3 million for all of these assets.
15 And if there is such a bidder, let's do it.

16 THE COURT: A subtle, mostly unspoken argument
17 in favor of approval is that the trustee wants to pay
18 attorney's fees before the end of the year?

19 MS. LEE: Yes. Absolutely.

20 THE COURT: And I want to make sure we're not
21 selling a dollar for 50 cents just to meet urgency
22 concerns.

23 MS. LEE: That's a very, very good point, Your
24 Honor. That analogy that you made, you know, discounting

1 something to 50 cents in order to be able to have enough
2 money to pay something to the attorneys by the end of the
3 year, is not what's happening here.

4 This deal has been negotiated and in the works
5 now for months. It's not something that hasn't been
6 thoroughly vetted by the trustee during that entire
7 period of time. It's been the subject of negotiations
8 going back and forth, counteroffers, various things like
9 that, so it's not --

10 The sense of urgency with respect to this
11 particular transaction is twofold: First of all, the
12 need to generate cash for the trust is not merely to make
13 some payments by the end of this year but to be able to
14 pay the balance of what is owed to the attorneys, most of
15 whom are in this room, some of whom are not, as well as
16 other creditors of the trust of whom there are a number.

17 And the second reason for doing the deal, Your
18 Honor, is that absent being able to sell these assets in
19 the manner that is being proposed in this purchase and
20 sale agreement, the consequences to the trust, as
21 expressed in Mr. Proctor's reply declaration, are fairly
22 serious. There just simply will not be enough money to
23 pay creditors, because the ability to take individual
24 assets and go out and market them and be able to come up

1 with the kind of money that we are in this particular
2 transaction, I think is highly problematic, highly
3 problematic.

4 And you know from Mr. Venturacci's declaration
5 filed in the reply brief that his involvement in
6 connection with this will not be at the level for
7 purchasing Buckhorn, which is the largest piece of this
8 puzzle. It won't be anywhere near the million dollars
9 that is on the table for that.

10 THE COURT: So when you describe this lengthy
11 course of negotiations between the trustee and Todd, was
12 Stan, through counsel, always aware of those
13 negotiations, or did Stan learn of this after the deal
14 was agreed upon and had a shorter amount of time to
15 consider his participation?

16 MS. LEE: If Your Honor is amenable to this,
17 I'd like the trustee to answer that, because the
18 negotiations would have been conducted by him and not by
19 me.

20 But I do know this: Stan certainly was
21 involved in attempting to pass along information to the
22 trustee about, for example, the \$25 million slick
23 brochures of somebody who would go out and market
24 Buckhorn for that amount of money to a developer, which

1 was -- it's just not a real figure and never, ever came
2 into being. So he certainly was in communication with
3 the trustee about that, but the other part of the
4 discussions I'm going to leave to Mr. Proctor.

5 MR. PROCTOR: Your Honor, starting, I think,
6 either in May or July, I know Mr. Stan Jaksick had
7 contacted me regarding the possibility of other realtors
8 that had put these offers, if you will, to list together,
9 and at that time when we had discussions, I never
10 mentioned specific dollar amounts that I was having
11 discussions with Todd with respect to making an offer.
12 We didn't have the dollar amounts up until, really,
13 September, I believe, when Mr. Todd Jaksick was looking
14 to commit a certain dollar amount and then -- you know,
15 between the allocations and everything.

16 THE COURT: So did Stan first learn the details
17 in the motion to approve the purchase and sale?

18 MR. PROCTOR: Probably. The actual dollar
19 amounts, yes.

20 THE COURT: Which would have been two weeks
21 ago, roughly November 18th?

22 MS. LEE: Almost three weeks, yes.

23 THE COURT: Thank you, Mr. Proctor.

24 And either you or Ms. Lee, how do you respond

1 to Stan's concern that White Pine could just be
2 immediately flipped and sold for higher value? Todd buys
3 it, he owns 100 percent of it, and he puts it on the
4 market and flips it.

5 MR. PROCTOR: Again, we have the issue with the
6 conservation easement which has 22 years on it. The
7 property itself hasn't generated -- from what I've seen
8 historically, it's not generated any vast amount of
9 income, so it's like, who is going to want to invest in
10 the raw land out there? Maybe a little bit of grazing
11 that doesn't generate a lot of money. And, again, if
12 you're putting fencing on or you're diverting water, from
13 what I understand, the NRCS would have issues with that.

14 MS. LEE: NRCS?

15 MR. PROCTOR: NRCS. I get those mixed up all
16 the time, kind of like transposing numbers.

17 So, I mean, I've walked that property out
18 there. I've gone out there, and I've seen it. It's
19 remote. There's some adjoining land owned by others out
20 there that isn't being really -- I mean, there's, again,
21 just grazing out there.

22 That particular valley, it seems there's a
23 number of Jaksick-type properties out there that are not
24 part of the trust. So, you know, I just don't see that

1 there's a lot of interest out there. You know, when I
2 was out there, I saw, like, one realtor sign out there in
3 the whole valley.

4 THE COURT: Let me ask another question, again,
5 to either you or Ms. Lee.

6 You provided real-time information about water
7 rights, but it was incomplete information. You talk
8 about Mr. Marshall and the Supreme Court, and it went to
9 the Taggart firm and so forth. But I paused when I read
10 that the water rights were purchased for \$2 million, and
11 what I don't know is two questions: whether that
12 \$2 million has been recovered through the conservation
13 easements and so there's not a loss that \$2 million
14 suggests, and, second, you kind of say that it's not
15 really worth the expense to do further investigation.

16 I don't want to be penny-wise and
17 pound-foolish, so talk me through the cost-benefit
18 analysis of spending more time and money drilling into
19 the value of those water rights; and then, second, is it
20 all moot because the water rights have been recovered
21 through the conservation easement?

22 MR. PROCTOR: Are we talking primarily on the
23 Winnemucca Ranch/Buckhorn area?

24 THE COURT: Yes.

1 MR. PROCTOR: As Ms. Lee said in her
2 declaration and her discussion with Taggart & Taggart
3 regarding some water right issues, the trust has -- I
4 guess I don't know the proper legal terms, you know, but
5 they have, like, an application pending, and there's
6 someone ahead of them.

7 From what I understand in talking with people,
8 including the consultant I had hired, is the state water
9 engineer -- and that title might not be entirely
10 correct -- reduced the amount of water they say is
11 available in that valley. So even though there were
12 applications at this level, they're saying now that the
13 water is down to this level available (indicating).

14 Then we get to the extent to where, you know,
15 the NRCS is going to -- are they actually going to turn
16 around and say, yeah, you could divert this water? I
17 mean, when you have a fence there, Your Honor, and you're
18 diverting water adjacent to that, that's going to
19 affect -- even I know that's going to affect the
20 groundwater that's available on the easement side of it.

21 So from what I've been told and what's been
22 represented and what seems to be a reasonable explanation
23 is those approvals aren't necessarily going to come
24 about. It's the same thing with the City of Reno being

1 in the sphere of influence. Can we bank today and in ten
2 years the City of Reno is going to issue permits and
3 licensing and all that to do development out there? Are
4 the people out there in the Winnemucca Ranch area going
5 to agree to putting warehouses out there, if you will,
6 and, you know, paving a road and having trucks come back
7 and forth?

8 That is just all -- I mean, that would be nice
9 if it happens, but if that's the case, Your Honor, this
10 trust is going to be around a long, long time.

11 THE COURT: I think I understand what you're
12 saying, partly because the moving papers were so well
13 done. I'm just focusing on the optics.

14 The optics are the trust paid \$2 million not
15 long ago, a few years ago, and now is selling its
16 value to the -- not just the water rights but selling its
17 value in everything for a lot less than \$2 million.

18 MS. LEE: So let me see if I can address that,
19 Your Honor.

20 Of the amount that was purchased -- the trust
21 came out of pocket to purchase at least a portion of
22 that, Buckhorn did -- 95 percent of those were part of
23 the conservation dedication.

24 So, yes, the trust was compensated for that. I

1 should say Buckhorn was -- the trust didn't do the
2 transaction -- Buckhorn was compensated for that by what
3 it received as a result of the conservation easement that
4 it granted to the United States.

5 THE COURT: And that neutralizes the optics of
6 it. It just does.

7 MR. PROCTOR: And the trust only has the 25
8 percent interest, which, you know, we were down this road
9 a year ago -- well, nine months ago on the Toiyabe
10 Montreux deed.

11 I mean, we have a minority interest. The trust
12 really can't control -- you know, we've got to take a
13 look and see what if something happens and the trust
14 doesn't have control over something, it's just a
15 participant? What are we going to do next year at this
16 time? Five years from now?

17 THE COURT: I understand.

18 I don't know who I should listen to. I think
19 you're feeling the most heat, Mr. Hosmer-Henner, but let
20 me -- you'll probably get a "me, too" from your
21 colleagues there. Let's see if you have anything to add
22 before I hear from Mr. Hosmer-Henner.

23 MR. ROBISON: Your Honor, Kent Robison for Todd
24 Jaksick, individually.

1 I got confused in this dialogue about fees
2 connected with this purchase and sale agreement. I don't
3 think there's any available money, as a result of this
4 deal being approved, to pay fees in the near future. The
5 fees that we're talking about is now money. This is not
6 now money. This closes in, I think, June of 2023, and
7 the trust needs the money.

8 You removed the brothers as co-trustees.
9 Mr. Proctor took over. From the time he took over with
10 counsel, there's no buyers. There are no buyers for this
11 stuff, Judge.

12 Yes, it's a related transaction, but these
13 interests have been out there. There's no buyers, and if
14 you want to put it on the market, you're not going to do
15 better than this. There is an open bid process that Todd
16 has the right to say, no, because he doesn't --

17 If, for example, Stan were the partner to
18 purchase the family trust interest in Buckhorn, that just
19 gets us back to where we were, two brothers fighting over
20 an asset and a liability, and we don't want that.

21 THE COURT: Which is why I think I focused on
22 White Pine, because it's illusory to put any fractional
23 interest on the open market. But I wonder, because of
24 the trust's 100 percent interest in White Pine, whether

1 that may be more attractive to a potential buyer.

2 MR. ROBISON: Correct. But that White Pine is
3 part of this deal. It's all or nothing. We have
4 interest in all four, not three, not two. And White Pine
5 is flat land; it's got grazing issues, this, that and the
6 other thing. It's not a moneymaker.

7 We're paying the trust for something that has
8 very little value. If you want to put it on the market,
9 what do we get in six months? We get this deal that's
10 probably dead and not doable for the other three parcels,
11 so we're asking you to approve it for that reason alone.

12 THE COURT: How was the 262- calculated,
13 262,000?

14 MS. LEE: I think there were appraisals. Am I
15 wrong?

16 MR. PROCTOR: Your Honor, there were two
17 appraisals, one done by Mr. Smith in early 2020, one done
18 by Mr. Leck, late 2020, and if you look at those,
19 Mr. Lee -- yeah -- Mr. Lee's appraisal, I think, was
20 around -- Mr. Smith's -- sorry, I'm getting everybody's
21 name mixed up -- was around \$300,000. Mr. Leck's was
22 \$800,000. That's just the land. That doesn't consider
23 the debt, Your Honor.

24 So let's go out and list it for \$300,000.

1 Maybe the trust gets \$300,000. That money would be --
2 you know, that's what we're going to get out of this
3 deal, roughly.

4 MR. ROBISON: Less commissions.

5 MR. PROCTOR: Pardon me?

6 MR. ROBISON: Less commissions.

7 MR. PROCTOR: Less commissions.

8 MS. LEE: I would adjust one other thing, too,
9 to that, Your Honor, and that is that this deal provides
10 the tax benefit of converting the uncollectable portion
11 of the accounts receivable that was owed to the trust, so
12 that instead of the trust having forgiveness of
13 indebtedness income that we would have if the land sold
14 for 300- or 400- or anything less than what would net the
15 trust \$750,000, the trust would be paying forgiveness of
16 indebtedness income on that.

17 But the way this deal is structured, the
18 conversion of the debt into capital, which increases the
19 basis in the stock that the trust is selling right now in
20 this deal, provides future tax benefits to the trust for
21 various offsets against capital gains.

22 THE COURT: Mr. Lattin.

23 MR. LATTIN: Thank you, Your Honor.

24 I was not involved in the negotiations of this.

1 I can say, in looking at the proposal before the Court,
2 knowing what I know about the family trust, the way this
3 was set up -- the minority interest, the remoteness of
4 the property, the conservation easements -- it appears,
5 to me, that the best way to get this handled is to sell
6 it as a package as is being proposed. If you try to pull
7 out White Pine, it is very remote, and it's not something
8 that's going to translate to water immediately coming to
9 the Reno area.

10 So I think the best way to sell it is as
11 proposed, as a package deal, and I think if it is not
12 accepted, it's probably going to go away, and it's going
13 to be a long time sitting, trying to sell a minority
14 interest, which is very difficult to do. So I would be
15 for approval.

16 Thank you.

17 THE COURT: Thank you.

18 Mr. Hosmer-Henner.

19 MR. HOSMER-HENNER: Your Honor, may I ask
20 questions of Mr. Proctor today?

21 THE COURT: I'd love that, yes. I'd like to
22 hear the answers. Just be gentle. This is not
23 cross-examination.

24 MR. HOSMER-HENNER: It could be a long direct

1 examination.

2 THE COURT: I'm going to allow it. Help me
3 understand why -- are you trying to get information or
4 create a record?

5 MR. HOSMER-HENNER: Always both, Your Honor.
6 But, seriously, we did find out about this two weeks ago,
7 and there are serious questions about the process.

8 We don't think there's anything unethical from
9 Todd going on here at all, but we are a little bit
10 concerned about representations made by the temporary
11 trustee in terms of the process that was followed because
12 the same actions were not for each entity, and there's
13 some -- rewinding the clock, Your Honor, to the Toiyabe
14 transaction, if we had known this was a possibility, we
15 could have come in here with a related-party offer with
16 Stan two weeks before a hearing date and said, this is a
17 fair price for Toiyabe, sell it to us, and it's in the
18 best interest of the trust, and no one else is here to
19 buy it.

20 THE COURT: How much time does Stan need to do
21 his own analyses, some due diligence period to decide if
22 he's going to beat Todd's offer?

23 MR. HOSMER-HENNER: So I'll say he's willing to
24 offer more than 36,000 for Duck Flat Ranch today.

1 THE COURT: The entire portfolio all together?

2 MR. HOSMER-HENNER: The entire portfolio, I'm
3 not sure if that's something he's willing to offer, but
4 what I think he -- he received an expression of interest
5 because, I mean, he's pretty incredulous towards some of
6 these valuations, and I'll be able to explore -- explain
7 why, but Mana Properties, who purchased Toiyabe,
8 expressed an interest in an email that they may be
9 interested in purchasing the 25 interest in Buckhorn.

10 So our concern, really, isn't that this may not
11 be the only offer that -- this may be the offer that
12 maximizes value; right? A bundle of assets to a single
13 buyer maximizes value when the offer is higher than the
14 discrete portions, but each of these assets is valued
15 lower than we would expect to receive on the open market.
16 So the bundle is advantageous to the buyer and not the
17 seller. Ordinarily, the seller would get a premium for
18 selling those assets.

19 THE COURT: So why doesn't Stan just offer more
20 than Todd is offering?

21 MR. HOSMER-HENNER: One, that offer was never
22 presented to Stan. I mean, one of our concerns about the
23 process was the temporary trustee didn't even say, hey,
24 we're selling this to Todd.

1 THE COURT: I'll give Stan an opportunity to
2 buy this entire portfolio for more. That's why I asked
3 how much time does he need to do his analysis and his due
4 diligence?

5 MR. HOSMER-HENNER: I don't know the answer to
6 that, Your Honor, but I do know that the maximum value to
7 the trust may still not come from a related-party
8 transaction just to Todd or Stan; it may come from
9 putting some of these assets on the open market, White
10 Pine in particular.

11 What you heard is there are no buyers. For a
12 property that hasn't been listed, Your Honor. It's the
13 process that we're concerned about. The temporary
14 trustee has been in place for almost two years. Why not
15 put it on the market for a broker to see, and if you
16 don't get an offer, then do the sale. Why come here at
17 the 11th hour at the end of 2022 after two years without
18 ever even listing this? That's our concern.

19 THE COURT: This might be uncomfortable for
20 Mr. Proctor, but I think it's appropriate he be sworn and
21 take the witness stand.

22 MS. LEE: Your Honor, I assure you it's not
23 uncomfortable at all, but I would like to just note that
24 Mr. Proctor did ask Orville Power, who is the

1 representative for Mana, whether or not Mana would be
2 interested in buying the interest in Buckhorn, and
3 Mr. Power said no.

4 THE COURT: Let's hear that from Mr. Proctor.
5 Go ahead and follow the deputy's instructions,
6 please.

7
8 JAMES PROCTOR, CPA,
9 having been first duly sworn,
10 was examined and testified as follows:

11
12 THE COURT: Go ahead, Counsel. We know his
13 name. Go ahead and question him.

14
15 DIRECT EXAMINATION

16 BY MR. HOSMER-HENNER:

17 Q Good afternoon, Mr. Proctor.

18 Could you tell me what assets White Pine holds.

19 A What assets?

20 Q What assets.

21 A There's some fencing, a little bit of farm
22 equipment, but that's about it.

23 Q And the real property as well?

24 A The real property, yes.

1 **Q Have you received a listing of the assets of**
2 **White Pine?**

3 A I have that in the tax returns that have been
4 reported, yes.

5 **Q Are all the assets of White Pine listed in**
6 **their tax returns?**

7 A As far as I know.

8 **Q Have you done any additional due diligence to**
9 **find out what else White Pine holds?**

10 A Other than an inspection of the property out
11 there, no.

12 **Q So White Pine is a corporate entity that could**
13 **have assets that are not just on the property; correct?**

14 A Yes. But then, again, they were not then
15 reported on the tax returns or in the financial
16 statements.

17 **Q With respect to White Pine, do you think**
18 **there's a debt of approximately 750,000 owed to the**
19 **family trust?**

20 A Yes.

21 **Q What was that debt incurred for?**

22 A That debt was incurred primarily for the
23 payment of an Ag Credit loan throughout the years. Some
24 of that dates back -- all the way back to 2013, shortly

1 after Mr. Sam Jaksick passed away.

2 Q And you received two appraisals for White Pine;
3 correct?

4 A Those were produced as part of the litigation,
5 as far as I understand. I have the two appraisals, yes.

6 Q You haven't independently done a request for
7 any appraisal for White Pine?

8 A No. I did not spend the money to update the
9 appraisals.

10 Q And one of those appraisals was for \$330,000?

11 A Yes.

12 Q And the other one was for \$800,000?

13 A Yes.

14 Q And that was just of the land held by White
15 Pine?

16 A That was my understanding from a review and my
17 recollection of the appraisals. It was the land and its
18 agriculture use, yes.

19 Q In assessment of the bank accounts of White
20 Pine, any other financial assets it holds?

21 A The appraisals did not include that, and,
22 again, anything else that the corporation has is reported
23 on its tax returns and was reported on the financial
24 statements.

1 Q The assets in the bank account would have been
2 reported on the financial statements and on the tax
3 returns?

4 A Yes. Because it's an asset of the company,
5 just like it would be for any company. You have a
6 balance sheet -- on a tax return, you have an income
7 statement, which has your income; you have your expenses
8 that results in a net income or a net loss; then you have
9 a balance sheet that records the assets, whether they're
10 fixed assets, liquid assets, intangible assets in some
11 respects, if you have liabilities, notes, debt; then you
12 also have capital. So that's all reported on a tax
13 return, and Mr. Riley, the CPA, reported those items, I
14 believe, in Footnote 4 on the 2021 financial statements.

15 Q And you heard your counsel say that it was
16 listed as a value of zero on the financial statements?

17 A Yes.

18 Q And is it possible that White Pine could have a
19 positive value of 750,000 for the land and owe 750,000 to
20 the family trust, and that would cancel out to show a
21 value of zero on the financial statements?

22 A No. I think you're confusing what's reported
23 on the financial statements.

24 Ms. Lee?

1 MS. LEE: If I could interrupt, Your Honor. I
2 don't object to the question, but I think it would be
3 much more meaningful for the trustee to answer the
4 question if he actually has the documents in front of
5 him.

6 THE COURT: All right.

7 MR. HOSMER-HENNER: It's a hyphen.

8 THE COURT: It's a hyphen?

9 MR. HOSMER-HENNER: Yeah. It's just a dash.

10 THE WITNESS: It's a dash. Mr. Riley explained
11 that in his financial statement.

12 MR. HOSMER-HENNER:

13 Q Does that valuation of White Pine take into
14 consideration the debt owed to the family trust?

15 A Say again, Mr. --

16 Q Does the valuation listed on the financial
17 statement take into account the consideration owed to the
18 family trust?

19 A Yes.

20 Q So it's possible it could have \$750,000 in
21 value and still show zero on the financial statement?

22 A Well, again, you're going to kind of mix apples
23 and oranges here.

24 The financial statements --

1 THE COURT: Excuse me. I'm sorry. When I took
2 the bench, I didn't tell you that I was awaiting a call
3 and I would be interrupted if the call came in. I think
4 this will be about five minutes. Just remain where you
5 are.

6 (A recess was taken.).

7 THE COURT: The good news, ladies and
8 gentlemen, is that is all I have on my calendar for the
9 entire day. You have until 5:00 o'clock.
10 Go ahead, Mr. Hosmer-Henner.

11 BY MR. HOSMER-HENNER:

12 Q Mr. Proctor, you received two appraisals for
13 that other party's information?

14 A Yes.

15 Q And did each of those appraisals appraise the
16 value of White Pine subject to the conservation
17 easements?

18 A It didn't appear that they were really ever
19 considered. Again, it was just a manner of -- from the
20 way I interpreted it, I think they -- I don't even
21 remember if they disclosed a conservation easement on
22 those appraisals without looking at them, but it was the
23 land value as agricultural use. That's what I remember.

24 Q White Pine has about 3,400 acres?

1 A Yes. That's my recollection.

2 Q And one of the appraisals came in at 330,000?

3 A Yes.

4 Q For almost 3500 acres in Northern Washoe?

5 A Yes.

6 Q And you don't think that included a
7 conservation easement?

8 A Well, I don't remember off the top of my head.
9 Again, I don't have the appraisals in front of me.

10 Q So the price that was affixed to the sale we're
11 considering today was about \$260,000; is that right?

12 A Yes.

13 Q Why is that below both the 330,000 appraisal
14 and the 800,000 appraisal?

15 A That's the way Mr. Todd Jaksick wanted it
16 allocated initially for the purchase agreement.

17 Q Did you have any reason to believe that the
18 \$800,000 appraisal of White Pine was not accurate?

19 A I'm not a real estate appraiser. I don't know.

20 Q So you have no reason to doubt or believe one
21 of the two appraisals?

22 A I know there's a \$500,000 difference. I did
23 reach out to Mr. Leck to see if he'd be interested in
24 talking about the differences in the appraisals, and I

1 never got a response.

2 Q And you've been the temporary trustee since the
3 first quarter of 2021?

4 A Since February of 2021.

5 Q And the trust had the ability to market the
6 White Pine real property at all times since you've been
7 the temporary trustee?

8 A Yes.

9 Q Did you ever list the White Pine property?

10 A I did not, no.

11 Q Ever market it for sale?

12 A No.

13 Q Have you ever discussed it with a third party
14 other than Mr. Todd Jaksick?

15 A Yes.

16 Q Who was that?

17 A I discussed it with a trustee that has some
18 investments. I actually did talk to a person that has a
19 portfolio of investment advisors and investment people
20 that are looking at that. He had no interest whatsoever
21 of talking about any property with a conservation
22 easement.

23 Q And why didn't you list the real property?

24 A This offer came about about the same time I was

1 considering listing it, and it appeared to be a good
2 solution to a problem with the trust as far as the
3 marketability of all of the other items and the fact that
4 there are other areas of that property that would be very
5 difficult to sell with a minority interest.

6 **Q When you say, "this offer," you mean the offer**
7 **to purchase the four properties in consideration?**

8 A Yes.

9 **Q And at no point was there another offer on the**
10 **table from Todd to purchase them individually?**

11 A No.

12 **Q Does White Pine have vehicular assets, to your**
13 **knowledge?**

14 A I would have to look at the tax return or
15 the -- because I don't think the financial statements
16 show anything like that. Maybe a tractor or something or
17 maybe some pivots.

18 **Q Does it own a Hummer, a Humvee?**

19 A I'm not aware of any Hummer.

20 **Q What about farm equipment?**

21 A Some farm equipment, like some pivots and small
22 tools like that is my recollection.

23 **Q Farm equipment like a tractor and combine?**

24 A Yes. I'm not sure about a combine.

1 Q Have you valued those assets or taken a look at
2 them?

3 A No.

4 Q So other than the two passive conversations you
5 had with those two individuals, any attempt to market or
6 sell White Pine?

7 A No. I did -- during discussions with Mr. Power
8 on the Mana Toiyabe Montreux deal, I did ask him if he'd
9 be interested in that or if he knew anybody that would be
10 interested, and he said no.

11 Q Specifically about White Pine?

12 A About whether it was -- he had a listing of all
13 the assets, the appraisals as well. As far as any of the
14 properties, you know whether it would include Buckhorn,
15 White Pine, Duck Flat, BBB.

16 Q What about BBB Investments? What does that
17 own?

18 A It owns some land off a hillside, Northern
19 Gerlach.

20 Q Any other assets?

21 A None that I'm aware of, no.

22 Q And the only appraisals you've received on that
23 are the Leck and Smith appraisals?

24 A That's correct.

1 Q And both of those came in approximately around
2 125,000 to 160,000?

3 A Yeah, I believe so. I'd have to look, yes.

4 Q Any reason to dispute those appraisals?

5 A No.

6 Q And the family trust owns a 49 percent interest
7 in that entity?

8 A Yes.

9 Q And in one of the reports that you filed, it
10 said that there have been offers to purchase that land?

11 A Yes. I think Mr. Todd Jaksick indicated early
12 on in the case that years before COVID and earlier on
13 that there was some interest, not an offer to purchase,
14 but interest to purchase, that possibly there were people
15 connected with Burning Man that might have an interest in
16 that. He did mention Mr. Musk's name. I think he bought
17 Twitter instead. But, you know, we didn't explore that,
18 no.

19 Q Your fourth interim status report said it's
20 also being considered for sale, the property?

21 A Yes.

22 Q Have you seen any offers made on the property?

23 A No.

24 Q Have you asked Todd for those?

1 A Not that I recall, no. I might have. I don't
2 remember.

3 **Q How did you come up with a value that is**
4 **assigned to BBB in the purchase and sale agreement?**

5 A Again, it was just an allocation of the total
6 purchase price.

7 **Q How did you derive the total purchase price?**

8 A I didn't derive a total purchase price.
9 Mr. Jaksick made an offer to purchase.

10 **Q What sort of valuation did you do on the four**
11 **assets that are being sold through this purchase and sale**
12 **agreement?**

13 A I looked at that, and I looked at those
14 compared to the appraisals and the differences in the
15 appraisals and determined that I thought that those would
16 be -- it was a reasonable offer, especially the way it
17 was structured, and the fact that I was not going to be
18 able to get payment on a \$700,000 debt that encumbers
19 that property, the fact that there's a minority interest
20 in all the other pieces of property, which makes it very
21 difficult, if not impossible, to sell, the fact that I
22 know that Ag Credit has some cross-collateralization out
23 there amongst all these different pieces of property.

24 I recently paid the trust portion of that Ag

1 Credit, I believe, the end of September -- excuse me --
2 the end of October. That would give a little bit more
3 flexibility possibly with some of the properties to be
4 marketed.

5 But, again, this seemed to be a very good
6 solution for the trust in that I could recapture, if you
7 will, some basis to offset gains and try to move this
8 trust towards closing it so we're not holding it open for
9 another five years.

10 Q So the \$700,000 debt owed by White Pine to the
11 trust, one of the benefits your counsel explained is that
12 could be recapitalized as capital?

13 A Yes.

14 Q But that could be done for any other
15 transaction, not just the sale to Todd?

16 A Let me --

17 Q If I could ask the witness for an answer.

18 A I believe -- I'm not a practicing CPA anymore.
19 I'm not going to give anybody tax or financial advice on
20 the stand here, but I believe it could go ahead and be
21 reclassified as additional basis.

22 Q So that benefit would be whether it's sold in
23 this transaction or any other transaction?

24 A That's correct.

1 Q With respect to BBB, what efforts did you take
2 to sell the interest in that or market the real property
3 or even talk to Todd about jointly marketing it prior to
4 this transaction?

5 A We did have a few discussions about marketing
6 it, and, again, looking at where it was, up on a hill
7 with some access -- not great access, again, I determined
8 it was going to be difficult to sell, and it's only a 49
9 percent interest.

10 Q Right.

11 But remote property is sold all the time.
12 There's property listed in Eastern Nevada that was
13 probably contaminated by a gold mine at some point that's
14 still listed for sale.

15 That's your valuation and estimate on whether
16 it's going to be difficult to sell, but no attempts were
17 actually made to market the property?

18 A No.

19 Q And with respect to Duck Flat Ranch, what does
20 that own?

21 A It owns three parcels, noncontiguous land.

22 Q And what efforts did you make to market or sell
23 the trust's interest in Duck Flat Ranch?

24 A I didn't other than to see that there were

1 other pieces out there in the valley. Like, I saw one
2 sign, and I was aware that there had been a few
3 transactions scattered throughout the years but
4 nothing -- there doesn't seem to be a robust market out
5 there.

6 **Q For Toiyabe, you spoke to numerous brokers and**
7 **real estate agents; right?**

8 A Yes.

9 **Q And investors.**

10 **You said 20 or 30, I think.**

11 A Yes.

12 **Q You spoke to no one about Duck Flat Ranch?**

13 A No. It's not like it's -- you know, I wish for
14 anything that it was in Douglas County or Washoe Valley,
15 Fallon-Fernley area or up in the Montreux area. It's out
16 there in the middle of sagebrush.

17 **Q What assets other than the real property does**
18 **Duck Flat Ranch own?**

19 A I'm not aware there are any other assets.

20 **Q Did you receive a listing of assets and**
21 **inventory?**

22 A I didn't receive that. If they're not in the
23 financial statements or on the tax returns, I didn't.

24 **Q Other than looking at the financial statements**

1 and tax returns that were presented to you from Todd, did
2 you make any other independent analysis to see if it had
3 any other assets?

4 A When I was out there, I didn't see any assets
5 out there.

6 Q But it's an entity that could hold other
7 assets, intangible or tangible?

8 A Yeah. But, again, they wouldn't have been
9 reported.

10 Q And now Buckhorn. Buckhorn represents the bulk
11 of this particular sale; is that correct?

12 A Yes.

13 Q And you're selling the trust's 25 percent
14 interest?

15 A Yes.

16 Q To Todd Jaksick?

17 A Yes.

18 Q That was appraised via Smith and Leck as well?

19 A Yes.

20 Q And the 25 percent interest was appraised at
21 1 million by Smith and 430,000 by Leck -- excuse me --
22 1 million by Leck, 430,000 by Smith?

23 A Yes. Actually, in fact, that one, I recall, I
24 think, the full value. I think Mr. Leck had \$4 million,

1 I believe, not the 25 percent interest.

2 Q And what efforts did you make to value the
3 trust's interest in Buckhorn?

4 A Again, I did an analysis of the two appraisals.
5 I talked to the two realtors that Mr. Stan Jaksick had
6 brought forward and had developed these brochures. I,
7 again, talked to that real estate investment portfolio
8 manager. Again, he expressed no interest whatsoever
9 because of the conservation easement.

10 Q So why would Todd and Randy be interested in
11 buying that percentage of the interest if there's a
12 conservation easement on it?

13 MS. LEE: I'm going to object to that, Your
14 Honor.

15 THE COURT: Why?

16 MS. LEE: That's outside of the scope of what
17 Mr. Proctor knows. He would be guessing as to what their
18 basis was.

19 THE COURT: So the objection is speculation.

20 If you know the answer, go ahead and respond.
21 Don't guess as to what the answer may be. You would know
22 the answer if Todd told you, for example.

23 THE WITNESS: Well, you know, it's been a
24 number of months, Your Honor, and we've had a number of

1 conversations, and I've had conversations with
2 Mr. Venturacci as well, and I believe that they wanted to
3 develop it for recreational and agricultural use.

4 MR. HOSMER-HENNER: Your Honor, I only have two
5 exhibits today. May I introduce one of them?

6 THE COURT: Yes.

7 MR. HOSMER-HENNER: Not admit it, introduce it.

8 THE COURT: You're asking that it be marked?

9 MR. HOSMER-HENNER: I'm asking it be marked.

10 THE COURT: And you have a copy for each
11 counsel?

12 MR. HOSMER-HENNER: Yes, Your Honor.

13 THE CLERK: That will be marked for
14 identification as Exhibit A.

15 (Exhibit A was marked.)

16 BY MR. HOSMER-HENNER:

17 **Q Mr. Proctor, I'll represent this is an email**
18 **chain between Randy Venturacci Projects and Stan Jaksick.**

19 **Have you seen this before?**

20 A If you give me just a minute to look at it,
21 please.

22 No, I have not seen this before.

23 **Q Have you spoken to Mr. Venturacci about his**
24 **valuation or communications about Buckhorn as being worth**

1 **\$25 million?**

2 A Yes.

3 **Q And did he represent that he informed, as you**
4 **sit here --**

5 MR. ROBISON: This is not an exhibit so don't
6 read off of it, and he has no personal knowledge about
7 it.

8 THE COURT: Sustained.

9 So we can do it the hard way or the easy way;
10 right? If we want to have this witness sit down, you can
11 call your client up; he can authenticate it; it will then
12 be admitted; and then you can recall Mr. Proctor and ask
13 some questions from an admitted document.

14 What's your preference, Mr. Robison?

15 MR. ROBISON: Well, your Honor, since you have
16 all day...

17 He doesn't know anything about it. First of
18 all, it's personal knowledge, so asking him to adopt,
19 dispute or ratify the entries in there is just improper.

20 THE COURT: Right. So he occupies the seat
21 right now and can add nothing to this document.

22 MR. ROBISON: Correct.

23 THE COURT: But I need it admitted if I'm going
24 to know what its contents are and so --

1 MR. HOSMER-HENNER: Your Honor, I would proffer
2 this and ask if there's an objection, since it's
3 correspondence between the parties in this case, there's
4 an objection to its authenticity.

5 MS. LEE: I have no way to determine whether or
6 not it's authentic, and there's a big chunk of it that's
7 redacted.

8 THE COURT: So I haven't seen it, Counsel.
9 It's not in front of me. I haven't seen one word of it,
10 but apparently there's a communication between Randy
11 Venturacci -- forgive the pronunciation -- Todd and Stan
12 Jaksick that goes to what the long-term plans are for
13 this property.

14 MR. HOSMER-HENNER: All of whom are in this
15 room.

16 THE COURT: And that's relevant to me. So we
17 just need to get it in front of me as soon as possible.

18 You just offered that it be admitted without
19 the objection. I heard an objection from counsel.

20 MS. LEE: Only that I've never seen this
21 before.

22 THE COURT: Mr. Proctor, have a seat, please.

23 Mr. Stan Jaksick, follow the deputy's
24 directions.

1 MR. HOSMER-HENNER: Your Honor, I'd actually
2 call Randy Venturacci since he's the one that sent it.

3 THE COURT: Okay. Mr. Venturacci, please
4 follow the deputy's directions.

5 I'm not going to need Stan. Thank you, though,
6 sir.

7
8 RANDY VENTURACCI,
9 having been first duly sworn,
10 was examined and testified as follows:

11
12 DIRECT EXAMINATION

13 BY MR. HOSMER-HENNER:

14 Q Mr. Venturacci, please take a look at Exhibit

15 A.

16 A Yes.

17 Q Do you recognize this email thread?

18 A Do I recognize what?

19 Q This email thread.

20 A I recognize the first one, I mean the last one,
21 my email to Todd.

22 Q And your email address is rlv52@hotmail.com?

23 A That's correct.

24 Q You sent an email to Todd concerning an offer

1 to list the Buckhorn property?

2 A Yes.

3 Q And in that email to Todd -- excuse me. Sorry.

4 That email was to Todd as well as two
5 individuals at ALCO Financial?

6 A Uh-huh.

7 Q What was ALCO Financial's role?

8 A Pardon?

9 Q Who were the individuals at ALCO Financial?
10 What was their role?

11 A I think they were realtors.

12 Q And your email to them, to Todd, said that you
13 were only interested in moving forward under the
14 following conditions: The sales price would be \$25
15 million irregardless of appraised value?

16 A That's correct.

17 Q And then if you look at Todd's response on --
18 excuse me, that's not Todd's response -- ALCO Financial's
19 response, they're talking about a \$500,000 fee or a
20 \$50,000 fee? Is there a typo there?

21 A Yeah.

22 Q So what was their fee to list this?

23 A Looks to me like it was 500,000 plus a
24 2 percent fee.

1 Q And they said, "If the numbers look favorable
2 and the project is approved, we would then do a PSA on
3 the land for 25 million USD to include an agreement for
4 the 10 percent kicker. That could be a lot of money
5 depending on the financial pro forma."

6 A Right.

7 MR. HOSMER-HENNER: Thank you. I have no
8 further questions.

9 THE COURT: Thank you, Mr. Venturacci.

10 MR. HOSMER-HENNER: Your Honor, I'm sorry. I
11 would move into admission Exhibit A.

12 THE COURT: Your objection if you wish.

13 MR. ROBISON: There's two emails he discussed
14 with Mr. Venturacci. We have no objections to them
15 except to the redacted part.

16 MR. HOSMER-HENNER: Well, we are not moving it
17 into admission with redactions. We'll move into
18 admission the email from Mr. Venturacci and the response
19 thereto.

20 THE COURT: Mr. Venturacci, can I see it,
21 please? I don't have the document.

22 MR. ROBISON: May I inquire? Why is that
23 document redacted? We have no confidentiality agreement
24 with respect to this hearing. Why are we hiding

1 evidence?

2 MR. HOSMER-HENNER: Your Honor, there's no
3 reason to accuse that. Mr. Robison's technological
4 proficiency isn't world-renowned, but this is an email
5 from --

6 THE COURT: Counsel --

7 MR. HOSMER-HENNER: -- from me. Speaking of
8 hiding evidence, the redaction portion is from me to my
9 assistant asking it to be printed.

10 THE COURT: An explanation is all that's
11 required, and I accept your explanation.

12 Exhibit A is admitted over objection.

13 (Exhibit A was admitted.)

14 Thank you, Mr. Venturacci. You may be seated.

15 MR. HOSMER-HENNER: Your Honor, I'd like to
16 recall Mr. Proctor.

17 MR. ROBISON: Can we ask questions?

18 THE COURT: I was trying to lay a foundation so
19 we can get to Mr. Proctor, and now it appears we're going
20 to go further, which is fine.

21 MR. ROBISON: Well, you have a foundation and
22 testimony.

23 THE COURT: Yes.

24 Have a seat, Mr. Venturacci.

1 Mr. Robison.

2

3 CROSS-EXAMINATION

4 BY MR. ROBISON:

5 Q What happened to this \$25 million deal,
6 discussion?

7 A Well, I'll tell you in detail. Several things
8 happened after that deal.

9 They came to me -- approximately two years ago,
10 we decided we'd try to go ahead and market the place
11 because it was the top of the real estate market in Reno,
12 Nevada. The last time it was at the top was in 2006, and
13 it was worth quite a bit of money, and then by 2012, it
14 was worth nothing but a ranch. So we thought we'd try it
15 again.

16 So I met with six different developers, two
17 realtors and told them the price was 20 to 25 million.

18 Q What was their response?

19 A Pardon?

20 Q What was their response?

21 A Never got a call back.

22 Then since that happened, then we found out we
23 have a real major problem with NRCS, who is not going to
24 approve our development.

1 **Q NRCS is what?**

2 A I did a conservation easement on the ranch with
3 them, and in their conservation easement they have the
4 right to approve everything we do.

5 So I went in there and met with them and told
6 them we were going to develop this ranch, and they said,
7 oh, no, we're not.

8 **Q How have they been to deal with?**

9 A Pardon?

10 **Q How have they been to deal with?**

11 A Terrible.

12 **Q How so?**

13 A Well, I signed a contract that I shouldn't have
14 signed, because for me to sue them, I have to pay both
15 sides' legal fees.

16 **Q Nothing wrong with that.**

17 A If you're on the other end.

18 **Q Other than that, how's the marketability been**
19 **for Buckhorn since these emails were exchanged?**

20 A If any of -- I didn't know this knowledge when
21 we were meeting with these developers. Had these
22 developers known that knowledge -- well, first of all,
23 had I known it, I wouldn't have even met with them.

24 **Q Why?**

1 A It's not worth anything near that number
2 because I can't develop it.

3 Q So these emails were exchanged without you
4 having that knowledge; correct?

5 A Right.

6 Q And what knowledge that you now have affects
7 your valuations and estimates in these emails?

8 A Right now what we have is a ranch for a long,
9 long time. We have no water to develop it. I have no
10 approval from NRCS to develop it, which they hold a
11 pretty big chain on me on that, and so I'm trying to --

12 I have a minority interest. I've been trying
13 to improve this ranch, and the trust -- I've asked for
14 capital calls -- they cannot pay me anything. Stan can't
15 pay me anything. So I'm sitting here with a piece of
16 dirt that I can't do anything with, and I need to acquire
17 that interest so -- Todd and I or somebody needs to get
18 it out of the trust so I can at least develop some
19 additional revenue for this ranch.

20 Q You're stuck with the present composition of
21 owners, aren't you?

22 A I'm stuck in the middle.

23 Q And Mr. Stan Jaksick, he knows this, doesn't
24 he?

1 A Pardon?

2 Q Mr. Stan Jaksick knows these problems, does he
3 not?

4 A Yes, he does.

5 Q And you've explained these problems to him?

6 A Of course.

7 Q Has he ever offered to buy --

8 A Actually, when he wanted me to list it, I
9 explained the problem. I don't want to list the ranch
10 anymore because of this new knowledge from NRCS, and I
11 explained the NRCS problem.

12 Q Is he willing to step to the plate and buy?

13 A Pardon?

14 Q Was Mr. Stan Jaksick willing to step to the
15 plate and purchase this family trust interest?

16 A He never mentioned that.

17 Q Okay. And he never made an offer?

18 A I take that back. He mentioned he may be
19 interested in buying it.

20 Q Did he ever come up with anything?

21 A I'm fine with that. I have no problem. I just
22 need to get it out of that trust and have partners that
23 will participate with me to fund the negative cash flow
24 of this ranch.

1 Q Have you not disclosed the information
2 concerning this investment to Mr. Stan Jaksick? Have you
3 kept him in the dark?

4 A No, not at all.

5 MR. ROBISON: Thank you.

6 THE COURT: Ms. Lee.

7

8 CROSS-EXAMINATION

9 BY MS. LEE:

10 Q Was Stan Jaksick present for the meetings that
11 you have had with NRCS?

12 A He was on two telephone calls.

13 Q Out of how many? Dozens? Hundreds? Two?

14 A Probably 50 to 60.

15 THE COURT: 50 to 60 telephone calls?

16 THE WITNESS: Yeah. They don't meet with you
17 in person these days. This has been going on for four
18 years. They will only do Zoom.

19 BY MS. LEE:

20 Q How often does Mr. Stan Jaksick go to Buckhorn,
21 that you're aware of?

22 A I don't know. I know he was there once, I
23 think, this spring on a hike, but he's not there when I'm
24 there.

1 **Q Which is how often?**

2 A Well, I was there yesterday and the day before.
3 I'm pretty much the manager. I kind of run the ranch.

4 **Q And that includes the agricultural part of it,**
5 **the cattle that are there?**

6 A That's about all we have, is an agricultural
7 part, yeah, but we have to deal with the BLM because we
8 have a large allotment, which is where I was yesterday,
9 and then I have to deal with NRCS, who has a big hammer
10 over our head.

11 **Q You mentioned that the trust was not able to**
12 **meet a recent capital call; is that correct?**

13 A That's correct.

14 **Q Was Mr. Stan Jackson able to meet that capital**
15 **call?**

16 A No.

17 MS. LEE: I don't have any other questions.

18 THE COURT: Mr. Hosmer-Henner.

19

20 REDIRECT EXAMINATION

21 BY MR. HOSMER-HENNER:

22 **Q What was your original purchase for acquiring**
23 **an interest in Buckhorn?**

24 A The original purchase price?

1 Q What was your original interest, your original
2 purpose for acquiring that interest?

3 A When we bought the ranch?

4 Q Yes.

5 A At that time, I wanted another ranch. I had
6 just sold my ranch in Eureka, Nevada.

7 Q Had you previously tried to market Buckhorn?

8 A Not necessarily. I take that back. Yes, we
9 have.

10 During 2008 through about '10, we actually
11 listed Buckhorn for sale because we were having a hard
12 time making the cash flow debt payments.

13 Q And you mentioned wanting to develop the ranch?

14 A Yes.

15 Q Is that for the purpose of eventually selling
16 it?

17 A Absolutely.

18 Q So what's your long-term plan with respect to
19 Buckhorn?

20 A Now would be recreation, outdoor recreation,
21 cabins, rentals, equestrian events, sporting clays,
22 hiking, biking.

23 Q But if you're able to acquire the family trust
24 interest, you'd be interested in selling it?

1 A Selling what?

2 Q Selling Buckhorn.

3 A Not at this point in time. I can't sell it
4 right now until I resolve the NRCS problem.

5 Q What additional benefit to you does acquiring
6 this interest in Buckhorn provide?

7 A What additional interest to me if I acquire it?

8 Q Yes.

9 A Well, I'll have a partner or myself that will
10 make the capital calls. I don't mind making a capital
11 call myself if I own that whole piece, but if I'm putting
12 up all the capital for someone who owns 25 percent here
13 and 20 percent there, that's not a very good investment
14 for me.

15 Q And what was the last capital call for?

16 A To build cabins and to buy equipment. Oh, and
17 to buy water rights. And I went ahead and bought the
18 water rights personally because no one could come up with
19 the money.

20 Q When were those water rights purchased?

21 A Maybe a month ago.

22 Q Are you aware of any appraisal that factors in
23 the value of those water rights to the value of Buckhorn?

24 A There is no value of the water rights for

1 Buckhorn. Those water rights are all for NRCS, and they
2 can be never used for anything other than agriculture.

3 MR. HOSMER-HENNER: I have no further
4 questions.

5 THE COURT: I just want to be clear.

6 Mr. Todd Jaksick has offered to purchase the
7 family trust 25 percent interest, and if I approve that,
8 Mr. Todd Jaksick and his related entities will own 55
9 percent; Stan, through his entity, will own 25 percent --
10 20 percent; and Mr. Venturacci will own 25 percent. So
11 if this deal goes through as proposed, I still have
12 fractional interests between Todd, Stan and Venturacci,
13 and you're both shaking your head no.

14 MR. ROBISON: I'm not shaking my head no, but
15 I'm ready to ask the Court if I can be heard.

16 The phraseology in that is "Todd Jaksick, buyer
17 and nominee." This is a contemplated deal among several,
18 not just Todd. We define Todd as buyer. Todd is going
19 to need financing; he's going to need partners. He wants
20 to put together a group to work with Mr. Venturacci and
21 get this thing done.

22 THE COURT: Let me reframe this question.

23 If I approve this sale, Stan Jaksick is still
24 going to be a 20 percent owner of Buckhorn; correct?

1 MR. ROBISON: Yes, that's my understanding.

2 THE COURT: Okay. So I have a question.

3 Do you have an opinion about which of the two
4 brothers you prefer to be partners with?

5 THE WITNESS: Me?

6 THE COURT: Yes.

7 THE WITNESS: No. I'm friends with both of
8 them.

9 THE COURT: Any other questions, Counsel?

10 MR. HOSMER-HENNER: No other questions.

11 MR. ROBISON: Yes, I do, Your Honor. May I?

12 THE COURT: Yes.

13

14 RECROSS-EXAMINATION

15 BY MR. ROBISON:

16 Q The 20 percent interest of Stan, you know
17 that's subject to an option in favor of Todd?

18 A Yes.

19 Q And that goes out to December 2025.

20 A Yes.

21 Q \$5,000 a year to maintain that option?

22 A Yes.

23 Q Whether value exists in 2025, we don't know;
24 correct?

1 A That's right.

2 MR. ROBISON: Thank you.

3 THE COURT: Okay. Thank you. You're free to
4 step down.

5 May we return to Mr. Proctor?

6 MR. HOSMER-HENNER: Yes, Your Honor.

7

8 JAMES PROCTOR, CPA,
9 having been previously duly sworn,
10 was examined and testified as follows:

11

12 THE COURT: Mr. Proctor, you remain under oath.

13 I didn't know if anyone had a chance to leave
14 the courtroom and use the facilities during my recess.
15 If anyone wants to, raise your hand at some point, and
16 we'll break.

17 Go ahead, Counsel.

18

19 DIRECT EXAMINATION

20 (Resumed)

21 BY MR. HOSMER-HENNER:

22 Q Mr. Proctor, so am I remembering right -- and I
23 don't want to misstate your testimony -- but there's been
24 no other efforts to market Buckhorn other than through

1 **this transaction?**

2 A No. I think, again, that misstates what I
3 said. I said that I approached the trustee; I approached
4 someone that has a portfolio of investors that invest in
5 real estate; and I had also talked to two realtors that
6 developed the brochures.

7 Q And your opinion was that those brochures with
8 the \$15 million and \$25 million offer or listing price
9 was not realistic?

10 A Yes.

11 Q But as you testified, you're not a real estate
12 appraiser?

13 A No.

14 Q So why was their professional judgment wrong
15 and your opinion correct?

16 A Well, I talked to them about how they developed
17 those prices, and that was at the direction of either
18 Mr. Venturacci or Stan or along those lines. I know one
19 realtor -- I think Mr. Drakulich -- said that when they
20 originally came to him, they thought to put \$25 million
21 out there. He told me he didn't think it was worth that,
22 so he did \$15 million.

23 When I talked to both realtors, they were not
24 aware that there were appraisals on that. They did not

1 consider any type of infrastructure or development costs.
2 They didn't consider the conservation easements. I asked
3 all those questions.

4 **Q And what did you do to derive your own**
5 **valuation for Buckhorn?**

6 MS. LEE: I'm going to object to that because I
7 don't think that the trustee valued Buckhorn. He arrived
8 at a purchase and sale agreement.

9 THE COURT: Overruled.

10 THE WITNESS: Again, I used as a starting point
11 the two real estate appraisals, and it was within that
12 range before any kind of discounts.

13 BY MR. HOSMER-HENNER:

14 **Q Did you apply a marketability discount on**
15 **Buckhorn?**

16 A I did some calculations on that, yes, between
17 the two appraisals, yes.

18 **Q And did that application of marketability**
19 **discount affect whether you thought this particular**
20 **purchase and sale agreement was fair?**

21 A Absolutely, yes.

22 **Q And did you apply a minority market discount?**

23 A Yes.

24 **Q Can you explain to the Court what a minority**

1 discount is.

2 A Sure. As I outlined in my first status report
3 in August of 2021, a minority discount or sometimes
4 called a discount for lack of control is because one
5 doesn't own a controlling interest and can decide it.
6 There is a discount that's applied because it's worth
7 less to a willing buyer or willing seller than it would
8 be if you had control over an entity, whether that's a
9 commercial enterprise of a company or whether it's a real
10 estate venture, something along those lines.

11 Q So you applied a minority discount to show that
12 the offer made by Todd was fair?

13 A I used a range of discounts combining. I
14 didn't differentiate between a discount for lack of
15 marketability or a discount for lack of control. I used
16 a range of discounts similar to what I did with the
17 Toiyabe Montreux-Mana transaction.

18 Q But the minority discount was one of the
19 analytical tools that you used to determine that this
20 purchase price was fair and in the best interest of the
21 trust?

22 A I determined it was within the range of the
23 appraised values, yes.

24 Q And if there wasn't a minority discount

1 **applied, then the offer would have had to be higher in**
2 **order to meet the standards within the range you just**
3 **identified?**

4 A Conceivably, as well as a discount for lack of
5 marketability. It kind of worked in tandem.

6 Q But both of those discounts were applied and
7 taken into consideration for the ranch.

8 A Yes.

9 Q Are you familiar with a control premium?

10 A A control premium?

11 Q Yes.

12 A Yes.

13 Q Could you define a control premium.

14 A A control premium, which is not used a lot in
15 valuations in the commercial area, is if -- again,
16 willing buyer, willing seller -- how should I best put
17 this? -- if one owns an entity and has control,
18 conceivably you could value that a little bit higher by
19 putting a premium on it.

20 And just so that the Court is aware -- and I'm
21 going to kind of get off on a tangent to explain it, if I
22 can -- entities can be worth different values to
23 different people. Okay. For instance, it's not uncommon
24 now where you see, in the public markets, companies that

1 are generating losses, that if you're using an income
2 approach or an asset approach, it may not be more than
3 what someone is willing to pay for it.

4 For example, Microsoft buying Activision or
5 some of these other high-tech companies buying -- you
6 know, Meta trying to buy YouTube and all that, they see
7 there's a certain synergy there, and they might pay a
8 premium over what traditional valuations are because, to
9 them, it's worth a little bit more than what another
10 buyer that's not related in an entity or something may
11 want to purchase that for, or they may want to eliminate
12 competition or something along those lines.

13 **Q Or they may want to have control of an entity?**

14 A Yes. That's usually why people buy into
15 something.

16 **Q So you're selling the 25 percent interest in
17 the family trust to Todd?**

18 A Yes. That's the way the purchase and sale
19 agreement reads.

20 **Q And Todd currently has 30 percent of Buckhorn?**

21 A A third percent?

22 **Q Todd currently has 30 percent of Buckhorn split
23 between his trusts?**

24 A Possibly. I know that -- I think he has a

1 little bit more than the 25 percent because there's a
2 trust involved. Mr. Stan Jaksick has -- I believe has
3 20.5 percent, Mr. Venturacci has 25 percent, and the
4 trust has 25 percent, yeah.

5 Q And what's 30 plus 25?

6 A 55.

7 Q So you're selling a controlling interest in
8 Buckhorn from the family trust to Todd?

9 A I'm sorry? Can you say that again.

10 Q As a result of this transaction, you'd be
11 providing the controlling interest in Buckhorn to Todd?

12 A I'm selling him a piece of property. I guess
13 you could say he has -- once that is done, he will own an
14 additional 25 percent, yes.

15 Q And you think it's correct to apply a minority
16 discount to that purchase rather than a control premium?

17 A Yes. I'm not selling a controlled interest.
18 I'm selling a minority interest. I have no control.

19 If I was selling 50.1 percent, 51 percent, 55
20 percent or 60 percent, then I'm selling a controlling
21 interest, but I'm selling a minority interest regardless
22 of whoever owns whatever after that interest is sold.

23 Q So in your professional opinion, there's no
24 additional value to be placed on the acquisition of an

1 interest that puts someone above the 50.1 percent
2 threshold?

3 A They're not buying a controlling interest from
4 the trust. They're buying a minority interest.

5 MR. HOSMER-HENNER: Your Honor, I have no
6 further questions at this time.

7 THE COURT: Thank you.

8

9 CROSS-EXAMINATION

10 BY MR. ROBISON:

11 Q You're aware, are you not, sir, that the
12 grantor, Sam Jaksick, died in 2013?

13 A Yes.

14 Q So here we are almost ten years later.

15 A Nine years later.

16 Q Nine years later.

17 Has there been any sales activities on these
18 four properties, as far as you know, in the last nine and
19 a half years?

20 A Yes.

21 Q You're aware that --

22 A I'm aware there's been some transfers and
23 things like that but nothing to an outside party, no.

24 Q This deal that you have asked approval of of

1 this Court, you're aware that this is part cash and part
2 financing?

3 A Yes.

4 Q And you're aware that the four parcels or at
5 least the three land parcels are needed for collateral to
6 get the financing to do the deal?

7 A That's my understanding.

8 Q And White Pine is needed to help collateralize
9 the money to pay to the trust so this deal could close,
10 and that's why White Pine has to be part of the deal;
11 correct, sir?

12 A That's my understanding, yes.

13 Q You've been temporary trustee for almost two
14 years now.

15 A A little over a year and a half, yes.

16 Q Your math is better than mine, I concede.
17 You're technically an owner of the 25 percent?

18 A Yes.

19 Q And in your opinion as an owner and in your
20 opinion dealing with these assets for the last year and a
21 half, is this the best deal the trust could have in the
22 near future, as far as you know?

23 A I believe so.

24 Q And why are you recommending to Judge Hardy

1 **that this be approved?**

2 A I'm recommending to the Court that this be
3 approved because it, number one, liquidates assets that
4 are difficult to liquidate. From what I've seen, I don't
5 see that there's going to be an ability to sell, like,
6 White Pine Lumber in the next, say, six months.

7 At the same time -- I've got to coin a
8 phrase -- I'm trying to make lemonade out of lemons.
9 I've got a noncollectable debt of \$700,000 there. As
10 part of this whole structure and looking at the tax
11 consequences, we're seeing, oh, there's an opportunity
12 here to take that debt, put it into capital, reduce the
13 gains, recognize some capital loss carry-forwards and
14 minimize some taxes, reduce some taxes, at the same time
15 get cash into the trust so that I can pay legal fees,
16 possibly get to the point to where there are other
17 creditors, including capital calls that can be paid.
18 Maybe those would be paid pro rata.

19 I would like nothing better than to add a zero
20 to this offer. I would have liked nothing better to then
21 sell to Mana at three times the price that I would have
22 been able to because I would like to pay the
23 beneficiaries. I'd like to at least pay the creditors,
24 and I'm not in a position to be able to do that.

1 Q Sir, on one of the pages of the PSA and in the
2 brief filed in front of Judge Hardy to approve this,
3 there are values allocated to each of the four
4 properties.

5 A Yes.

6 Q Those values, have you made any allocations
7 with regard to the numbers to maximize tax benefit for
8 the trust?

9 A I asked the CPA to do that, and we've worked
10 through some alternatives. It doesn't seem to be as
11 important as I thought it was initially to do that, only
12 because of the way the total deal is put together and the
13 fact that -- and I'm going to get a little technical
14 here, Your Honor. I'm sorry.

15 In working out the process, I've had
16 conversations with the CPA going back over the last year,
17 but in the last three months or so, we've only tried to
18 tie this tax liability together. One of the impediments
19 of being able to do that, if you will go back to my
20 fourth status report, was the assembling and compiling of
21 the legal fees, of which we were getting information as
22 late as July of this year from a previous request in
23 October to come up with that.

24 Once we had that analysis and the amounts

1 available, we then started discussions as to what can we
2 do with these legal fees, and it was determined that we
3 could capitalize a lot of these legal fees instead of
4 taking them as a deduction and losing them because the
5 trust doesn't have income. We could actually capitalize
6 them into basis, which minimizes a gain on the Mana
7 transaction and would minimize any gain on this
8 transaction and then, hence, adding the basis, minimizing
9 the gain, reducing the taxes and having ability to carry
10 forward that.

11 So doing all of that, the allocation between --
12 this is going around the mountain a long way -- it wasn't
13 as important as I originally thought when we had these
14 discussions back in July, August and September, but I
15 wanted the flexibility to move the allocated sales price
16 around. In other words, if one piece of property had a
17 huge gain and another piece of property in another asset
18 had a loss, I wanted to be able to offset those or
19 minimize those somehow.

20 The CPA -- we have until April 15th and as late
21 as October 15th to really finalize those numbers, but
22 that kind of an allocation isn't as critical as I thought
23 it was when I entered into that agreement.

24 **Q I asked that question because we discussed this**

1 in our negotiations.

2 A Yes.

3 Q Now, I want you to envision and assume that
4 Stan prevails on his objection, and Judge Hardy does not
5 approve this.

6 What do we do?

7 A Well, the trust can't go out and market
8 Buckhorn on its own. They only have a 25 percent
9 interest. I can't market on my own the Duck Valley or
10 the BBB properties. I go out and --

11 Q Excuse me.

12 But if you do, you have to bring that before
13 Judge Hardy again; right?

14 A Absolutely.

15 Q And you might get objections again, and you
16 might get more attorney's fees; right?

17 A Undoubtedly we would have more attorney fees,
18 unfortunately.

19 Q And more transactional costs. You would have
20 to charge for your time?

21 A Yes.

22 Q So every one of these new deals that Mr. Stan
23 Jaksick contemplates might happen in the future is going
24 to be costly for transactional and administrative costs

1 **for this family trust; correct?**

2 A Yes. I have a big concern about that. I want
3 to stop the administrative costs.

4 Q Not much happens in this courtroom that's not
5 contested; would you agree?

6 A Yes, definitely.

7 Q That's getting expensive?

8 A Very expensive.

9 Q This is an effort to stop those expenses and
10 get money into the family trust; correct, sir?

11 A Yes.

12 MR. ROBISON: Thank you.

13 THE COURT: Is this proposal tax year
14 dependent? Is there something magical about the approval
15 and the execution before December 31st?

16 THE WITNESS: Yes.

17 THE COURT: What happens if it goes past
18 December 31st?

19 THE WITNESS: I had the accountant look at
20 that, Your Honor, and, again, this is all subject to
21 still finalizing everything and how it shakes out.
22 Conceivably, the trust could owe an extra \$100,000 in
23 taxes.

24 Now, Your Honor, just so you don't get the

1 wrong impression, I've already paid \$100,000 in taxes for
2 2022. I made an estimated tax payment in September.
3 There was a small \$4,000, roughly, refund from 2021
4 that's applied to 2022. So we have about \$104,000 in
5 estimated taxes. So those taxes have already been paid,
6 so I'm not going to have to write a check on April 15th,
7 but if I can get the tax down from 90- to 15,000, which
8 is the original -- there's another \$85,000 there that
9 would save money for the trust that we could use to pay
10 legal fees or maybe towards creditors, capital calls,
11 along those lines.

12 THE COURT: Questions?

13 MS. LEE: No, Your Honor.

14 THE COURT: Have a seat, please.

15 MR. HOSMER-HENNER: Your Honor, I have a few.

16

17 REDIRECT EXAMINATION

18 BY MR. HOSMER-HENNER:

19 Q Mr. Proctor, where does that tax efficiency
20 come from?

21 A Where does the tax efficiency come from?

22 Q Yes. The \$100,000.

23 A Basically by -- so, remember, we're not selling
24 the underlying property. We're selling interests, mostly

1 minority interests, in entities that have capital
2 accounts that are basis. In some respects, the bases are
3 lower than what the capital accounts reflect on tax
4 returns and financial statements, and that's because a
5 lot of these properties -- excuse me -- ownership
6 interests in these entities were revalued at the date of
7 death, so they were -- they were deflated, if you will,
8 because on the date of death, the value -- they had
9 appraisals done in 2013 -- were less than what the
10 capital accounts were.

11 So we have basis in these entities. Some are
12 being sold at losses, some being sold at gains. That's
13 where the tax efficiency comes from.

14 **Q Why is that this year versus next year?**

15 A Because we have Mana, the purchase by Mana of
16 the Toiyabe, which actually generates -- with the
17 capitalized legal fees, the initial calculations are it
18 generates a loss, and there are some gains on the payment
19 of this property, this deal here.

20 THE COURT: Don't those losses carry over into
21 the next year?

22 THE WITNESS: They can. They can.

23 BY MR. HOSMER-HENNER:

24 **Q So what is the tax efficiency for doing it this**

1 **year versus next year?**

2 A Everything is lumped together now, and we get
3 cash in, and then we're able to work towards closing the
4 deal quickly and recognizing the tax consequences this
5 year, both from the Mana -- the Toiyabe and the purchase
6 that's before the Court today.

7 Q Is it because you would be paying attorney's
8 fees in this year? Because that's what your --

9 A Yes. Yes.

10 Q So what your pleadings seem to indicate is by
11 making this deal locked in this year, you would have the
12 freedom to pay more attorney fees this year?

13 A And add additional basis. Yes, thank you for
14 explaining that clearer.

15 Q So is that the case, then, that the reason for
16 this tax efficiency this year is because you actually
17 need to have more confidence that the trust has assets to
18 pay those attorney's fees?

19 A Yes.

20 Q But you could pay those attorney's fees and
21 trust that the deal would still be there next year?

22 A I couldn't. I wouldn't have the basis on
23 whatever I pay this year added to the basis of what's
24 already been sold. Hence, some of the -- I think

1 possibly -- it's kind of a moving target, Your Honor --
2 I'm sorry -- to get kind of technical, because if the
3 basis goes down, then the loss is reduced. You know,
4 there is then a tax consequence to it, and you end up
5 with having to pay a little bit more in taxes versus
6 recognizing it now, plus getting the attorneys paid.

7 **Q Mr. Proctor --**

8 A And if I don't -- again, if this deal doesn't
9 go through today and doesn't go through next year and I'm
10 sitting here trying to pay minority interests and I'm
11 trying to sell White Pine Lumber and may not even get
12 appraised value, then we don't have a cap. They don't
13 have the cash to pay the administrative costs, the
14 attorneys, the creditors.

15 **Q Mr. Proctor, putting aside this deal -- right?**
16 **-- and let's say this deal goes forward, why couldn't it**
17 **be subject to an overbid process like the Toiyabe**
18 **transaction was?**

19 A Well, I think it is. The fact that Mr. Stan
20 Jaksick could make a bid for it.

21 **Q But the request from your counsel and you today**
22 **is for it to be approved today, in fact; is that correct**
23 **or not?**

24 THE COURT: So I want to explore this a little

1 bit, but, really, Mr. Proctor should have a chance to
2 consult with his attorney, because you've struck center
3 in my concern, which is I'm satisfied that this portfolio
4 needs to be sold together.

5 I've got three fractional interests. I've got
6 one whole interest. I, now, better understand some of
7 these pieces that require the collateralization. I get
8 it, and I can't create perfection. I can just accept
9 good. This portfolio needs to be sold together.

10 But I also think it's appropriate that, as we
11 do with all of our probate cases and trust cases, we just
12 say here's the highest and best value, and here's a
13 period for overbid. And if Todd wants -- if Stan wants
14 to overbid, I welcome it, and I hope he does, because it
15 means more money for everybody. But his overbid is going
16 to be 5 percent more than the current offer, which is
17 \$1,430,645, if I follow typical probate procedure and
18 listen to counsel.

19 Then there's the question of fairness; right?
20 How do I give to Stan a fair opportunity to make a
21 decision while still preserving the calendar year
22 importance? That's what I wanted to cite to.

23 MR. HOSMER-HENNER: Your Honor, if I may
24 address that -- and maybe Mr. Proctor should consult with

1 his counsel -- but let me just address that in argument
2 rather than questioning.

3 THE COURT: Yes. Hold on. Do you need this
4 witness?

5 MR. HOSMER-HENNER: I forget where I was, but I
6 think it's the overbid process that we're getting at.

7 If the tax efficiency comes from the confidence
8 to pay the attorney's fees in this year, in order to
9 capitalize those or reduce those from its basis, then you
10 could approve the sale today knowing that that's the
11 minimum the trust would get but still go through the
12 overbid process.

13 THE COURT: What does the overbid process look
14 like? Remember, I asked how much time does your client
15 need to analyze and do its due diligence? Is it two
16 weeks? Six weeks? What does he need?

17 MR. HOSMER-HENNER: Your Honor, we don't love
18 being in this position where, after two years, they're at
19 three weeks and with no effort being done to market these
20 properties.

21 THE COURT: I accept your discontent, and I
22 focused on November 18th. Remember I asked counsel an
23 hour and a half ago, how was Stan involved? When did he
24 first learn? I'm not happy it's November 18th that your

1 client has to quickly cook or get out of the kitchen, but
2 that's where we find ourselves today.

3 So how much time in good faith does he need to
4 decide if he's going to offer more?

5 MR. HOSMER-HENNER: Well, this deal is, I
6 believe, \$100,000 now and then the balance of the payment
7 sometime off, I believe six months or longer.

8 MR. ROBISON: Six.

9 MR. HOSMER-HENNER: Is that a reasonable period
10 within which to explore other options?

11 THE COURT: Well, is your client willing to
12 deposit -- I'm thinking out loud, and that's always
13 dangerous.

14 When there are overbids, there has to be a good
15 faith offer and counteroffer and process. I wouldn't
16 want any brother to participate in bad faith for the sole
17 purpose of increasing everybody's buy-in. So there has
18 to be some consequence to the process.

19 So maybe I'll just have both brothers deposit
20 \$100,000 into the trust account, and we'll find out who
21 gives the best offer in the next 45 days, something like
22 that.

23 MR. HOSMER-HENNER: The real issue, Your Honor,
24 is there may be a value maximization as to the public,

1 which is why we're just -- there's no answer for why
2 White Pine wasn't listed.

3 THE COURT: Value maximization of --

4 MR. HOSMER-HENNER: So why not take this offer
5 and allow the brothers to talk and the trustee as well in
6 the meantime to actually see if anyone else is interested
7 in it.

8 THE COURT: Because I've decided, after
9 everything I've heard, that I'm going to approve this as
10 a portfolio of properties. Part of it is that we haven't
11 gotten to the fees yet, but on one hand, you and others
12 at different times assert massive amounts of expectations
13 against the trustee and then complain about maximum
14 payment requests from the trustee.

15 You're talking about putting White Pine on an
16 open market at more administrative cost to Mr. Proctor,
17 as counsel noted, and I'm not seeing the basis for it
18 after all the evidence that's presented. If your client
19 thinks it's worth more, have him buy it and let him flip
20 it, as he's accused his brother of contemplating.

21 MR. HOSMER-HENNER: He's not accused, Your
22 Honor.

23 THE COURT: Well, I just read what you wrote
24 where you expressed some concerns.

1 MR. HOSMER-HENNER: About the process.

2 And, again, this isn't confrontational against
3 Todd in any way. The deal, really, is concerning the
4 process and why it's so different than the previous
5 process.

6 So what we're saying is if Your Honor is
7 insisting that it's going to be done in this package,
8 that prevents the temporary trustee or anyone else from
9 saying, I can sell four component parts for more than the
10 sum of the package.

11 THE COURT: Yeah, but --

12 MR. HOSMER-HENNER: Why cut that off?

13 THE COURT: Because I have not heard one
14 credible bit of information that the other three
15 properties have any value on the open market as minority
16 interests to offer. I haven't heard anything that would
17 even capture my attention.

18 MR. HOSMER-HENNER: At a minimum, third parties
19 should be able to bid on it just like with Toiyabe.
20 Toiyabe wasn't restricted to the brothers or to the heirs
21 or beneficiaries of this trust. Any qualified overbidder
22 could come, as this was the trustee's process, and that's
23 a representation in here that needs to be addressed, and
24 the temporary trustee said the reason for the overbid

1 process is because Mana was insisting on it.

2 I welcome the opportunity for them to clarify
3 that statement. The overbid process protects the trust,
4 and that protects the value maximization here.

5 THE COURT: I'm looking for proposed
6 resolution, not for grievances. I am willing to give to
7 your client horizontal access to this portfolio, and I
8 don't know what that looks like. That's where I need
9 help from counsel.

10 Maybe I have both brothers deposit \$100,000
11 this calendar year. I set some time, 45 days or
12 whatever, to rehear it, but I think it's upon the
13 brothers at this point who might buy it to then market it
14 to the world. I don't think it's upon this trustee. I
15 think we're set at \$100,000 now to market these
16 fractional interests.

17 MR. HOSMER-HENNER: Your Honor, that was the
18 duty of the trustee, to market this property. That was
19 his duty. That was a duty that was abdicated. To say
20 now that he shouldn't be forced to do the job he should
21 have been doing for two years is a little frustrating --

22 THE COURT: Hold on. Let me hear from counsel.

23 MR. HOSMER-HENNER: -- now that the brothers
24 who were removed as co-trustees from being able to do

1 that exact same thing.

2 THE COURT: Do you want me to remind you why
3 they were removed as co-trustees, Counsel? I felt my
4 reaction to your moving paper when you complained about
5 what this trustee is charging based upon what other
6 trustees have incurred. The reason why we have this
7 trustee is we will be going in perpetuity with these two
8 brothers.

9 MR. HOSMER-HENNER: Your Honor, we're asking
10 for moving forward with an overbid process for three
11 months.

12 THE COURT: Propose it. I told you I will give
13 horizontal access to your client, but I am bringing the
14 grievances to an end.

15 MR. HOSMER-HENNER: We would like to propose
16 that overbid process.

17 THE COURT: Now, let me back up. I know I'm
18 being intemperate. The record doesn't reflect how
19 intemperate I'm being. I'm about to report myself to the
20 discipline commission for my demeanor.

21 MR. HOSMER-HENNER: We have a different grace
22 standard between us.

23 THE COURT: So let me just pause. I have to do
24 this in small bites.

1 I've decided that the portfolio sale is
2 appropriate. I've also decided that there should be some
3 opportunity for Stan to do the same analysis that Todd
4 did and to make his risk calculations.

5 I don't think it's appropriate that he do so
6 under the pressure of the calendar year. I don't think
7 he should be able to leverage his brother without some
8 good faith, so I'm thinking each of them deposit
9 \$100,000, which is the buy-in for this year, and then
10 give him what you just asked.

11 MR. ROBISON: Your Honor, we noticed this in
12 bankruptcy for a 365 sale. The buyers get 30 days.

13 Let's go. Let's get money in here. If they
14 both deposit \$100,000, it's going to be more expensive at
15 the overbid process just because of the transactional
16 costs involved in getting from here to there, but put up,
17 put up.

18 THE COURT: I'm trying to get there.

19 I'm so sorry, Mr. Hosmer-Henner. The attorneys
20 in this room are in the highest caliber of attorneys, and
21 I just spent three minutes yelling at you, which is so
22 disappointing to me. I'm sorry.

23 MR. HOSMER-HENNER: Your Honor, there's never a
24 need to apologize. We come back in front of this

1 courtroom partially for that every time.

2 THE COURT: Okay. Mr. Robison.

3 MR. ROBISON: Yes, sir.

4 THE COURT: I don't think you're going to push
5 me off my emotional reaction. While there were
6 conversations occurring that Stan knew something about,
7 it wasn't until November 18th that he got the full
8 explanation.

9 MR. ROBISON: Let me do a little self-defense.

10 We've been working on this really hard for a
11 long time, and there are a lot of moving pieces, and it
12 wasn't a snap thing to deprive Stan of an opportunity. A
13 lot of things were coming at us with regards to some of
14 the deal points, some of it being involved with
15 Mr. Venturacci, financing and not the least the tax
16 consequences. It wasn't a surprise attack on Stan. It
17 wasn't planned that way, Your Honor.

18 I wish we would have done this in September. I
19 think we'd all be done with it, but that's where we are,
20 and we've made a darn good offer to this family trust.

21 THE COURT: I'm actually not concerned at all
22 about the quality of the offer. I'm not. It's the
23 opportunity that I want to give air to.

24 MS. LEE: Your Honor, November 18th has been a

1 formative date in the conversation. This was the first
2 time that Stan and his counsel were aware of the
3 transaction. It was actually the first time that I was
4 aware and the first time that Mr. Robison was aware,
5 because that's when the parties signed it.

6 There is no deal until the parties involved
7 actually sign a purchase and sale agreement, and if you
8 look at Exhibit 1 to the motion to sell, it is dated
9 November 18th. We filed the motion to sell that same
10 day. So as soon as the trustee had a deal, he made it
11 public. There was no holding back or anything else.

12 THE COURT: If I implied that there was
13 something nefarious, I'm not being artful. I don't think
14 the trustee did anything wrong.

15 MS. LEE: I'm not suggesting that Your Honor
16 believes that. I think that the disconnect here is that
17 somehow or another, because Stan was not intimately
18 involved in all of the back-and-forth that Mr. Robison
19 just referred to, that somehow or other that means that
20 he has been deprived of something.

21 He has certainly had at least since November
22 18th to come forward with something. Instead, there has
23 been not a single inquiry of my client; there hasn't been
24 a single expression of interest; and there has not been

1 any other opportunity or possibility expressed at all.

2 THE COURT: So can you construct something that
3 satisfies the Court's concern that Stan has some
4 reasonable time -- help me construct that.

5 MS. LEE: Let me see -- let me see if we can
6 talk through this. And, again, I'm talking off the top
7 of my head, which is certainly dangerous as well, Your
8 Honor.

9 The concern that I have -- and I know that the
10 trustee shares -- is the bird in the hand, and the trust
11 just simply can't afford to lose that bird in the hand,
12 and I am concerned about an extended period of time in
13 order for there to be something else brought in front of
14 you.

15 But for the fact that Stan has a close
16 relationship with these properties, not just simply
17 because he's a member of Buckhorn, but because he's a
18 prior trustee of this trust, he can't claim that he
19 doesn't know and understand something about these
20 properties, and by virtue of that, not only does that put
21 him in the position of not an outside buyer who would
22 need an extended due diligence period, but I think it
23 just completely changes the complexion of the issue that
24 Your Honor is struggling with.

1 Now, I think that there is something to be said
2 for put your money where your mouth is. You know, if you
3 really want -- if you really want to be involved in this,
4 then you do have to put some money on the table, and you
5 need to do it now, but I don't want that option being
6 created for them to also have the result of producing
7 something that is very, very negative for this trust in
8 the long run.

9 So that's the concern that I have going
10 forward. I do think that -- if Your Honor is considering
11 giving Stan an additional period of time other than what
12 he's already had, which is the same time the Court has
13 had and all of the other beneficiaries who were noticed
14 of this, that there be at least a very short period of
15 time, in large part because of Stan's prior involvement
16 in these properties and his prior role as a trustee,
17 which kind of puts him in a different category than a
18 total third party.

19 THE COURT: Hold on, please. Hold on, please.

20 I just leaned forward and saw the reporter,
21 who's been writing while I've been twisting myself up,
22 and I think we all need to stop and shake our hands.

23 (A discussion was held off the record.)

24 THE COURT: Counsel, where were we?

1 MS. LEE: Thank you, Your Honor.

2 A couple of things: I did not have an
3 opportunity, Your Honor, because it did not appear as if
4 it was going to be particularly relevant when Mr. Proctor
5 was on the stand, but I would like to at least explore
6 one other tax issue in connection with this particular
7 transaction.

8 Mr. Proctor testified about certain tax
9 consequences, making the importance of having this deal
10 ratified during calendar year 2022. There is another
11 consequence of having the deal in 2022, and that has to
12 do with being able to treat the deal as an installment
13 sale.

14 In other words, the trustee would have the
15 ability to make an election -- even though the total
16 consummation of the transaction would not be until 2023,
17 that by having a court order and the down payment in
18 2022, he would have the ability to elect the -- to treat
19 the entire transaction as a 2022 transaction.

20 That has advantages in the sense that he would
21 be using 2022 capital gains rates, unclear whether or not
22 the capital gains rates could be raised in 2023. It kind
23 of looks like that's terribly likely, but there might be
24 other than technical reasons that are far beyond what I'm

1 capable of understanding why the trustee would want to do
2 that.

3 There are a couple of other issues that we
4 haven't touched on, Your Honor, and that is financial
5 wherewithal within which to perform. There hasn't been
6 any indication in front of you as to whether or not Stan
7 would even have the ability to consummate any kind of a
8 transaction and whether or not there would be -- what
9 additional due diligence would be needed to be done in
10 order for him to make a decision as to whether -- whether
11 or not to offer more for this bundle of properties. So I
12 think that there's some additional things that we would
13 need to consider.

14 Harkening back to the forum that I normally am
15 in, and that is, you know, selling property and interests
16 and many things, including causes of action in the
17 bankruptcy court, typically a 30-day fuse is very, very
18 common. If we were to apply that here, that would be
19 December 18th or 19th, which would be the following
20 Monday, and that would have been 30 days within which to
21 consider this and do something about it, and over two and
22 a half weeks since the motion was filed, we haven't seen
23 anything to indicate that, in fact, Mr. Stan Jaksick
24 actually really is interested in making an offer, just an

1 exploration as to whether or not it is something he would
2 want to do in the future.

3 In the meantime, that postpones getting a final
4 court order. It has effects on tax consequences that
5 we've now gone through throughout this process, and it
6 increases the cost to the trust. You know, every single
7 time that we have to come back here in order to be able
8 to get a determination, it costs the trust more money,
9 and then, of course, there's all the transactional side
10 of things for the trust as well.

11 So I understand what Your Honor is conveying to
12 the parties in terms of acceptance of the package deal,
13 the integrated transaction, and I understand the Court's
14 concern about wanting to be able to provide Stan an
15 opportunity to participate in this, but I do think that
16 there are ways of structuring how Your Honor decides to
17 go forward and what the disposition from today is so that
18 we're trying to preserve as many benefits for the trust
19 while producing as little harm to the trust as possible.

20 THE COURT: I'm listening to you. I'm turning
21 to my screen. I'm opening my calendar at the same time
22 you're talking.

23 So just, hypothetically, because we're kind of
24 unpacking this, what does it look like? I say today by

1 oral pronouncement that Stan has until December 19th at
2 noon to do what?

3 MS. LEE: Make a formal counterbid, overbid.

4 THE COURT: And how do I ferret out what is a
5 legitimate overbid versus a strategic overbid? What type
6 of security do I require?

7 MS. LEE: Well, there's probably two things
8 that would be the most important. The first would be a
9 deposit that would be made with the trustee, and there
10 would have to be some strings attached to the deposit as
11 well.

12 THE COURT: Such as?

13 MS. LEE: Well, if there's not really an intent
14 to proceed with a legitimate overbid, then there has to
15 be some possibility of turning that deposit into a
16 nonrefundable one.

17 So here's what I'm thinking so that I'm not
18 leaving strings hanging out there. If, in fact, Stan has
19 the financial wherewithal in order to be able to purchase
20 these properties and perform -- not just sign a contract
21 but actually to perform -- then there would have to be
22 the consequence of, okay, well, now your deposit becomes
23 non-refundable, and you have to show us that you, in
24 fact, can perform.

1 THE COURT: So Todd's \$100,000 payment this
2 year, is it at risk if he does not complete the
3 transaction?

4 MS. LEE: It is at risk if he breaches the
5 agreement, yes.

6 THE COURT: So your suggestion is that Stan be
7 given -- tell me a date; I'm saying December 19th -- to
8 not just deposit enough to indicate an interest but to
9 actually present an overbid proposal?

10 MS. LEE: Yes. In other words, this is the
11 dollar amount that I would be willing to offer. In order
12 to be a legitimate overbid, it has to meet and beat to a
13 significant enough amount to make it worthwhile to go
14 through the process other than just simply approving this
15 today.

16 THE COURT: So in just garden-variety probate
17 cases, the overbid is 5 percent, but that's to prevent
18 the \$100 increments between siblings.

19 MS. LEE: Exactly.

20 THE COURT: What do you see in these type of
21 commercial real estate --

22 MS. LEE: I would say no less than 10, Your
23 Honor. We've got a million-three offer. I think you
24 need to have at least -- at least a six-figure increase

1 in order to make this worthwhile.

2 THE COURT: I want to summarize what I heard
3 you say.

4 You accept the Court's position that Stan
5 should be given something. I didn't say you agree. You
6 accept the Court's position of giving Todd some time --
7 sorry, Todd and Stan, for conflating your names -- if I
8 gave to Stan until December 19th at noon to make a bona
9 fide overbid proposal with \$100,000 deposit that was at
10 risk in some percentage -- I'd have to hear from
11 counsel -- whether it be 100 percent, 50 percent or
12 something, that we could still close this deal by
13 December 31st, either in favor of Todd -- no. Yeah, in
14 favor of Todd or in favor of Stan.

15 MR. ROBISON: May I?

16 THE COURT: It just depends. Do you have
17 anything to add before I turn it over?

18 MS. LEE: No.

19 MR. ROBISON: It would be really advantageous,
20 I think, with all your concerns and maybe everybody
21 else's concerns, if you approve the sale, I think the
22 temporary trustee needs that. I know that we need that
23 for financing subject to a 5 or whatever percent overbid
24 made by Stan on or before X, because we're out there

1 hanging with our \$100,000 and our negotiations with
2 lenders, and if it's January, February and Ukraine is
3 nuked or whatever, you know, we want to be done also.

4 And I'm not threatening we're going to back
5 out. We wouldn't, but things change. We just want that
6 "things change" window to be as narrow as possible
7 because then we're stuck.

8 THE COURT: So I haven't resolved what the
9 overbid should be. I'm actually reacting negatively to
10 the 10 percent. That's a lot of money, and it's out of
11 what I customarily see.

12 What I don't want to do is just have that
13 sibling \$100 back and forth, but it seems to me that if
14 Todd is at 1,302,000 and Stan comes in at, you know,
15 either 5 percent or 1,402,000, that Todd may have a
16 choice, then, to beat Stan's offer. At least he should
17 be given an opportunity.

18 MR. ROBISON: My point is that's great if it's
19 timely and each party has the right to bid, overbid, as
20 you just pointed out, but more importantly is that it's
21 approved this year for all of us.

22 THE COURT: Right. I understand and I think --
23 I need to hear from Mr. Hosmer-Henner. I'm fairly
24 certainly I agree with you.

1 MR. ROBISON: Thank you.

2 THE COURT: Don't spend a lot of time reacting
3 to the 10 percent overbid suggestion because that's
4 richer than what I'm contemplating.

5 MR. HOSMER-HENNER: Your Honor, I won't react
6 to that. I will react to this inconsistency between
7 these arguments that Stan is familiar with these
8 properties so he should have 11 days to put together an
9 offer while Mr. Robison said it took six months to do due
10 diligence and put together financing to sign the deal.

11 MR. ROBISON: That's not what I said. Your
12 Honor, I object to that. That's not what I said, not
13 even close.

14 MR. HOSMER-HENNER: Please clarify what you
15 said, then.

16 THE COURT: I don't want him to clarify.

17 Remember I said I could open court every
18 morning and hear the grievances. I'm looking for a
19 go-forward resolution to an impossible juncture.

20 MR. HOSMER-HENNER: How can we judge fairly the
21 time it would take Stan to put together an offer or any
22 public third party who wants to bid on these packages of
23 interests without comparing what it took Todd and the
24 temporary trustee to negotiate an offer, and if those

1 discussions went on for months -- and we can go back to
2 the transcript, and Mr. Robison had said it took that
3 long for financing. There was no deal until November
4 18th, but it took months before that to get to the point
5 of a deal.

6 THE COURT: So what's your proposal,
7 Mr. Hosmer-Henner?

8 MR. HOSMER-HENNER: Our proposal is that the
9 process for a related-party transaction should be no less
10 than the process for the Mana transaction, which is a
11 notice of overbid, and the hearing -- and you can approve
12 this transaction subject to an overbid. That's what we
13 did in Mana. You can get this done.

14 Todd hasn't paid the 100,000. I mean, that's
15 part of this approval of the deal. That's not \$100,000
16 non-refundable deposit that somehow is comparable to what
17 they're asking Stan to pay.

18 This same process of a related-party
19 transaction should be no less fair than the
20 non-arm's-length transaction of Toiyabe, which is a
21 multi-month period for parties to present an overbid to
22 this Court in some amount in excess and have that be
23 deemed in favor of the trust and to maximize the value as
24 opposed to an 11-day period for only Stan to match or

1 beat that offer.

2 THE COURT: I just see the transactions
3 typically, Mr. Hosmer-Henner. We're talking about
4 Montreux lots for the one and the way this property has
5 been described here.

6 You may not see my attempt. All of this
7 negative energy I created from the bench is to help your
8 client find some horizontal parity. That's all I'm
9 trying to do. I'm ready to approve this deal right now
10 in favor of Todd. I'm satisfied that this is the trust's
11 best option right now. I want to give Stan something,
12 but if you're asking for six months for Stan because Todd
13 apparently had six months, the answer is going to be no.
14 If you can construct something that allows me to close
15 this deal this year, increase the penalty to Stan, you
16 know, buy three months of due diligence, but it's going
17 to cost you money, \$100,000, I imagine, in surrendered
18 deposit. I have to somehow broker these competing
19 interests.

20 MR. HOSMER-HENNER: Todd didn't have to put
21 \$100,000 down in a nonrefundable bid in order to secure
22 this.

23 THE COURT: All right. Every time I ask a
24 question -- I'm really looking for help,

1 Mr. Hosmer-Henner -- you keep going back to the
2 grievances of the past.

3 MR. HOSMER-HENNER: It's about this transaction
4 and the process for this transaction, and if this
5 transaction is approved, it can be done this year subject
6 to an overbid, and if that overbid process is 60 to 90
7 days, that's enough time for someone to request documents
8 from the temporary trustee to evaluate on the same basis
9 and put together some financing package and see if it's
10 worth making an overbid, and it may not be.

11 THE COURT: Think about how you would react if
12 you represented the successful bidder today who deposited
13 money, embarked upon the work of financing the purchase
14 price six months from now, knowing all along that halfway
15 through that could be ripped away from you. How would
16 you respond to that?

17 MR. HOSMER-HENNER: Mana was willing to
18 purchase that.

19 THE COURT: I don't care about -- Mana is in
20 the past. Today, right now. I hear your grievance.
21 Help me help your client in some way that doesn't divest
22 Todd of the rights he has to certainty. Help me broker
23 that.

24 MR. HOSMER-HENNER: A 60-to-90-day period for

1 which an overbid can be submitted to this Court, and if
2 no overbid is submitted, then the deal goes through as
3 proposed.

4 MR. ROBISON: Well, it may not depending on
5 what the market conditions are, depending on Ag Credit,
6 and so Mr. Hosmer-Henner is saying we sit back and we
7 gamble on the status of the market with \$100,000 deposit,
8 and then he says: No, we're not going to do it. We
9 don't like the White Pine property. We're out. Things
10 have changed. We don't have our financing lined up. We
11 haven't got a financing commitment.

12 And he's had three or four months to kill this
13 deal.

14 MS. LEE: Your Honor, may I --

15 THE COURT: I hear Mr. Hosmer-Henner responding
16 nonverbally, and I want to invite him to respond verbally
17 before I hear from you.

18 MR. HOSMER-HENNER: Your Honor, how does that
19 kill this deal? They signed the deal. They're asking
20 for court approval.

21 THE COURT: But it's subject to an absolute
22 veto by an overbid. The successful bidder has to have
23 some certainty.

24 MR. HOSMER-HENNER: And the question is by

1 when, Your Honor; right? Going forward, it's by when,
2 and we've been given the choice between 11 days and 60
3 days to present an overbid? I mean, certainly something
4 has to be done. Otherwise the result of this is nothing
5 will be done for two years; nothing will be disclosed
6 until three weeks before you come to a decision; and then
7 because of that action, this is what you're left with.

8 THE COURT: Final word to Mr. Robison and then
9 Ms. Lee.

10 MR. ROBISON: Thank you.

11 I just need clarity. The time it took for us
12 to do this deal was to work out the reps and warranties,
13 was to work out the release language, and the deal as
14 drafted is what we're asking to be approved, and the deal
15 we drafted is the one that, if you subject it to overbid,
16 that's the deal. It may be more money, but that's the
17 deal, because we don't want them coming in with different
18 deal points on an offer, on an overbid. We want the deal
19 that we made.

20 If they overbid it for more money, fine,
21 they're stuck with the terms and conditions of that
22 agreement, but if we're going to start renegotiating,
23 it's going to be a nightmare, Your Honor.

24 THE COURT: I know.

1 MS. LEE: Your Honor, I'm glad you made me sit
2 down because you forced me to take a breath and not react
3 as negatively as I intended to to Mr. Hosmer-Henner's
4 language about what has happened over the last two years.

5 I want to just point out a couple of things.
6 First of all, the purchase and sale agreement does not
7 have a financing contingency. I think that that's very
8 significant. It's extremely significant for the trustee.
9 It is not dependent on financing.

10 And the second is that while there has been a
11 lot of discussion about the process that was employed in
12 the Toiyabe transaction and the notice that was sent out
13 for third parties to come in and bid, in fact, the actual
14 notice period was four days, and the reason for that,
15 Your Honor, is that we signed the transaction on March
16 25, 2022, we filed the motion to sell on March 25, 2022,
17 and that sent out electronic notice and email notice to
18 all the parties in this case, same as what we did on
19 November 28th.

20 But Your Honor did not enter the order
21 shortening time for the April 1st hearing that resulted
22 until the following Monday, which was March 28th, and it
23 was based on that that we sent out our notice of hearing,
24 the terms of which the buyer did require, and that was

1 what was sent out to third parties who were not involved
2 in this case.

3 So assuming they could have gotten that notice
4 the same day that it was filed and served, they would
5 have had at most four days' notice of the sale of the
6 trust's interest in Toiyabe and the sale of the partial
7 interest of the land at Montreux for \$2.038 million.
8 Four days.

9 I think that that is a significant difference
10 between what has happened here where the potential buyer
11 does have knowledge of these properties, has had vastly
12 more than four days' notice of the potential sale, and,
13 thus, it seems to me to deflate the concept that one
14 brother should get the same period of time to decide as
15 the other brother did.

16 So I would also like to echo the comments by
17 Mr. Robison, and that is that this is the deal that is at
18 hand. It is not going to be productive at all for the
19 trust or for creditors of the trust to think that this
20 would be a do-over. That's not going to work. The deal
21 that is at hand, especially not having a financing
22 contingency, requiring a deposit within five days of
23 entry of the court order approving it, etcetera, those
24 are all the favorable deal terms that the trustee

1 negotiated into the deal, so I don't want to lose those.

2 But if we're talking about real parity between
3 what happened with outside purchasers in the prior
4 transaction and this one, the 60 days is vastly in excess
5 of what third parties would have had in the prior
6 transaction.

7 THE COURT: Thank you.

8 Narrow questions for Mr. Robison and
9 Mr. Hosmer-Henner.

10 Ms. Lee suggested a 10 percent overbid
11 requirement. You heard me react with some discomfort.

12 What do you propose as an appropriate overbid?

13 MR. ROBISON: We'll go with whatever you say
14 because that goes to them, not us. We don't have to pay
15 it. So it's kind of like we don't have a dog in that
16 fight. 5 percent seems reasonable to me.

17 THE COURT: Mr. Hosmer-Henner.

18 MR. HOSMER-HENNER: Yes, Your Honor. We're
19 fine with 5.

20 THE COURT: I'm going to approve -- does
21 anybody wish to be heard on Ms. Lee's second motion,
22 which is for payment of trustee attorney's fees.

23 MR. ROBISON: We oppose if you don't approve
24 the sale.

1 THE COURT: Mr. Hosmer-Henner, you filed a
2 response.

3 MR. HOSMER-HENNER: Your Honor, to afford those
4 fees priority -- we had this objection before -- we need
5 to see a statute, and last time Ms. Lee incorrectly cited
6 NRS Chapter 147, in our last Zoom call, a statute, a
7 portion of the trust, something that would provide some
8 basis to afford her first priority of attorney's fees.

9 THE COURT: I regret I'm going to have to make
10 this finding and think about the code of conduct that
11 compels me to be intellectually honest without fear of
12 criticism or public clamor. So I'm going to make the
13 finding for the record.

14 I find the services provided by Mr. Proctor to
15 be distinguishable from the services provided by Trustees
16 Todd and Stan. Trustees Todd and Stan were influenced in
17 some measure by their own individual interests despite
18 the trustee being brought in to protect them, and I will,
19 therefore, treat Mr. Proctor's trustee payments at a
20 higher administrative level.

21 The Motion for Fees is approved. The Motion
22 for Sale is approved with the following changes: I don't
23 like citing anything between now and December 19th that
24 approves the sale as proposed by Todd, but Stan will have

1 until noon on Monday, December 19th, to overbid Todd's
2 deal on the exact same terms except for the purchase
3 value, and the overbid amount will be 5 percent, which
4 means if Stan wishes to purchase this portfolio of
5 property for \$1,430,625, he may do so. If Todd wishes to
6 overbid Stan's overbid, he will be subject to the same
7 5 percent overbid requirement, which means that Todd's
8 overbid will be \$1,502,156.

9 If Stan decides to overbid Todd's deal, he will
10 be required to post the same amount of money this
11 calendar year within five days from the date of the sale
12 approving his overbid. I will sign that order on
13 Tuesday, the 20th, if he overbids. Just submit it to me
14 in chambers. I'm not going to have a hearing about it.
15 I'm going to be in a jury trial.

16 And that is what I've attempted to do, which is
17 bring finality to this sale of assets but also give to
18 Stan an opportunity to put his money where his best
19 judgment is, and that will be the Court's order.

20 MS. LEE: May I inquire, Your Honor?

21 THE COURT: Yes.

22 MS. LEE: If Todd determines to overbid Stan's
23 overbid, what period of time will he have to do that?

24 THE COURT: 24 hours. Because he knows today

1 what it will be. He'll know within -- he'll know before
2 the 19th what he's going to do if Stan overbids.

3 MS. LEE: And another inquiry, just a point of
4 procedure, how this is going to come about.

5 How does Your Honor anticipate that the
6 proposed overbid would be conveyed? Something filed with
7 the Court? A letter to me and to Mr. Proctor? All
8 parties should know about it, of course.

9 THE COURT: Let me hear from counsel on that
10 because I don't know what the answer is.

11 MR. ROBISON: Your Honor, I think it should be
12 public record, and it's filed with the court.

13 MR. HOSMER-HENNER: Yes, Your Honor.

14 THE COURT: So by noon on Monday, the 19th, a
15 filing which affirmatively asserts the overbid on the
16 terms identified, and then I'll sign the order, and he'll
17 deposit the money.

18 MS. LEE: Thank you, Your Honor.

19 To the extent that the order that I'm going to
20 be submitting to you, which will be very similar to what
21 you already have -- it will just include these additional
22 terms -- creates any uncertainty for the buyer going
23 forward in connection with whatever they need to do in
24 order to consummate the transaction, we may need a

1 subsequent order that confirms that there are no
2 overbids, and, therefore, the order from today's hearing
3 is the final order; this is it.

4 THE COURT: Yes.

5 MS. LEE: Okay. We have a couple of other
6 issues, Your Honor, that are not in front of you in a
7 pleading but a matter of anticipating year-end and trying
8 to move forward.

9 As Your Honor knows from the last hearing that
10 we had with you, the trustee is coming up with a much
11 better assessment of the tax situation for the trust and
12 has been able to make a proposal to the attorneys for the
13 prior trustees both in their individual and their trustee
14 capacity and to the law firm down in Dallas who is owed
15 money by the trust, and my anticipation is that the
16 trustee wanted to make the proposed payments by the end
17 of this year.

18 I've had an opportunity to talk with most of
19 the counsel about how best to do that absent the clock
20 ticking, and there only 23 days left in this year. I
21 would normally just simply -- shall we do a proposal? We
22 can decide pretty quickly if we couldn't, and I'd file a
23 motion, and that would simply be the end of it.

24 We're at a time where I'm not going to have

1 that much flexibility, and what I would like to do is ask
2 the Court if I can reserve some time so that in the event
3 I can't get agreement among all the parties as to these
4 terms, that we could come back to court and get a court
5 order before the end of the year so that the trustee can
6 make the payments.

7 So this is a long-winded way of asking the
8 Court if I can reserve some time on the calendar before
9 December 28th and/or December 28th.

10 THE COURT: I don't know how your calendars
11 look, Counsel, in December of 2022. My calendar looks
12 different than it ever has before. There's a congestion
13 right now on my calendar.

14 MS. LEE: That's not necessarily a bad thing.

15 THE COURT: I started a neurosurgeon medical
16 negligence case Monday morning. We're seating a jury,
17 and it's scheduled to go through December 23rd.

18 For personal reasons, I don't want to explore
19 this too deeply, but I have canceled all the days that I
20 need with my wife and pretend the holidays don't exist,
21 and I will be somewhere warm without a judicial suit
22 between December 25th and January 1st.

23 If it is absolutely necessary, I will respond
24 to my staff and conduct something through Zoom from a

1 tropical location. I'm taking the time to say that
2 because I want each of the attorneys to hear me say don't
3 make it necessary, please.

4 MS. LEE: Understood, Your Honor.

5 THE COURT: But I will be available if
6 necessary.

7 MS. LEE: I will certainly do my very best to
8 not interrupt and intrude on your time away with your
9 wife.

10 THE COURT: And I will not -- I'm just told by
11 staff I'm not going to be available to respond to your
12 emails. We'll make arrangements on the 23rd to have
13 alternate staff available to receive an email.

14 MR. ROBISON: I think we may be able to cut
15 through this maybe quicker if I could just have a moment.
16 It will save the tropical Zoom, I think.

17 THE COURT: Of course.

18 (A discussion was held off the record.)

19 MR. HOSMER-HENNER: Please don't put this on
20 the record.

21 THE COURT: It's important to me -- even though
22 Mr. Hosmer-Henner will tell me not to, it's important to
23 me, and I'm the judge, and so it will go on the record.

24 Mr. Hosmer-Henner, for the ten years you've

1 been appearing in this department, you have been
2 perfectly professional. One of the reasons I like your
3 participation in Courtroom 15 so much is that you harken
4 back to an older day of formality. You act as the
5 attorneys of my generation did, and I'm really sorry that
6 I yelled at you. It was not okay. I think I'm done.

7 MR. ROBISON: We've reached an agreement,
8 subject to a formal written order being filed, that the
9 attorney's fees owed to McDonald Carano, Maupin Cox
10 LeGoy, my firm and Mr. Spencer's firm, 60 percent of that
11 amount will be paid to these respective law firms subject
12 to disgorgement under Nevada law on or before next
13 Friday.

14 MS. LEE: Year-end. I'm not sure that --

15 MR. ROBISON: Well --

16 MS. LEE: If we can get a court order by then,
17 that's fine. I have to have a court order.

18 MR. ROBISON: I can have an order over here
19 tomorrow if you'll agree to it.

20 MS. LEE: A couple of things, Your Honor:
21 There are two other parties to this. I talked to Zach
22 Johnson this afternoon, and he is amenable to doing
23 something by stipulation. He, of course, would like more
24 money, like everybody else would, but part of the

1 structure of the trust paying Mr. Johnson's firm is that
2 the court order that directed -- that gave this liability
3 to the trust gave it to the trusts, plural, and so the
4 trustee and Todd Jaksick, who is the trustee of the issue
5 trust, have talked about how to do an allocation between
6 the two and ultimately arrived at a resolution to
7 allocate similar to the manner in which Mr. Lattin billed
8 the two trusts during the litigation, roughly two-thirds
9 to the family trust and one-third to the issue trust.

10 We have to incorporate that. We'll do a
11 separate stipulated order to arrive at that allocation so
12 that it's clear what the family trust's liability is to
13 the Spencer Johnson firm in Dallas.

14 And then the third point I need to make is that
15 there is one other firm. They're a very, very minor
16 player in terms of dollar amount going forward, and that
17 is Mr. Kreitlein's firm for having been former counsel
18 for Stan in his capacity as a trustee. The total amount
19 his firm is owed is \$17,000. I've left a message for him
20 and am waiting to hear back as to whether or not he would
21 be willing to agree to these payments.

22 THE COURT: I appreciate the efforts that
23 you've made in advance of the hearing today. I am
24 willing to order over Mr. Kreitlein's objection. I'm not

1 going to allow his consent to be decision-oriented.

2 MS. LEE: So would Your Honor -- since we're
3 putting this on the record, so the total amount of all of
4 the fees that are at issue in connection with this
5 stipulation is \$1,206,486.83. Of that, what the trustee
6 is proposing is to pay \$723,892.10, and that would be
7 divided up 60 percent between the total amount owed to
8 those firms, assuming that the 66/34 percent is approved.

9 THE COURT: What about your firm's fees?

10 MS. LEE: They're huge.

11 THE COURT: I know, but you're not including
12 your firm's fees in the 60 percent allocation?

13 MS. LEE: No, I'm not.

14 THE COURT: I'm going to approve your fees, and
15 then we'll see when you propose you be paid.

16 MS. LEE: Excuse me?

17 THE COURT: Are you proposing that your fees be
18 paid 100 percent this year?

19 MS. LEE: Yes, I am.

20 THE COURT: I'm going to approve that --

21 MS. LEE: Thank you.

22 THE COURT: -- over objection.

23 MS. LEE: Thank you.

24 MR. ROBISON: So thank you, Your Honor, for

1 hearing us. We're going to knock that Zoom conference
2 off, submit a stip and order to you tomorrow.

3 THE COURT: Yes, sir.

4 MR. ROBISON: Thank you.

5 MS. LEE: Probably two on the allocation and
6 then on the fees.

7 MR. LATTIN: No objection.

8 MR. HOSMER-HENNER: No objection, Your Honor.

9 THE COURT: Anything else?

10 MR. HOSMER-HENNER: Not from us, Your Honor.

11 MR. ROBISON: Nothing.

12 MS. LEE: Does Your Honor require I submit the
13 proposed order on the sale portion to all counsel?

14 THE COURT: So the rule would require that, and
15 it gives a certain amount of days to object, and I just
16 want you to submit it to me. I'll wait about two hours
17 before I sign it so it will be contemporaneously,
18 concurrently, given to counsel.

19 If you have an objection, let me know.

20 MS. LEE: It is going to be very, very similar
21 to what has already been attached to the Motion to Sell
22 as Exhibit 8, but we'll just simply include these
23 additional terms that Your Honor has come up with.

24 THE COURT: Okay. Thank you.

1 MS. LEE: Thank you, Your Honor.

2 THE COURT: Appreciate all of you and the
3 efforts you make in this case.

4 MS. LEE: Thank you, Your Honor.

5 THE COURT: Court will be in recess.

6 (Proceedings concluded.)

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1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)
3

4 I, PEGGY B. HOOGS, Certified Court Reporter in
5 and for the State of Nevada, do hereby certify:

6 That the foregoing proceedings were taken by me
7 at the time and place therein set forth; that the
8 proceedings were recorded stenographically by me and
9 thereafter transcribed via computer under my supervision;
10 that the foregoing is a full, true and correct
11 transcription of the proceedings to the best of my
12 knowledge, skill and ability.

13 I further certify that I am not a relative nor
14 an employee of any attorney or any of the parties, nor am
15 I financially or otherwise interested in this action.

16 I declare under penalty of perjury under the
17 laws of the State of Nevada that the foregoing statements
18 are true and correct.

19 Dated this 26th day of January, 2023.
20

21 /s/ Peggy B. Hoogs

22 Peggy B. Hoogs, CCR #160, RDR
23
24

1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

3 and state laws and regulations ("Privacy Laws") governing the

4 protection and security of patient health information. Notice is

5 hereby given to all parties that transcripts of depositions and legal

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

8 disclosure by Privacy Laws. Litigation Services requires that access,

9 maintenance, use, and disclosure (including but not limited to

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

15 Laws. Litigation Services expects that all parties, parties'

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

18 information, and to comply with applicable Privacy Law mandates,

19 including but not limited to restrictions on access, storage, use, and

20 disclosure (sharing) of transcripts and transcript exhibits, and

21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

23 transcripts and exhibits - including access, storage, use, and

24 disclosure - for compliance with Privacy Laws.

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1 CODE: 3060
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10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11 IN AND FOR THE COUNTY OF WASHOE
12

13 In the Matter of the Administration of the
14 SSJ'S ISSUE TRUST.

Case No. PR17-00445

Dept. No. 15

15 In the Matter of the Administration of the

CONSOLIDATED

16 SAMUEL S. JAKSICK, JR. FAMILY TRUST.
17

Case No. PR17-00446

Dept No. 15
18

19 **ORDER GRANTING**
20 **THIRD APPLICATION FOR APPROVAL AND PAYMENT OF**
21 **COMPENSATION TO FLETCHER & LEE**

22 This matter came before the Court on the Third Application for Approval and Payment of
23 Compensation to FLETCHER & LEE (the "Application"), filed by James S. Proctor, CPA, CFE,
24 CVA, CFF, in his capacity as the appointed Trustee of the Jaksick Family Trust (the "Trustee").

25 The Court considered the Application, any oppositions thereto, and any replies. The Court
26 finds that it has jurisdiction to enter an order granting the Application. The Court finds that notice
27 of the Application was properly served on all parties. The Court finds that the fees incurred on
28 behalf of the Trustee by Fletcher & Lee for the period May 1, 2022, through September 30, 2022

1 in the amount of \$90,630.00 and the expenses in the amount of \$477.00 are reasonable, necessary
2 and beneficial to the Family Trust. The Court finds that the fees incurred by the Trustee for his
3 services and those of his counsel are distinguishable from those incurred by the former trustees
4 who had individual interests at stake. The Court finds that cause exists to approve the payment of
5 these fees and costs in full, subject to the Temporary Trustee's discretion, and prior to payment of
6 fees incurred on behalf of the co-trustees prior to the appointment of the Temporary Trustee and
7 in connection with the appeal.

8 WHEREFORE, good cause appearing,

9 IT IS HEREBY ORDERED that the Application is GRANTED, and that Fletcher & Lee
10 is awarded compensation in the amount of \$91,107.00, of which \$90,630.00 represents
11 professional services rendered and \$477.00 represents expenses incurred, and the Trustee is
12 authorized to pay the same on behalf of the Family Trust as a first priority obligation along with
13 the Trustee's fees.

14 DATED this 9th day of December, 2022.

15 IT IS SO ORDERED.

16 
17 DISTRICT JUDGE
18

19 Submitted by:

20 FLETCHER & LEE

21 /s/ Cecilia Lee, Esq.
22 CECILIA LEE, ESQ.
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\$2515
Adam Hosmer-Henner, Esq. (NSBN 12779)
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Attorney for Stanley Jaksick

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the Matter of the Administration of the SSJ'S ISSUE TRUST,	Case No.: PR17-00445 Dept. No.: 15 CONSOLIDATED
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In the Matter of the Administration of the SAMUEL S. JAKSICK, JR. FAMILY TRUST.	Case No.: PR17-00446 Dept No.: 15
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NOTICE OF APPEAL

Notice is hereby given that Stanley Jaksick hereby appeals to the Supreme Court of Nevada from the Order Granting Third Application for Approval and Payment of Compensation to Fletcher & Lee dated December 9, 2022 and all other interlocutory judgments, orders, and rulings by the District Court made appealable by the foregoing.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated: January 5, 2023.

MCDONALD CARANO LLP

By: /s/ Adam Hosmer-Henner
Adam Hosmer-Henner, Esq. (NSBN 12779)
100 West Liberty Street, Tenth Floor
Reno, Nevada 89501
(775) 788-2000

Attorney for Stanley Jaksick

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD
3 CARANO LLP and that on January 5, 2023, I certify that I electronically filed the foregoing with
4 the Clerk of the Court by using the ECF system which served the following parties
5 electronically:

6 Donald Lattin, Esq.
7 Robert LeGoy, Esq.
8 Brian C. McQuaid, Esq.
9 Carolyn Renner, Esq.
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13 Cecilia Lee
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Zachary E. Johnson, Esq.
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Spencer, Johnson & Harvell, PLLC
500 N. Akard St., Suite 2150
Dallas, TX 75201

16
17 The following parties have been served by electronic mail:

18 Zachary Johnson, Esq. for Wendy A. Jaksick
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20 R. Kevin Spencer, Esq. for Wendy A. Jaksick
21 kevin@dallasprobate.com

22 Alexi Jaksick Fields
alexijaksickfields@yahoo.com

23
24 /s/ Pamela Miller

25 An Employee of McDonald Carano LLP
26
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28

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EXHIBIT INDEX

Exhibit No.	Description	No. Pages
1	Order Granting Third Application for Approval and Payment of Compensation to Fletcher & Lee	2

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Clerk of the Court
Transaction # 1947213 : lyviloria

EXHIBIT 1

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CODE: 3060

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In the Matter of the Administration of the
SSJ'S ISSUE TRUST.

Case No. PR17-00445

Dept. No. 15

In the Matter of the Administration of the
SAMUEL S. JAKSICK, JR. FAMILY TRUST.

CONSOLIDATED

Case No. PR17-00446

Dept No. 15

ORDER GRANTING
THIRD APPLICATION FOR APPROVAL AND PAYMENT OF
COMPENSATION TO FLETCHER & LEE

This matter came before the Court on the Third Application for Approval and Payment of Compensation to FLETCHER & LEE (the "Application"), filed by James S. Proctor, CPA, CFE, CVA, CFF, in his capacity as the appointed Trustee of the Jaksick Family Trust (the "Trustee").

The Court considered the Application, any oppositions thereto, and any replies. The Court finds that it has jurisdiction to enter an order granting the Application. The Court finds that notice of the Application was properly served on all parties. The Court finds that the fees incurred on behalf of the Trustee by Fletcher & Lee for the period May 1, 2022, through September 30, 2022

1 in the amount of \$90,630.00 and the expenses in the amount of \$477.00 are reasonable, necessary
2 and beneficial to the Family Trust. The Court finds that the fees incurred by the Trustee for his
3 services and those of his counsel are distinguishable from those incurred by the former trustees
4 who had individual interests at stake. The Court finds that cause exists to approve the payment of
5 these fees and costs in full, subject to the Temporary Trustee's discretion, and prior to payment of
6 fees incurred on behalf of the co-trustees prior to the appointment of the Temporary Trustee and
7 in connection with the appeal.

8 WHEREFORE, good cause appearing,

9 IT IS HEREBY ORDERED that the Application is GRANTED, and that Fletcher & Lee
10 is awarded compensation in the amount of \$91,107.00, of which \$90,630.00 represents
11 professional services rendered and \$477.00 represents expenses incurred, and the Trustee is
12 authorized to pay the same on behalf of the Family Trust as a first priority obligation along with
13 the Trustee's fees.

14 DATED this 9th day of December, 2022.

15 IT IS SO ORDERED.

16 
17 DISTRICT JUDGE
18

19 Submitted by:

20 FLETCHER & LEE

21 /s/ Cecilia Lee, Esq.
22 CECILIA LEE, ESQ.
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1 CODE: 3060
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10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11 IN AND FOR THE COUNTY OF WASHOE
12

13 In the Matter of the Administration of the
14 SSJ'S ISSUE TRUST.

Case No. PR17-00445

Dept. No. 15

15 In the Matter of the Administration of the
16 SAMUEL S. JAKSICK, JR. FAMILY
17 TRUST.

CONSOLIDATED

Case No. PR17-00446

Dept No. 15

18
19 **ORDER GRANTING**
20 **FOURTH INTERIM APPLICATION FOR APPROVAL AND PAYMENT OF**
21 **COMPENSATION TO FLETCHER & LEE**

22 This matter came before the Court on the Fourth Interim Application for
23 Approval and Payment of Compensation to FLETCHER & LEE (the "Application"),
24 filed by James S. Proctor, CPA, CFE, CVA, CFF, in his capacity as the appointed
25 Trustee of the Jaksick Family Trust (the "Trustee").

26 The Court considered the Application, any oppositions thereto, and any
27 replies. The Court finds that it has jurisdiction to enter an order granting the
28 Application. The Court finds that notice of the Application was properly served

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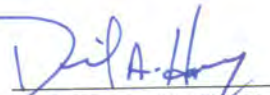
1 on all parties. The Court finds that the fees incurred on behalf of the Trustee by
2 Fletcher & Lee for the period October 1, 2022, through February 28, 2023 in the
3 amount of \$172,076.50 and the expenses in the amount of \$308.57 in the trust
4 Administration Matter and in the amount of \$15,715.00 and the expenses in the
5 amount of \$5.85 in the Appeal Matter are reasonable, necessary, a cost-effective
6 use of para-professional time that lowers the overall hourly billing rate for the
7 Trust, and beneficial to the Family Trust. The Court finds that the fees incurred
8 by the Trustee for his services and those of his counsel are distinguishable from
9 those incurred by the former trustees who had individual interests at stake. The
10 Court finds that cause exists to approve the payment of these fees and costs in
11 full, subject to the Temporary Trustee's discretion, and prior to payment of fees
12 incurred on behalf of the co-trustees prior to the appointment of the Temporary
13 Trustee and in connection with the appeal.

14 WHEREFORE, good cause appearing,

15 IT IS HEREBY ORDERED that the Application is GRANTED, and that
16 Fletcher & Lee is awarded compensation in the amount of \$188,105.92 of which
17 \$172,076.50 represents professional services rendered in the trust
18 administration matter and \$15,715.00 represents professional services rendered
19 in the appeal and \$308.57 represents expenses incurred in the trust
20 administration matter and \$5.85 represents expenses incurred in the appeal,
21 and the Trustee is authorized to pay the same on behalf of the Family Trust as
22 a first priority obligation along with the Trustee's fees.


23 DATED this 4TH day of April, 2023.

24 **IT IS SO ORDERED.**

25 
26 DAVID A. HARDY
27 DISTRICT JUDGE
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JAMES PROCTOR
STEPHEN MOSS, ESQ.
CECILIA LEE, ESQ.
ELIZABETH FLETCHER, ESQ.
CAROLYN RENNER, ESQ.
KEVIN RILEY
HANNAH WINSTON, ESQ.
KENT ROBISON, ESQ.
MARK CONNOT, ESQ.
JOHN COLLIER, ESQ.
ADAM HOSMER-HENNER, ESQ.
DONALD LATTIN, ESQ.
PHILIP KREITLEIN, ESQ.


CARRIE LIPPARELLI
Judicial Assistant Department 15