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No. 86817

## APPELLANT'S APPENDIX

## VOLUME 24

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8017-8027
7985-8016
35
7976-7981

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Sale Deed dated September 22, 2011

Exhibit 6: Estimated Settlement 35

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(Cont. 20) Exhibit 7: Declaration of
Covenants, Conditions and
Restrictions and Reservation of
Comments for Green Valley
Commerce Center dated
March 16, 2012
Exhibit 8: Seller's Closing 8134-8136
Statement - Final dated
September 10, 2012

$$
\text { Exhibit 9: Operating Agreement } 36
$$ for Green Valley Commerce, LLC

Exhibit 10: Schedule with
8166-8169
Check of Distributions sent from Shawn Bidsal to Benjamin Golshani

## Exhibit 11: Seller's Closing

8170-8171
Statement - Final dated
November 14, 2014

$$
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Exhibit 13: Seller's
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8176-8177
Settlement Statement dated
August 31, 2015
Exhibit 14: CLA Properties, LLC's Election to Purchase Membership Interest dated August 3, 2017

Exhibit 15: Correspondence
8180-8184 from Rodney T. Lewin to James E. Shapiro Re Proof of Funds to Purchase
Membership Interest
Exhibit 16: Demand for
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8185-8190
Arbitration Form dated
September 26, 2017
Exhibit 17: JAMS Arbitration

## NO. DOCUMENT

(Cont. 20) Exhibit 18: Demand for
Arbitration Form dated
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Exhibit 19: Respondent's
Answer and Counter-Claim dated March 4, 2020

Exhibit 20: JAMS Final Award dated March 12, 2022

Exhibit 21: Order of Affirmance dated March 17, 2022

Exhibit 22: Remittitur from
Supreme Court of the State of Nevada dated June 10, 2022

Exhibit 23: Correspondence
from James E. Shapiro to Benjamin Golshani Re
Offer to Purchase Membership Interest dated July 7, 2017

Exhibit 24: Cashier's Check 36
21. CLA's Reply in Support of

Motion to Vacate (Partially)
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22. CLA's Opposition to Shawn

Bidsal's Countermotion to
Confirm Arbitration Award
Exhibit 1: Motion to Vacate
Arbitration Award (NRS 38.241) and for Entry of Judgment dated
June 17, 2022
Exhibit 2: CLA's Reply in
Support of Motion to Vacate [Partially] Arbitration Award dated October 7, 2022
23. Bidsal's Reply in Support of

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8309-8314

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$$
8500-8445
$$

8446-8479

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## NO. DOCUMENT

(Cont. 23) Exhibit 25: Arbitration
Hearing Partial Transcript
Day 3 dated March 19, 2021
24. Order Granting Bidsal's

Countermotion to Confirm
Arbitration Award and Denying
CLA Properties, LLC's Motion
to Vacate Arbitration Award
25. Notice of Entry of Order
\{Order Granting Bidsal's
Countermotion to Confirm
Arbitration Award and Denying
CLA Properties, LLC's Motion
to Vacate Arbitration Award dated March 20, 2023\}
26. Transcript of Hearing Re:

Motion to Vacate Arbitration
Award (NRS 38.241) and
for Entry of Judgment dated
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27. CLA Properties, LLC's Notice of Appeal
28. CLA Properties, LLC's Motion Award in Full and for Order Preserving Appeal Rights as to the Fees and Right to Return if Appeal is Successful and Request for Order Shortening Time

Exhibit A: Declaration of
Todd Kennedy, Esq. dated April 27, 2023
29. $\quad$ Bidsal's Opposition to CLA Approve Payment of Fees Award in Full and for Order Preserving Appeal Right as to the Fees and Right to Return if Appeal is Successful on Order Shortening Time

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NO. DOCUMENT
(Cont. 29) Exhibit 1: Transcript of
Proceedings Re Motion to
Vacate Arbitration Award (NRS 38.241) and for Entry of Judgment dated April 11, 2023

Exhibit 2: JAMS Final Award dated March 12, 2022
30. Recorder's Transcript of Pending Motions dated May 9, 2023
31. Recorder's Transcript of Pending Motion dated May 11, 2023
32. Order Regarding Bidsal's Motion to Reduce Award to Judgment and for an Award for Attorney Fees and Costs and Judgment
33. Order Denying CLA Properties, LLC's Motion to Approve Payment of Fees Award in Full and for Order Preserving Appeal Rights as to the Fees and Right to Return if Appeal is Successful
34. Notice of Entry of Order Denying CLA Properties, LLC's Motion to Approve Payment of Fees Award in Full and for Order Preserving Appeal Rights as to the Fees and Right to Return if Appeal is Successful
35. Notice of Entry of Order Regarding Bidsal's Motion to Reduce Award to Judgment and for an Award for Attorney Fees and Costs and Judgment
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| 1 | complete remodel; right? Page 247 |
| :---: | :---: |
| 2 | A It was an old unit that needs remodeled, |
| 3 | yes. |
| 4 | Q And you told him that the wall |
| 5 | separating the property in the back is broken and |
| 6 | needs to be demolished and rebuilt; right? |
| 7 | A It needs to be rectified, yes. |
| 8 | Separating -- |
| 9 | Q You told him it needs to be |
| 10 | demolished -- demolished and rebuilt; right? |
| 11 | A But either you could demolish it or |
| 12 | rebuilt it or you could rectify it, but this is |
| 13 | the wall separating the property from the |
| 14 | neighboring property, yes. |
| 15 | Q And you needed -- you needed doing a -- |
| 16 | you needed a general cleanup; right? |
| 17 | A Yeah, of course. |
| 18 | Q And the dance studio has moved out and |
| 19 | has filed a lawsuit -- and you filed a lawsuit |
| 20 | against her? |
| 21 | A Yes. Whatever information is about the |
| 22 | property that Ben asked me, I reported to him. |
| 23 | $Q$ Okay. So you were telling him that the |
| 24 | property was in bad shape to support your |
| 25 | \$5 million offer; right? |


| 1 | A It -- you're characterizing it Page 248 |
| :---: | :---: |
| 2 | incorrectly. He asked me about the condition of |
| 3 | different items, and I answered. |
| 4 | Q How much would it cost to replace the |
| 5 | air-conditioning system for 72 units? |
| 6 | A For 72 -- |
| 7 | Q Strike that. |
| 8 | How much did you estimate it would cost |
| 9 | to replace the air-conditioning system? |
| 10 | A The air-conditioning units you don't |
| 11 | replace. You replace or repair them as -- as the |
| 12 | need comes up. |
| 13 | Q Well, didn't you tell him that you need |
| 14 | to change -- that you need to -- you need to |
| 15 | change the HVAC units under -- on the original |
| 16 | systems on the property? |
| 17 | A Over time. You don't -- you don't need |
| 18 | to change something that is still working. |
| 19 | Q And how much would it cost to change all |
| 20 | of the systems -- all of the systems in the |
| 21 | property, including the HVAC? |
| 22 | A You mean the HVAC systems? |
| 23 | Q Other systems such as the HVAC. I'm |
|  | assuming you're now talking about electrical and |
| 25 | other systems. |


| 1 | A The other systems you don't need to Page 249 |
| :---: | :---: |
| 2 | change. The HVACs are old. As they start not |
| 3 | working or going out, you change them. |
| 4 | Q Okay. Well, you told him they needed to |
| 5 | be changed. |
| 6 | How much did you estimate it was going |
| 7 | to cost to change them? |
| 8 | A I don't remember how many units. We |
| 9 | have to calculate how many units there are and get |
|  | a price and tonnage and so forth and -- |
| 11 | $Q \quad$ All right. So -- and you -- didn't you |
| 12 | tell him that to justify your $\$ 5$ million offer, |
| 13 | that there was a lot of deferred maintenance on |
| 14 | the property? |
| 15 | A As I said, I listed whatever I |
| 16 | thought -- he asked me whatever is in there. I |
| 17 | made a list and e-mailed it to him. |
| 18 | Q Now, I'm going to -- |
| 19 | THE ARBITRATOR: I don't want to get too |
| 20 | much into this because you're allowed to |
| 21 | cross-examine and to accept and move on as you |
| 22 | want. But the Arbitrator feels that in order to |
| 23 | get what the Arbitrator needs to make a correct |
| 24 | and just award, you need to comply with my |
| 25 | requirements for cross-examination. |


| 1 | And so on the basis of that, I'm asking 250 |
| :---: | :---: |
| 2 | you, what is the question that you just thought |
| 3 | you were answering? |
| 4 | THE WITNESS: I was answering the |
| 5 | question that how much it cost to change the |
| 6 | air-conditionings. I did not run any analysis of |
| 7 | how many air-conditionings are there, what is |
| 8 | their cut sheet or tonnage of the specifications. |
| 9 | I need all of that information to add up and get a |
| 10 | GC's opinion, HVAC contractor's opinion, as to the |
| 11 | total cost it needs to be changed. So that's |
| 12 | one -- |
| 13 | THE ARBITRATOR: Well, I don't want to |
| 14 | get into a conversation -- |
| 15 | THE WITNESS: That's one part. |
| 16 | THE ARBITRATOR: -- with you about that. |
| 17 | THE WITNESS: The other part -- |
| 18 | THE ARBITRATOR: I don't think that that |
| 19 | was responsive to the question that the Arbitrator |
| 20 | thought was asked. |
| 21 | Why were you giving that kind of |
| 22 | information to Mr. Golshani? |
| 23 | THE WITNESS: It was a -- it was in |
| 24 | response to his request about whatever is going on |
| 25 | with the property, whatever is wrong with the | property.

THE ARBITRATOR: Okay. That is not -THE WITNESS: He wanted a list of all of
the --
THE ARBITRATOR: -- and not in response
to what the Arbitrator's understanding of the question was, was that you were giving that information in response to justify --

THE WITNESS: No.
THE ARBITRATOR: -- your offer price.
THE WITNESS: No. No.
THE ARBITRATOR: It was -- it had nothing to do with that?

THE WITNESS: It was nothing to do with that.

THE ARBITRATOR: All right. Thank you.
THE WITNESS: The issue, I think, if
I'm -- again, I'm assuming that -- is that Ben wanted that information to provide to the appraiser or the inspector as a part of their due diligence to come up with an appraisal value. Because usually when you have an appraisal, the appraiser sends you a questionnaire and they want to know more about the property systems, their age, when was it changed, when the roof was

```
    1 repaired or replaced. And, again, this is my
    2 assumption that Ben wanted that information from
    3 me because he was managing the property, to what
    4 extent I knew about them, so he can pass them to
    5 that -- to the appraiser so the appraiser can take
    6 that into account.
```

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repaired or replaced. And, again, this is my assumption that Ben wanted that information from me because he was managing the property, to what extent I knew about them, so he can pass them to that -- to the appraiser so the appraiser can take that into account. BY MR. LEWIN:
Q When you -- when you made your \(\$ 5\) million offer, did you consider the fact that there was deferred maintenance on the property and you were going to have to spend money? Yes or no?
A Yes. We always -- yes, we always do that. Yeah.
\(Q\) And did you think that -- that the air -- that replacing the air-conditioning systems on the property, if you had to replace them all, would cost more than a half million dollars?
MR. SHAPIRO: Objection. Calls for speculation.
THE WITNESS: I have to speculate on
that, because \(I\) don't know how many units are on the rooftops and what is the tonnage. That needs a calculation. I can't just sit here and answer you accurately.
```

1

2

BY MR. LEWIN:
Q So as the manager --
THE ARBITRATOR: Objection overruled.
BY MR. LEWIN:
Q So as the manager of the property, you don't know how -- you never took into account how much it was going to cost to replace the HVAC systems on all of the properties?

A No. I just explained that. The HVACs do not need -- do not need to be -- not to be replaced. They're all working. So usually when they go bad, as they go bad one by one, you either change the compressor or you change the whole unit, and you go on.

You just don't take the initiative to go and change all of the working air-conditionings just because you want to. That doesn't make much sense.

Q But you believed over time you were going to have to change them all?

A This is -- this is true for every property, for any property.
$Q$ Okay. And did you ever calculate when you made your $\$ 5$ million offer how much money you were going to have to spend to take care of the

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    1 deferred maintenance?
    2 A No.
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MR. LEWIN: No.
THE ARBITRATOR: -- or do you want to suspend it?
MR. LEWIN: I'll suspend it.
THE ARBITRATOR: Okay.
MR. LEWIN: But \(I\) just have a couple -one more -- a couple of questions that I wanted to ask Mr. Bidsal.
BY MR. LEWIN:
Q Mr. Bidsal, if you could look at Exhibit 29. And if you could turn to page 10, that's the part that has the purchase rights among members.
Do you see that?
A Yes.
\(Q\) And you see that -- remember, we looked at the November 29 version from Mr. LeGrand and
```

|  | where it said -- for example, where it said in |
| :---: | :---: |
| 2 | Section 4, it referred to Section 7.1 has been |
| 3 | changed to Section 4.2. |
| 4 | Do you see that? |
| 5 | A Yes. |
| 6 | Q Okay. And your testimony is you didn't |
| 7 | make that change? |
| 8 | A I did not. |
| 9 | Q All right. Then it goes -- but you read |
| 10 | this -- you read this section -- this whole |
| 11 | section here carefully before you signed this |
| 12 | document; right? |
| 13 | A Yeah, I looked at it and I signed it, |
| 14 | yes. |
| 15 | Q And you actually read it -- you read |
| 16 | what Mr. LeGrand had sent you in the e-mail, and |
| 17 | then you looked at this to make sure it was the |
| 18 | same; right? |
| 19 | A No. You're mischaracterizing the |
| 20 | events. |
| 21 | Q Okay. Now -- but let's take a look at |
| 22 | the last paragraph, the paragraph right above |
| 23 | Section 4.3. |
| 24 | A Okay. |
| 25 | Q You read this before you signed it? |



|  | answering the question, and he cut him off in the 257 |
| :---: | :---: |
| 2 | middle of the answer, not allowing the witness to |
| 3 | answer. If he's going to ask a question, let the |
| 4 | witness answer. |
| 5 | THE ARBITRATOR: I'm not going to |
| 6 | respond to that except to say let's start with the |
| 7 | beginning of Mr. Bidsal's answer without |
| 8 | interruption, please, to its conclusion. Let's |
| 9 | see whether it's responsive or helpful. |
| 10 | MR. LEWIN: Okay. |
| 11 | THE WITNESS: Okay. So basically you |
| 12 | need to read that paragraph in conjunction with |
| 13 | the paragraphs above it. So you need to read that |
| 14 | with the -- the paragraph above that that says, |
| 15 | the remaining member's option. The remaining |
| 16 | member shall have 30 days within which to respond |
| 17 | in writing to the offering member by either Roman |
| 18 | Numeral I or II, making those elections, the first |
| 19 | one or the second one. |
| 20 | If he makes the election on the first |
| 21 | one, which means accepting the offering member's |
| 22 | purchase, then when you go to the specific intent |
| 23 | paragraph, the -- the offering member buys the -- |
| 24 | their initial interest. |
| 25 | If the remaining member selects the |

1 Roman Numeral II, rejects it and makes a
2 counteroffer, then at that time, based on his counteroffer, he needs to go to the FMV process, go through the appraisal process, cooperate with the offering member in selecting the appraisers, come to a conclusion of the appraisal. And then you go back to the paragraph of intent, and that's where you say, okay, the offering member would sell it to the remaining member based on the FMV obtained if the appraisal is involved.

So Roman numeral II is in conjunction with FMV if the appraisal is involved. So those two go together and the Roman numeral I goes with the first portion of the paragraph of intent. That means basically the offering member gets to buy it.

BY MR. LEWIN:
Q And the only person who can invoke the appraisal is the remaining member, right? Yes or no? Yes or no?

A Under that provision -- under that provision, yes.

Q Okay. Well, so when it says "buy or sell at the same offer price," paren, "or FMV if appraisal is invoked," if no appraisal is invoked,

## 1 what did you understand the same offer price to

## 2 be?

A So you have to parse that paragraph. That whole paragraph needs to be parsed into two sentences. The first option is to sell. If the offering member is buying it and the remaining member is selling it, the remaining member is making an election under Roman numeral I or "I". And so you have to put those two in conjunction with each other. That's how you read them together. Okay?

So if that's the case, then the offering member gets to buy, because the remaining member already accept it, the -- the offering member's price. Remember, the offering member is offering to purchase, it's not to sell. So since he's buying, then "acceptance" -- Roman numeral I, "acceptance of the offering member," means acceptance to sell to the offering member. He's already -- his offer is to purchase. Okay?
So that's one -- one option. The second option is if the remaining member selects the Roman numeral II, basically says, I'm rejecting your offer, I'm going to give you a counteroffer, then the counteroffer falls into the specific

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    1 intent paragraph, which means FMV is invoked and
    2 the appraisal is needed.
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A If he didn't --
Q Just please answer my question. MR. SHAPIRO: Would you -- Your Honor, he -- he asks a question, Shawn gets half of a word out, and he interrupts him.
MR. LEWIN: Well, because --
MR. SHAPIRO: He doesn't even let him start the question -- or the response.
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| 1 | MR. LEWIN: I'm asking -- I'm asking Page 261 |
| :---: | :---: |
| 2 | questions -- |
| 3 | MR. SHAPIRO: It's badgering the |
| 4 | witness. |
| 5 | MR. LEWIN: I'm asking -- |
| 6 | THE ARBITRATOR: It's not badgering the |
| 7 | witness. I think we're in a situation that's not |
| 8 | going to be further characterized by the |
| 9 | Arbitrator except to just repeat. Please allow |
| 10 | the witness to make his answer. |
| 11 | MR. LEWIN: Okay. |
| 12 | THE ARBITRATOR: If you think it's not |
| 13 | responsive, you can decide what you want to do |
| 14 | with it after that, including if you think |
| 15 | appropriate to continue to try to get an answer, |
| 16 | to seek the Arbitrator's assistance, or whatever |
| 17 | is appropriate, but let him complete his answer. |
| 18 | BY MR. LEWIN: |
| 19 | 2 Okay. If -- the question was, if -- on |
| 20 | your \$5 million offer, what would be the purchase |
| 21 | price if Mr. Golshani didn't do anything, he |
| 22 | didn't respond at all? |
| 23 | A It would become nonresponsive and it |
| 24 | would be the $\$ 5$ million as a price, fair market |
| 25 | value price. |


| 1 | Q And -- and if a -- if an appraisal was 262 |
| :---: | :---: |
| 2 | invoked, what would be the -- let's start with |
| 3 | what would be the FMV? |
| 4 | A That would be the -- FMV obtained based |
| 5 | on the definition in Section 4.2. |
| 6 | Q In other words, the FMV, if an appraisal |
| 7 | was invoked, the purchase price would be decided |
| 8 | by appraisal; right? |
| 9 | A Correct. |
| 10 | Q Okay. And nowhere in this document does |
| 11 | the -- does it give the offering member the right |
| 12 | to invoke the appraisal process; is that correct? |
| 13 | A Yeah, independent, on his own, if the |
| 14 | Offering -- if the remaining member doesn't - |
| 15 | doesn't counteroffer, no. But as soon as the |
| 16 | remaining member makes an election based on the |
| 17 | Roman numeral II by giving the counteroffer, then |
| 18 | he needs to continue with the rest of that |
| 19 | sentence and complete an appraisal based on FMV. |
| 20 | Now, in this case, the -- the |
| 21 | counteroffer did not -- did not -- was not |
| 22 | complete. Because in order for it to be complete, |
| 23 | it also needs to follow the rest of that |
| 24 | procedure, meaning to obtain FMV based on |
| 25 | appraisals. He just made a counteroffer without |




1 Page 265
1 conversation, and with both sides' counsel having
2 the opportunity to make a statement on the record. Based on an estimate of 15 to 20 minutes by Mr. Lewin for further cross-examination of current pacing, the Arbitrator believes that it would be longer than that and, because we have Mr. LeGrand here, we should probably take Mr. LeGrand right away. And then -- because we have Mr. Bidsal here, we'll resume with him at the conclusion of that.

So therefore we are suspending your cross-examination, Mr. Bidsal, at this time.

Do we have Mr. LeGrand available? We'll call him as a witness.

MR. LEWIN: Okay. Thank you. I'll go get him.

THE ARBITRATOR: Off the record.
(Whereupon, a recess was taken.)
THE ARBITRATOR: Back on the record.
We are calling Mr. David LeGrand out of order, having suspended Mr. Bidsal's cross-examination in order to accommodate Mr. LeGrand's schedule so that -- Mr. LeGrand has been sworn as a witness. And it is the Arbitrator's understanding that the person who's

## Page 266

 going to commence questioning will be Mr. Lewin. MR. LEWIN: Yes, Your Honor. And Mr. Shapiro and I have agreed that if -- when I have concluded, he'll undertake his own direct of Mr. LeGrand.THE ARBITRATOR: Okay. So without objection, then, let us --

MR. SHAPIRO: Well, we're just going to get him done, so ...

MR. LEWIN: Yeah.
MR. SHAPIRO: Yeah.
THE ARBITRATOR: Well, one of the issues that the Arbitrator would inquire about before starting questioning is, since it appears -- and this is more in the way of something ending in a question mark -- that both sides had an intention of calling Mr. LeGrand, whether the fact that claimants are calling Mr. LeGrand out of order and as part of their case now, they're calling him on direct.

Whether you are -- would insist on rights of cross-examination in light of that or whether both of you are going to treat this as being both on direct or however, if you would just inform the Arbitrator as to what the ground rules

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    1 should be as far as you're concerned.
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should be as far as you're concerned.
MR. SHAPIRO: I think it'll be quicker
if I can do leading questions, so I would request the ability to do it in -- via cross and just --
THE ARBITRATOR: Okay. Let's see how that goes. And then if we run into a problem, we'll take it up at that time.
Anything else?
MR. LEWIN: No.
THE ARBITRATOR: Okay. Mr. Lewin.
Whereupon,
DAVID LEGRAND,
was called as a witness, and having been first dul sworn to testify to the truth, was examined and testified as follows:
DIRECT EXAMINATION
BY MR. LEWIN:
```

Q And, Mr. LeGrand, you and I have never met before; is that correct?

A That's correct.
Q Would you -- would you describe to
His Honor what your background is, please.
A I'm an attorney licensed in Nevada and


| 1 | A Yeah. There were a number of e-mails Page 269 |
| :---: | :---: |
| 2 | that I had copied. And the e-mails, when copied, |
| 3 | did not include the -- they referenced an |
| 4 | attachment, but you couldn't access the |
| 5 | attachment. So then I went back and tried to |
| 6 | gather the relevant attachments from the |
| 7 | appropriate time periods of those e-mail |
| 8 | references. |
| 9 | $Q \quad$ Okay. So I'm not -- this is not a |
| 10 | matter of criticism. I'm just trying to figure |
| 11 | out -- just trying to figure out the process. |
| 12 | A Yeah. |
| 13 | Q So you first gave Mr. Garfinkel a flash |
| 14 | drive. And then he contacted you and said, no, |
| 15 | we're missing some documents, and you went back |
| 16 | and tried to gather more documents. And he |
| 17 | actually met with you and tried to put some of the |
| 18 | documents together -- |
| 19 | A Yes. |
| 20 | Q -- is that correct? |
| 21 | A Yeah. |
| 22 | Q And then those documents were -- been |
| 23 | produced by -- I think it was by -- was it |
| 24 | Dropbox? I think it may have been a Dropbox to |
| 25 | Mr. Shapiro. |



1 through June 27, was it your understanding that you were just representing Mr . Bidsal and the LLC, Green Valley?

A Well, it started with Green Valley, I think. That was where we started. But there was -- it was Green Valley and another company.

Q Country Club?
A Country Club, yeah. And those pretty much were on somewhat parallel tracks.

Q But through June 27 , is it correct that you had not spoken with Mr. Golshani?

A That's true.
Q All right. So any information you got about Green Valley or Country Club would have come from Mr. Bidsal; right?

A Yes, sir.
Q And in terms of what the percentage ownership was, the member percentage ownership as opposed to the capital contributions, that would have come from whom?

A At that point, it came from Mr. Bidsal.
Q Okay.
A I hadn't spoken with Mr. Golshani.
Q Right. Fair enough.
Now, in your -- in some of your e-mails


| 1 | A I have no direct recollection of the Page 273 |
| :---: | :---: |
| 2 | substance of that meeting. I can say that I |
| 3 | believe so, because we subsequently worked on |
| 4 | language for buy/sell, and I'm sure the topic came |
| 5 | up. But I have no recollection today of the |
| 6 | details of that conversation. |
| 7 | Q The issue about -- okay. |
| 8 | So is it fair to say that both |
| 9 | Mr. Golshani and Mr. Bidsal wanted to have you |
| 10 | include a force buy/sell in the agreements? |
| 11 | A I don't know what you mean by a forced |
| 12 | buy/sell, but we unquestionably wanted to have |
| 13 | buy/sell language in the operating agreement. |
| 14 | It's a very normal provision to include when you |
| 15 | have more than one partner in a -- in a company. |
| 16 | THE ARBITRATOR: Does it help at this |
| 17 | point to have any clarification without the use of |
| 18 | the word "forced" as -- let me just have a quick |
| 19 | conversation with the witness. |
| 20 | Was the subject of conversation in |
| 21 | drafting about a contractually-required election |
| 22 | by the offeree member to buy or sell? That he had |
| 23 | the election having been presented with an |
| 24 | offer -- |
| 25 | THE WITNESS: As of July 21 -- |


| 1 | THE ARBITRATOR: -- to elect to either Page 274 |
| :---: | :---: |
| 2 | buy or sell? Was there -- |
| 3 | THE WITNESS: I don't believe -- |
| 4 | THE ARBITRATOR: Was that the subject |
| 5 | matter of what you were discussing? Or if that's |
| 6 | not correct, give everybody your best |
| 7 | understanding as to what was the subject of your |
| 8 | conversation, negotiation, and drafting so we're |
| 9 | all kind of on the same page. |
| 10 | THE WITNESS: Okay. Well, as of |
| 11 | July 21, I don't believe our conversation |
| 12 | addressed the concept you just described of a |
| 13 | compulsory sale following an offer by a member. I |
| 14 | believe, to the best of my recollection, that |
| 15 | evolved in subsequent months. And basically I was |
| 16 | drafting at that point what I would consider a |
| 17 | fairly plain, vanilla style of buy/sell. |
| 18 | THE ARBITRATOR: Okay. Let's see what |
| 19 | Mr. Lewin and other counsel want to do with that, |
| 20 | if anything. |
| 21 | MR. LEWIN: Okay. So if I could -- I |
| 22 | only have one copy. But $I$ don't even think we |
| 23 | have the original of his deposition back. |
| 24 | Did you ever get the original of his |
| 25 | deposition back? |



| 1 | THE ARBITRATOR: Is it all right to Pry 276 |
| :---: | :---: |
| 2 | to do that without objection? Or what would you |
| 3 | like to do procedurally? |
| 4 | MR. GOODKIN: I mean, he's here to |
| 5 | testify. We shouldn't be reading his deposition |
| 6 | transcript. |
| 7 | THE ARBITRATOR: It depends on whether |
| 8 | it's the proper use of deposition testimony or |
| 9 | not. He's not a party, so that -- that limits the |
| 10 | use of the deposition. But he hasn't indicated |
| 11 | what his intended use of it is as yet. |
| 12 | MR. LEWIN: Well, right now I want to |
| 13 | just refresh his recollection as to what he |
| 14 | testified to. |
| 15 | THE ARBITRATOR: All right. So it's for |
| 16 | purposes of refreshing recollection. Go ahead. |
| 17 | Let's see if that works. |
| 18 | MR. LEWIN: Or I can put it in front of |
| 19 | him and let him read it and then ask him the same |
| 20 | questions. |
| 21 | MR. GOODKIN: Yeah, let's do that. |
| 22 | THE ARBITRATOR: All right. |
| 23 | MR. LEWIN: Excuse me, Your Honor. |
| 24 | BY MR. LEWIN: |

    Q Would you read from -- look at page 31,
    
## 1 lines 4 through 20.

A I'm sorry, may it please the Court and everyone, this discussion was in reference to a specific e-mail in which I had stated I'm unclear as to discussion at the end of the meeting about buy/sell. And so the time frame in which I believe I'm -- I'm discussing the question that I was asked was, was it your understanding both Mr. Bidsal and Mr. Golshani wanted a forced buy/sell?

In other words, was this something they both wanted; correct? My answer was yes, that in general they had agreed on this, but $I$ don't believe I was addressing July 21. That was my sole focus, was I believe that conversation was later and related to an e-mail that I believe was somewhat later, but I -- I'm not sure.

Q Okay. Mr. --
A If we reference the e-mail, we can --
Q Okay.
A -- tie down the time frame.
Q All right. So --
A Because this went on for months. I mean, understand, this went on from, like, July to December.

| 1 | THE ARBITRATOR: I think the short Page 278 |
| :---: | :---: |
| 2 | answer is, is that the deposition reference does |
| 3 | not refresh his recollection. |
| 4 | What's the next question? |
| 5 | BY MR. LEWIN: |
| 6 | Q Okay. So let's -- so you had a meeting |
| 7 | at -- take a look -- please take a look at |
| 8 | exhibit-- please take a look at Exhibit 12. |
| 9 | A Yep. |
| 10 | Q This is -- this is an -- this is an |
| 11 | e-mail that we were talking about -- that you were |
| 12 | talking about in your deposition; is that correct? |
| 13 | A Yes. |
| 14 | Q Okay. |
| 15 | A Yeah. |
| 16 | Q Okay. This is -- |
| 17 | A Oh, yes. Okay. |
| 18 | Q It's Exhibit 7. |
| 19 | A Exhibit 7, okay. |
| 20 | MR. SHAPIRO: You're saying it's |
| 21 | Exhibit 7 to his deposition? |
| 22 | MR. LEWIN: That's correct. And |
| 23 | Exhibit 7 to his deposition is where it says, |
| 24 | "However, I'm unclear as to the discussion at the |
| 25 | end of the meeting." |



| 1 | MR. LEWIN: Fine. Page 280 |
| :---: | :---: |
| 2 | THE ARBITRATOR: -- we will get into |
| 3 | it -- |
| 4 | MR. LEWIN: But right now I'm talk -- |
| 5 | THE ARBITRATOR: -- but if it turns out |
| 6 | that there -- that they're substantially the same, |
| 7 | with no material differences, I'll permit you to |
| 8 | question on the basis of that exhibit. |
| 9 | BY MR. LEWIN: |
| 10 | $Q \quad$ Okay. Here is Exhibit 7 to your |
| 11 | deposition. It's the same thing as that. The |
| 12 | bottom part is exactly the same, it's just in a |
| 13 | different format. |
| 14 | THE ARBITRATOR: Can you see it from |
| 15 | there, Mr. LeGrand? |
| 16 | THE WITNESS: Yep. |
| 17 | THE ARBITRATOR: You can bring it closer |
| 18 | to you, if you would like. |
| 19 | MR. LEWIN: You can take it closer to |
| 20 | you, yeah. Sure, please do. |
| 21 | THE WITNESS: No, I'm fine. |
| 22 | BY MR. LEWIN: |
| 23 | Q Okay. So the -- so in the deposition, |
| 24 | you were asked questions about this e-mail where |
| 25 | you said, "I'm unclear as to the discussion at the |


|  | end of the meeting about buy/sell." Page 281 |
| :---: | :---: |
| 2 | And that -- this e-mail is one day after |
| 3 | the meeting; right? |
| 4 | A Yes. |
| 5 | Q Okay. |
| 6 | A Yes. |
| 7 | Q And in your deposition, you indicated |
| 8 | that there was discussions about -- there was -- |
| 9 | there was a number of different issues that were |
| 10 | talked about buy/sell, and you were unclear as to |
| 11 | where they were going. Some things had to do |
| 12 | with -- with binding arbitration, some things had |
| 13 | to do with disability, of forced buy/sell. |
| 14 | Was this -- and you were uncertain where |
| 15 | was -- uncertain about the conversation; right? |
| 16 | A Yes. And this does refresh my |
| 17 | recollection. Thank you. |
| 18 | Q And it was your -- was it your |
| 19 | understanding that both at the meeting, regardless |
| 20 | of what triggered a buy/sell, that both Mr. Bidsal |
| 21 | and Mr. Golshani wanted a buy/sell? |
| 22 | A Yes. |
| 23 | $Q \quad A$ forced buy/sell? |
| 24 | MR. SHAPIRO: Object. Asked and |
| 25 | answered. And misstates the testimony. | THE ARBITRATOR: Do you understand the question?

THE WITNESS: Well, I do, but --
THE ARBITRATOR: Overruled.
THE WITNESS: Again, you know, the introduction of this descriptor, the forced buy/sell, they wanted a buy/sell provision. In particular a -- Ben proposed a -- a style of provision that if a member made an offer, they needed to be ready to buy or sell at that offer price. That was the fundamental concept.

I mean, there's no force here. There's no compulsion for anybody to make that offer. So I -- I just -- I don't like the -- it's not my preference. It's that $I$ don't believe the use the word "forced" adequately addresses the content of what was intended to be drafted.

BY MR. LEWIN:
Q There were two threads.
One was an area where, on a death or disability -- that's one area where -- because -and then there was another area where a member could just make an offer for any reason; is that correct?

A Yes.


MR. SHAPIRO: But he gave you the answer and you said okay.

MR. LEWIN: No, he gave a different answer and $I$ want him to look at it.

THE ARBITRATOR: Why don't you give the $Q$ and $A$ so that the court reporter can hear it and so can the Arbitrator.

MR. LEWIN: So -- okay.
THE ARBITRATOR: Give us the chapter and verse, page and line, please.

MR. LEWIN: Page 31, lines 16 through
20. "Question: Was it your understanding that both Mr. Bidsal and Mr. Golshani wanted the forced buy/sell? In other words, this was something they both wanted; correct?
"Answer: Correct" -- I mean, "Answer:
Yes."
THE ARBITRATOR: Was that your
testimony?
THE WITNESS: Yes, it was.
MR. LEWIN: Okay. Fine. All right.
THE WITNESS: I still don't like the use of the word "forced."

BY MR. LEWIN:
Q Okay. Thank you.

Now, if you turn to Exhibit 8, please -
no, pardon me, Exhibit 14. And you can have -
you can have your -- do you have a book with you? If you want, it's depo -- I think it's the same as Deposition Exhibit 8 .

You -- you sent this e-mail to
Mr. Golshani on August 10; is that correct?
A Yes.
Q And it attached the -- a draft of the -a revision of the operating agreement?

A Yes.
Q And this, is it -- we have already -this -- this version of the operating agreement does not have a forced or mandatory buy/sell provision; is that correct?

A I don't know.
Q Okay. Well, do you recall that
Mr. Golshani called you and said that he wanted a buy/sell, not just a right of first refusal to be included?

A Yes.
Q Okay. And -- and then you -- then you began to prepare what you -- what you referred to as a Dutch auction; is that correct?

A Yes.

| 1 | THE ARBITRATOR: What do you mean by Page 286 |
| :---: | :---: |
| 2 | "Dutch auction" in your e-mails? |
| 3 | THE WITNESS: What I meant was the |
| 4 | proposition that if a member makes an offer, that |
| 5 | is an offer to buy or sell at that price. And the |
| 6 | other member could either buy or sell at that |
| 7 | price. |
| 8 | THE ARBITRATOR: Thank you. Go ahead. |
| 9 | BY MR. LEWIN: |

Q Okay. And then you prepared -- take a look at Exhibit 16, would you, please. There's another version of the operating agreement that you prepared.

And you see you sent -- you sent -- it's
an August 18 e-mail?
A Yes.
Q That says that you added a Dutch auction provision.

Do you see that?
A Yes.
Q And if you turn to page -- if you turn -- actually, there's two -- there's two -okay. If you turn -- there's actually two versions here. One is a red line, that doesn't appear to be a red line like what you're talking about.

But if you look to the 16 version, which is the second part, if you turn to page 12, there's a Section 7.

A Yep.
Q It says "Purchase or sell right among members."

And you drafted this; is that correct?
A Yes.
Q By the way, did Mr. Bidsal tell you, when you talked about this Dutch auction provision, that he had a mandatory -- a forced buy/sell or mandatory buy/sell or a Dutch auction, that he already had an operating agreement that contained a provision -- such a provision in it?

A I don't recall.
Q Okay. And specifically, the -- when you drafted this Section 7, the -- looking at the lines -- well, first of all, it provides in it that, "The offering member shall obtain an appraisal from an appraisal (sic) and provide a copy with the offer."

Do you see that?
A Yep.
Q Okay. That was your idea?

| 1 | A I drafted it. Page 288 |
| :---: | :---: |
| 2 | Q Okay. Is it fair to say that you don't |
| 3 | have any present recollection, other than what -- |
| 4 | except for all of this, what you see on paper? |
| 5 | A That's correct. |
| 6 | Q So if we asked you about conversations |
| 7 | that you've had with other parties, you don't |
| 8 | remember specific -- most of the time you don't |
| 9 | remember specifically what was discussed; is that |
| 10 | correct? |
| 11 | A That's pretty much correct. |
| 12 | Q You're just drawing inferences from what |
| 13 | you've written -- from what you've written? |
| 14 | A I think that's a fair statement. I |
| 15 | mean, the generalities I remember. The purpose I |
| 16 | remember. Some of the -- some things are a little |
| 17 | brighter than others. But this has been a long |
| 18 | time, and I've done probably, you know, 100, 200 |
| 19 | operating agreements since then. |
| 20 | Q Okay. Fair enough. We -- I think we |
| 21 | all understand that. |
| 22 | But in any case, were you -- looking at |
| 23 | the language here where -- at the last part of |
| 24 | section -- of Section 7.1, the main paragraph |
| 25 | where it says, "The specific intent of this |

1 provision is that the offering member shall be obligated to sell his or its member's interest to the remaining member or purchase the member interest of the remaining member based upon the fair market value of the company's assets."

That was your language?
A I wrote it.
Q Okay. And did that -- when you wrote this, this was -- you understood that this was to embody the intent that you understood the parties wanted, in other words, a mandatory buy/sell; is that correct?

A Yes.
Q Okay. Now, by this date, you had had conversations with both Mr. Golshani and Mr. Bidsal about this concept; right?

A Yes.
Q Okay. And Mr. Bidsal, did he give you any indication he didn't understand the format about one --

A Not to my recollection, no.
Q -- member -- meaning one member offers, the other member either buys or sells?

A I would say asked and answered; but to my recollection, no.

| 1 | Q Then is it -- then if you turn -- then 290 |
| :---: | :---: |
| 2 | if you turn to Exhibit 17, if you'll read that |
| 3 | e-mail -- if you'll read that e-mail, you had -- |
| 4 | is it fair to say you began to think about what |
| 5 | you had drafted and that -- the difference between |
|  | the two capital accounts? |

A I'm sorry, is there a question?
Q Well, is that what you -- did you begin 9 to think about that, that there was a -- that what

10 you had proposed did not take into account the two
11 capital accounts, in other words, that
12 Mr. Golshani had put in twice -- more than twice
13 the amount of money that Mr . Bidsal had?
thread that was running through my mind at that time.

Q Okay. So what -- so you -- you said I -- it says -- you said you -- what you had -you said, "I can write that provision, but I'm not sure it makes sense because Ben has more than double the capital."

So ultimately you decided that it needed to be something else added if they were going to have this -- what we call a forced buy/sell; is that correct?

| 1 | A Well, I was raising the issue with them. |
| :---: | :---: |
| 2 | Q Okay. And then you sent -- and then you |
| 3 | sent -- you sent a -- if you look at -- and with |
| 4 | this e-mail, you sent a draft of the -- a draft of |
| 5 | the operating agreement that eliminated that -- |
| 6 | that prior Section 7.1. |
| 7 | Is that -- do you recall that? I think |
| 8 | it's generally agreed that it doesn't include it. |
| 9 | A I'm sure the document speaks for itself. |
| 10 | Q Fine. Okay. |
| 11 | And then -- and turning to Exhibit 18, |
| 12 | if you would, I don't think there's any dispute, |
| 13 | there's no -- the 7.1 is out of that -- out of |
| 14 | that version. |
| 15 | Then in -- in Exhibit 18, it refers to a |
| 16 | voicemail that you received from Ben. |
| 17 | And is it correct that Ben was calling |
| 18 | you because the buy/sell had -- do you recall what |
| 19 | the -- let me just say, do you remember what the |
| 20 | voicemail said? |
| 21 | A No. |
| 22 | Q Okay. So -- but your e-mail says, "I |
| 23 | talked with" -- "I got a voicemail from" -- |
| 24 | "Saturday regarding buy/sell, and I talked to |
| 25 | Shawn about this. And because your capital |

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1 contributions are so different, you should
2 consider a formula or other approach."
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Do you see that?
A Yeah.
Q Okay. And then a -- then -- at some moment in time, you received some -- you did receive some -- a fax from Ben that had -- that had a proposed -- some proposed language; is that correct?
A Yes.
Q And then we're going to turn to -- if we can turn to Exhibit 22. And I would just like you to look at the second -- the last two pages of this.
And this -- is this -- is this what
you -- is this the fax that you received from Mr. Golshani, if you remember?
A Actually, I can't tell you from my memory. All \(I\) can tell you is this is -- it certainly looks like that which I received, but --
Q Okay. And let's go to Exhibit 23, then. That's fine.
Then you sent -- and on November 10, if you look at Exhibit 23, you said -- you tell Mr. Bidsal that, "I received a fax from Ben and
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1 rewriting it to be more detailed and complete."

So whatever you were -- got from Ben,
you, as the lawyer -- at this point, you're representing -- you're the company lawyer; right?

A Right.
Q And you're going to be -- you're going to rewrite it or make -- vet it, so to speak, and rewrite it and see -- make sure that it works; is that correct?

A That was the intent.
Q Okay. And then if you look at -- if you look at Exhibit 24.

A Yes.
Q At the bottom parts of this, it says that -- it says, "Gents, here is a revised version of what Ben sent me."

And if you look at the next -- if you look at the third and -- third and fourth pages, this is what you -- this is what you sent; is that correct?

A Yes.
Q And you looked at this -- during your deposition, you recall you looked at these documents; right?

A Yeah.


|  | earlier on -- on the 10th, that you cut and Page 295 |
| :---: | :---: |
| 2 | spliced what you previously sent Ben and Shawn and |
| 3 | put it in here at section -- it says Section 3, |
| 4 | but it's really Section 4. |
| 5 | Do you see that? |
| 6 | A Yes. |
| 7 | Q And does that -- so is this a document |
| 8 | that you sent out on November 29? |
| 9 | A It is. |
| 10 | $Q$ And this was the last -- was this the |
| 11 | last time that you edited this -- this Green |
| 12 | Valley agreement? |
| 13 | A I don't know. |
| 14 | $Q$ And the language in the -- the language |
| 15 | in this -- in this -- on this -- on this about the |
| 16 | specific intent, if you could take a look at that |
| 17 | language on specific intent, in that section. |
| 18 | A Yes. |
| 19 | Q And does that -- does that language |
| 20 | reflect your -- your then understanding of what |
| 21 | the intent of this provision was? |
| 22 | A Yes. |
| 23 | Q And that was your understanding of what |
| 24 | Mr. Golshani and Mr. Bidsal had wanted you to put |
| 25 | in? |


| 1 | A Yes. Page 296 |
| :---: | :---: |
| 2 | 2 And it was your understanding that they |
| 3 | had both -- that was what they both had agreed to; |
| 4 | right? |
| 5 | A Yes. |
| 6 | Q And that's why you kept that language in |
| 7 | there; right? |
| 8 | A Well, let me say -- I want to try to be |
| 9 | expressly clear about this. Ben and Shawn tended |
| 10 | to deal at strategic levels more than tactical. |
| 11 | And getting focus on tactical, it was -- I have |
| 12 | clients that we go line by line through documents. |
| 13 | And I have other clients that kind of just go for |
| 14 | the highlights. |
| 15 | So when you say "their intent," yes, in |
| 16 | general. I was trying to create that which the |
| 17 | two of them were agreeing to in the direction that |
| 18 | I was being given at the time. And I don't recall |
| 19 | any objection from Shawn to this approach. Ben |
| 20 | was pushing for this approach. I had never done |
| 21 | this style before, so this was -- you know, took |
| 22 | some thought. Obviously, it took a lot of time. |
| 23 | So I -- I just want to try to be clear |
| 24 | that it wasn't that I had a conversation where we |
| 25 | specifically said, oh, let's put a fair market |


|  | value exclusion appraisal language into this Page 297 |
| :---: | :---: |
| 2 | sentence. That -- that's not, in general, how |
| 3 | this client operated. So. |
| 4 | Q But the reason you put -- the reason |
| 5 | that you put down a -- the reason you inserted the |
| 6 | specific intent of the parties was to make sure |
| 7 | that there was no question about what the intent |
| 8 | of the parties was; right? |
| 9 | A That was what I intend when I put |
| 10 | language like "specific intent," yes. |
| 11 | Q And you wouldn't put down -- you |
| 12 | wouldn't have written down something that you |
| 13 | didn't believe was true in this document; isn't |
| 14 | that right? |
| 15 | A No, I wouldn't intentionally put |
| 16 | language in that my clients objected to. That's |
| 17 | not good lawyering. |
| 18 | Q Okay. Then we can take a look at -- if |
| 19 | you turn to Exhibit 27 -- |
| 20 | A Okay. |
| 21 | $Q$ You said, "Shawn, did you ever finish |
| 22 | the revisions? Ben really wants to get this |
| 23 | finished." |
| 24 | Did Mr. Bidsal tell you he was going to |
| 25 | make some revisions to the agreement? |



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1 Mr. Lewin has modified the e-mail and introduced
2 it as if it was from Mr. LeGrand's file, but it's
3 not.
So the fact that that has a Bates stamp on it just confirms my concern and my position, which is, there's a file, it has Bates stamps on it. And anything that doesn't have Bates stamps on it, we don't know where the document came from and we don't know how it's been modified. He could have used that here; he chose not to, which is fine, that's his choice. But it raises a concern for me. So that's -- that's my response. BY MR. LEWIN:
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Q All right. Mr. LeGrand, by the way, when you -- remember we said that you gave Mr. Garfinkel a flash drive?

A Yeah.
Q You also e-mailed him some documents that you found; isn't that correct?

A Yes.
Q Okay. All right. Be that -- I just wanted to point out this particular -- specific document, because that was one that Mr. Shapiro had mentioned before.

Okay. So -- and if you'd take a look at

|  | exhibit -- sorry. Did -- did Mr. -- going back to 300 |
| :---: | :---: |
| 2 | this exhibit they were talking about, I'm sorry, |
| 3 | it's Exhibit 27, did Mr. Bidsal tell you what |
| 4 | revisions he was making? |
| 5 | A I don't recall. |
| 6 | $Q$ And did -- did he ever tell you that |
| 7 | the -- well, let me just show -- let me just show |
| 8 | you Exhibit 41. |
| 9 | MR. SHAPIRO: Is this a new exhibit? |
| 10 | MR. LEWIN: No, that's the same one that |
| 11 | we -- that we had before. This may have -- you |
| 12 | may have -- |
| 13 | THE ARBITRATOR: This is 41, where it is |
| 14 | the Arbitrator's recollection that -- the |
| 15 | overruled objection and it's been received in |
| 16 | evidence. |
| 17 | BY MR. LEWIN: |
| 18 | Q All right. Did Mr. Bidsal -- and |
| 19 | Mr. Bidsal, at one point, told you the agreements |
| 20 | were finished and signed. |
| 21 | Do you recall receiving that? |
| 22 | A Yes. |
| 23 | Q And in between -- do you recall ever |
| 24 | making any changes in between your sending the |
| 25 | November 29 version out and receiving this e-mail? |



|  | speak up so the -- because you're facing me, which 302 |
| :---: | :---: |
| 2 | is directly the opposite way of the court |
| 3 | reporter, so if you could speak up. |
| 4 | THE WITNESS: It is rare that my voice |
| 5 | is not heard. |
| 6 | THE ARBITRATOR: If I could ask you to |
| 7 | position your body a little bit more facing the |
| 8 | Arbitrator and the court reporter. Thank you. |
| 9 | THE WITNESS: Sure. |
| 10 |  |
| 11 | CROSS-EXAMINATION |
| 12 | BY MR. SHAPIRO: |
| 13 | Q I'm going to cover a couple of |
| 14 | preliminary matters, and then I think what I'm |
| 15 | going to do is walk you through a chronological |
| 16 | order of things. I think it helps kind of explain |
| 17 | what happened over this six-month-plus period of |
| 18 | time. |
| 19 | The first thing I want to talk about |
| 20 | briefly is your file. |
| 21 | It is my understanding that you produced |
| 22 | documents to Louis Garfinkel, that Louis took |
| 23 | those documents, Bates-stamped them, and then gave |
| 24 | them back to you, and that the Bates-stamped |
| 25 | documents that you produced were not a 100 percent |

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1 complete set, but a fairly complete set of the
2 documents responsive to the subpoena; is that
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``` accurate?
A Except for the part that Lou gave them to me. I do not have physical custody of those documents.
Q Okay. Do you recall reviewing a complete set of those documents at your deposition?
A I recall reviewing the documents at my deposition, yes.
Q And the -- based upon that review, were the documents that were Bates-stamped, to the best of your recollection, was that a -- a fairly complete set of documents of your file?
A I think so, but, you know, we're talking about a lot of documents, Jim.
Q Sure.
A It's hard to know if --
Q Well, the reason I ask is because -turn to Exhibit 10.
A Okay.
Q Exhibit 10 is quite a few pages. The first two pages don't have Bates numbers. The rest of the pages do have Bates numbers. My
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1 Page 304
1 question to you is, as you sit here today, can you

2 say that the Bate-numbered documents were attached to the e-mail that doesn't have Bates numbers?

A I have no way to answer that without going back to the e-mails.

Q Okay. And if you turn to Exhibit 12, the answer would be the same?

A Yes. I -- all I can tell you is I did my best when -- okay. As -- as Mr. Lewin asked, I downloaded to the drive, the attachments did not download with the e-mail. So then went through a process of attempting to attach the relevant documents from the e-mail -- referenced in the e-mails to the e-mails. I believe we did a pretty good job of that. And it may not be perfect, but I think we did a pretty good job of that.
$Q$ And I understand that. And that really isn't the point I'm driving at.

The point that I'm driving at is, that
you can't -- looking at the Bates-stamped documents, the exhibits that have both Bates stamp and non-Bates stamp, you can't say if those two go together or not without spending a lot of time trying to research your file; is that accurate? A Yes.

| 1 | Q Okay. And that was -- that was the Page 305 |
| :---: | :---: |
| 2 | point I was trying to make. |
| 3 | Now, there's two other -- you've got |
| 4 | four binders in front of you. I'm going to need |
| 5 | you to look at the two sets that you haven't |
| 6 | looked at. So if you want to move the other two |
| 7 | somewhere -- |
| 8 | MR. LEWIN: If I could just -- could I |
| 9 | have my -- have my version of -- of your exhibits |
| 10 | back, please. |
| 11 | THE ARBITRATOR: No, just hand them |
| 12 | around the horn here. |
| 13 | THE WITNESS: Sure. |
| 14 | MR. LEWIN: Thank you. |
| 15 | BY MR. SHAPIRO: |
| 16 | Q And I'm going to walk you through a |
| 17 | number of exhibits here. We're going to start |
| 18 | with the exhibit binder that says 301 through 340. |
| 19 | If you could turn to Exhibit 304. |
| 20 | Now, this is an exhibit that has |
| 21 | exhibits DL2 through 21, which would indicate that |
| 22 | this came from your file; correct? |
| 23 | A Yes. |
| 24 | Q Okay. And this is an e-mail from |
| 25 | June 17, 2011; correct? |




1 working on Green Valley Commerce, you've done other work for Ben and his entities; correct?

A Yes.
Q In fact, you've been working for Ben over the past five years; correct?

A I'm not sure that five years is correct or not, but I've been working on projects with Ben for a number of years, yes.

Q If you had used the five-year number in your deposition, would that sound accurate?

A Yeah. I mean, give or take, yes.
Q Okay. And are you currently doing work for Ben in his entities?

A I have no current work projects for Ben.
Q But as recent as August of last year, you were doing work for Ben; correct?

A Yes.
Q And you were paid for that work;
correct?
A Yep. Yes.
Q The last time that you did any work for Shawn or his entities would be in 2013 or '14; correct?

A I think so. It's been a while.
Q Now, you just met Rod Lewin here today;


| 1 | Q When was the last time you spoke with Page 310 |
| :---: | :---: |
| 2 | Mr. Garfinkel? |
| 3 | A About two days ago. He called me to |
| 4 | tell me that I would not be appearing early, that |
| 5 | I should expect to be here about 1:30 p.m. |
| 6 | yesterday. |
| 7 | $Q$ So Louis Garfinkel was communicating |
| 8 | with you about your testimony here at this |
| 9 | arbitration proceeding? |
| 10 | A Well, he was communicating with me about |
| 11 | the timing of my testimony. |
| 12 | Q Okay. How many times since your |
| 13 | deposition have you talked to Louis Garfinkel? |
| 14 | A Maybe four or five times. |
| 15 | Q And in each of those conversations, were |
| 16 | you talking about this -- the issues in this |
| 17 | arbitration? |
| 18 | A No. We were talking about the timing of |
| 19 | the arbitration and the -- that Mr. Lewin was |
| 20 | going to be issuing a subpoena for me; no |
| 21 | substantive discussion of the issues. |
| 22 | Q All right. |
| 23 | A Procedural matters were being addressed |
| 24 | in our conversations. |
| 25 | Q Okay. If you could turn to Exhibit 304, |

1 we're going to go back to that.

This is an e-mail that you sent to
Shawn; correct?
A Yes, sir.
Q And in it you state, "Shawn, attached please find subscription documents and a draft OPAG," which I believe is an operating agreement; correct?

A Yes.
Q And then you state, "I did not have Ben's last name nor the address of the office for GBC."

Do you see that?
A Yes.
Q So at this point, you were aware that
someone named Ben was going to be involved;
correct?
A Yes.
Q All right. Now, you continue to say, "I had to do a lot of work to make the operating agreement work. In the future, I would like to show you my operating agreements but I crammed the square peg into this one."

Do you see that?
A Yes.

| 1 | Q Can you explain what you meant by that? 3 Page 312 |
| :---: | :---: |
| 2 | A You know, my -- my experience on -- |
| 3 | leads me to evaluate work product. And the |
| 4 | document that Shawn sent me that he had used, |
| 5 | apparently -- I believe he had used it in the |
| 6 | past. It was, in my opinion, needed work and was |
| 7 | not optimal. I would have preferred to have used |
| 8 | my own format from the beginning. |
| 9 | $Q$ Okay. Now, you didn't assist in forming |
| 10 | Green Valley Commerce; correct? |
| 11 | A I believe that's correct, I did not form |
| 12 | it. |
| 13 | Q Okay. Now, the Exhibit 304 is |
| 14 | June 17th. If you could turn to Exhibit 305. |
| 15 | Here, this is an e-mail from you to |
| 16 | Shawn, as well; correct? |
| 17 | A Correct. |
| 18 | Q And you attach a clean and a red-line |
| 19 | copy of an operating agreement; right? |
| 20 | A Yes. |
| 21 | Q This draft did not include buy/sell |
| 22 | language; is that correct? |
| 23 | A I'm not sure. |
| 24 | Q Okay. If you want to turn to DL42. |
| 25 | Would this be where buy/sell language |


|  | would appear if it had been included? $\quad$ Page 313 |
| :---: | :---: |
| 2 | A Yes. |
| 3 | 2 And do you see any buy/sell language |
| 4 | there? |
| 5 | A No. |
| 6 | Q Okay. If you could turn to Exhibit 306. |
| 7 | This is an e-mail from you to Shawn |
| 8 | Bidsal dated July 22nd, 2011, so approximately a |
| 9 | month later; correct? |
| 10 | A Yes. |
| 11 | Q And the e-mail states you're working on |
|  | an operating agreement, will send it shortly. |
| 13 | Consecutively behind this is an operating |
| 14 | agreement. |
| 15 | Do you know if that operating agreement |
| 16 | was attached to the e-mail or -- |
| 17 | A First, I'll say I don't know. And |
| 18 | second, I'll say I don't think so, because my |
| 19 | e-mail says I'm working on it and will send it |
| 20 | shortly, so I don't believe I would have attached |
| 21 | it to this e-mail. |
| 22 | Q Okay. |
| 23 | A But it may possibly have been attached |
| 24 | to the next e-mail that was some hours later. |
| 25 | 2 Okay. |


| 1 | A But I don't know for sure. Page 314 |
| :---: | :---: |
| 2 | Q Okay. You know what, if you look at |
| 3 | Exhibit 307, at the bottom of that page, it |
| 4 | appears there's an e-mail from July 22nd at 11:36, |
| 5 | a.m., which would have been about 30 minutes after |
| 6 | you sent Exhibit 305. |
| 7 | A Yes. |
| 8 | Q So -- and in it you state you're |
| 9 | attaching a revised operating agreement; right? |
| 10 | A Yes. |
| 11 | Q Now, that e-mail is addressed to both |
| 12 | Shawn and Ben? |
| 13 | A Yeah. |
| 14 | Q Okay. Looking at -- let's start at 306. |
| 15 | Was there any buy/sell language in here? And just |
| 16 | for ease of reference, I'll direct your attention |
| 17 | to DL9 -- let's see. |
| 18 | MR. LEWIN: Well, hold on. |
| 19 | MR. SHAPIRO: Is there an objection? |
| 20 | MR. LEWIN: Well, he's referring to an |
| 21 | e-mail in 306 that the witness says was not |
| 22 | attached. |
| 23 | MR. SHAPIRO: Well, he did say that the |
| 24 | e-mail may have been attached to a subsequent -- |
| 25 | the documents were attached to a subsequent |






| 1 | was? Page |
| :---: | :---: |
| 2 | A Yes. |
| 3 | Q Okay. So now we've got rough draft two |
| 4 | is what Ben sent to you; correct? |
| 5 | A Yes. |
| 6 | Q And then we've got a draft two, which is |
| 7 | what you revised it to be. |
| 8 | A To the best of my recollection, that's |
| 9 | correct. |
| 10 | $Q$ Okay. Now, the font on this draft two, |
| 11 | is that Times New Roman? |
| 12 | A I don't think so. |
| 13 | Q Okay. Now, I want to show you -- I took |
| 14 | the liberty of attempting a red line of the -- let |
| 15 | me try to get that -- of the changes between rough |
| 16 | draft two and draft two. Now, I'm going to show |
| 17 | you what I came up with, and I want you to tell me |
| 18 | if this appears to be an accurate reflection of |
| 19 | the changes between what Ben sent to you and the |
| 20 | draft two that's here in Exhibit 321. |
| 21 | MR. SHAPIRO: There's two there, |
| 22 | Your Honor. |
| 23 | THE ARBITRATOR: I'm handing this around |
| 24 | the horn to Mr. Lewin. |
| 25 | MR. LEWIN: Thank you very much. |

``` THE ARBITRATOR: What number shall we make this?
MR. SHAPIRO: Let's see. Bear with me. I think it's going to be 360. Yes, 360.
MR. LEWIN: Yeah, three -- 360.
MR. SHAPIRO: Yes.
THE ARBITRATOR: And, once again, I'm going to be speaking to Mr. Shapiro that this appears to be a demonstrative exhibit.
MR. SHAPIRO: Correct.
THE ARBITRATOR: The witness is
reviewing the document.
THE WITNESS: Without taking the time to go word for word, Mr. Shapiro, I would say this is a fair red line of the modifications to the rough draft two to draft two. BY MR. SHAPIRO:
Q Okay. And these modifications would have been the modifications that you made; correct?
A To the best of my recollection, yes.
Q Okay. And just to be clear, on this demonstrative Exhibit 360, anything that is red with a line through it would have been something that you deleted, and anything that's blue with an
```

|  | underline would have been something that you Page 321 |
| :---: | :---: |
| 2 | added? |
| 3 | A Yes. |
| 4 | Q Okay. Now, this language -- I'm going |
| 5 | to direct your attention in the top binder there. |
| 6 | I want you to turn to Exhibit 29. |
| 7 | Now, this is a final signed copy of the |
| 8 | operating agreement; correct? |
| 9 | A Yes. |
| 10 | Q Okay. And if you would turn to page 10 |
| 11 | of the operating agreement. |
| 12 | The top of that page appears to be in |
| 13 | Times New Roman, font 12; correct? |
| 14 | A Yes. |
| 15 | Q And the bottom appears to be something |
| 16 | close to Arial and a smaller font type; is that |
| 17 | accurate? |
| 18 | A Yes. |
| 19 | Q Is it accurate to say that you took your |
| 20 | draft two, or some version of it, and put it into |
|  | the document that you had previously prepared? |
| 22 | A Yes. |
| 23 | Q Okay. Now, of course, I took the |
| 24 | liberty of red-lining the difference between your |
| 25 | draft two and what is contained in the operating |

1 Page 322
1 agreement. And I'm going to give you a copy of
2 that.

MR. SHAPIRO: Here is two copies,
Your Honor.

And again, Your Honor, this would be --
THE ARBITRATOR: I'm handing this to
Mr. Lewin when he comes back up this way.
MR. SHAPIRO: -- a demonstrative
exhibit, and it would be 361.
BY MR. SHAPIRO:
Q Now, Mr. LeGrand, the first question is, does this appear to be an accurate representation Of the differences between your draft two and what is contained in the signed operating agreement?

A Again, without going through every word, I think it is a fair representation of the changes.

Q Okay. My question to you is, did you make these changes that are reflected in Exhibit 361 prior to the operating agreement being signed?

A I don't know.
Q Now, there was some question about
Exhibit -- bear with me. Let's see here.
Exhibit 27, if you could turn to that. This was

|  | an e-mail that you previously testified that you |
| :---: | :---: |
| 2 | sent to Shawn. |
| 3 | Do you see that? |
| 4 | A Yes. |
| 5 | Q And I believe your testimony was you |
| 6 | don't recall if Shawn was going to make any |
| 7 | revisions, but you assumed so based upon the |
| 8 | e-mail? |
| 9 | A Yes. |
| 10 | Q Okay. And then you were provided |
| 11 | Exhibit 41. I don't know if it's still there. It |
| 12 | was a loose one, so I'm just going to give you my |
| 13 | copy. |
| 14 | And my question to you is, between |
| 15 | November -- or December 10th and December 12th, do |
| 16 | you know if you made any changes to the operating |
| 17 | agreement? |
| 18 | A I don't specifically know that, but I |
| 19 | doubt it. |
| 20 | Q And why do you doubt it? |
| 21 | A Because I have -- well, I mean, I did a |
| 22 | fairly diligent search of my e-mails and I |
| 23 | don't -- I did not find any e-mail from that time |
| 24 | period that -- because if I did, it would be here; |
| 25 | right? |



| 1 | And just to be clear, the language that 325 |
| :---: | :---: |
| 2 | ultimately ended up in -- well, strike that. |
| 3 | MR. SHAPIRO: Your Honor, if I -- I've |
| 4 | kind of got ahead of my notes. I think I might be |
| 5 | done, but can we take a short break and just let |
| 6 | me go through and verify. Okay. |
| 7 | THE ARBITRATOR: Would you like us to |
| 8 | stay in place or to take a -- |
| 9 | MR. SHAPIRO: Let's take a Haberfeld |
| 10 | five. |
| 11 | THE ARBITRATOR: Okay. So we'll do |
| 12 | that. Haberfeld five, see you back in ten. |
| 13 | (Whereupon, a recess was taken.) |
| 14 | THE ARBITRATOR: Back on the record. |
| 15 | MR. SHAPIRO: I'll pass the witness. |
| 16 | MR. LEWIN: Okay. Thank you. |
| 17 | THE ARBITRATOR: Anything further, |
| 18 | Mr. Lewin? |
| 19 | MR. LEWIN: Yes, I have a few things, a |
| 20 | few follow-ups. |
| 21 |  |
| 22 | REDIRECT EXAMINATION |
| 23 | BY MR. LEWIN: |
| 24 | Q Looking at -- looking at exhibit -- now |
| 25 | that I've wrecked my book. |


| 1 | MR. SHAPIRO: I know how hard it is to Page 326 |
| :---: | :---: |
| 2 | work when you have a wrecked book. Why don't you |
| 3 | just take a moment and fix that. |
| 4 | MR. LEWIN: Well, I'll deal with it. |
| 5 | THE ARBITRATOR: Would it help to work |
| 6 | with the Arbitrator's book? |
| 7 | MR. LEWIN: No, no, I'm good. I'm good. |
| 8 | I just want to find -- I just want to find |
| 9 | something. |
| 10 | BY MR. LEWIN: |
| 11 | Q If you'll look at Exhibit 24, and you'll |
| 12 | look at Exhibit 307 that I think you were looking |
| 13 | at before, Exhibit -- I think it was 3 -- I'm |
| 14 | sorry, I think it was 322. |
| 15 | A Okay. Yes. |
| 16 | Q Exhibit 24 doesn't have Bates stamps on |
| 17 | it, but Exhibit 322 does. And it just -- it was |
| 18 | actually marked. And the e-mail is actually |
| 19 | marked -- Bates-stamped to Mr. Bidsal. |
| 20 | Do you see that? |
| 21 | A Yes. |
| 22 | Q So my point is, is that -- does this |
| 23 | refresh your recollection when you sent the |
| 24 | initial -- when you sent e-mails to Mr. Garfinkel |
| 25 | on the initial flash drive that the documents |

1 weren't Bates-stamped and --

A No.
Q All right. I'm going to go off that subject.

You talked earlier about Country Club. Was it your understanding that you were going to -- you were working on the Green Valley operating agreement and that --

MR. SHAPIRO: Your Honor, I'm going to object to this line of questioning. It's outside the scope of cross. I didn't say anything about Country Club. And, quite frankly, in his initial direct, the only thing he said is, there was another company; right? And he said, yeah, there was another company. So, I mean, this is -- this a whole new issue.

THE ARBITRATOR: Response?
MR. LEWIN: I just wanted to get him to establish that he used the Green Valley operating agreement as a template for Country Club.

THE ARBITRATOR: Why don't you ask that question?

BY MR. LEWIN:
2 Did you use the Green Valley operating agreement as the template for Country Club?

| 1 | A I think I used it as a starting point, Page 328 |
| :---: | :---: |
| 2 | but without comparing the documents, I would |
| 3 | hesitate to say it was the template. |
| 4 | Q All right. Mr. Shapiro asked you |
| 5 | questions about you doing some work for |
| 6 | Mr. Golshani. |
| 7 | Has Mr. Bidsal asked -- asked you to |
| 8 | represent him in the last two years? |
| 9 | A Yes. |
| 10 | Q When was that? |
| 11 | A It was in the last six months. |
| 12 | Q Was it -- was it just before your |
| 13 | deposition? |
| 14 | A I think it was maybe a month before. |
| 15 | I'm not sure exactly. |
| 16 | Q Did he indicate what he wanted -- what |
| 17 | kind of work he wanted you to do? |
| 18 | A Honestly, I didn't spend much time in |
| 19 | responding. I -- I was very busy at that time. I |
| 20 | couldn't take on additional work. |
| 21 | Q And Mr. Shapiro asked you if you had |
| 22 | conversations regarding -- with Mr. Garfinkel |
| 23 | regarding exhibits. |
| 24 | What kind of conversations were those? |
| 25 | What -- the substance of them, what were they |


| $\mathbf{1}$ | about? |  |
| :--- | :---: | :---: |
| 2 | A | Page 329 |
| $\mathbf{3}$ | $\mathbf{Q}$ | Mr. Shapiro said you had conversations |
| $\mathbf{4}$ | with Mr. Garfinkel regarding exhibits. I just |  |
| $\mathbf{5}$ | want to find out -- |  |
| 6 | A Well, we specifically talked about since |  |
| 7 | the deposition, and I said I've had four or five |  |
| 8 | calls with Lou. And they were all procedural in |  |
| 9 | nature. They weren't -- you know, that was the |  |
| 10 | bulk of it. I mean, since the deposition. |  |
| $\mathbf{1 1}$ | Q In terms of conversations with |  |

12 Mr. Garfinkel about exhibits, that was -- trying Mr. Golshani -- Mr. Bidsal provided you with a form operating agreement.

Do you remember -- when did he provide you with that form operating agreement?

A Presumably before -- sometime in June, would be my best recollection. to get the documents from you in conjunction with the subpoena; right?

A Yes, and prior to subpoena. I mean, Mr. Garfinkel was asking and Mr. Golshani had instructed that $I$ should produce the documents.

Q Okay. Now, you said that

A
$\qquad$

|  | you any instructions with respect to the use of |
| :---: | :---: |
| 2 | that form operating agreement or the other -- not |
| 3 | the form -- another operating agreement? |
| 4 | A Not specifically. He just said this was |
| 5 | an agreement that he had experience with and |
| 6 | wanted me to use it in constructing Green Valley. |
| 7 | Q Okay. And subsequently told him that |
| 8 | you thought you would have been better off using |
| 9 | your own form? |
| 10 | A Yes. |
| 11 | MR. LEWIN: All right. I don't have |
| 12 | anything else. |
| 13 | THE ARBITRATOR: Anything further, |
| 14 | Mr. Shapiro, based on that? |
| 15 | MR. SHAPIRO: Yes, I do, based upon |
| 16 | that. |
| 17 |  |
| 18 | RECROSS-EXAMINATION |
| 19 | BY MR. SHAPIRO: |
| 20 | Q Can you turn to Exhibit -- let's see |
| 21 | here, Exhibit 347. |
| 22 | You helped Mr. Bidsal draft this |
| 23 | document, correct -- I mean, Mr. Golshani, Ben |
| 24 | Golshani? |
| 25 | A Yes. |








| 1 | Q And so in terms of -- so you -- you Page | 337 |
| :---: | :---: | :---: |
| 2 | were -- and you managed all those properties; |  |
| 3 | right? |  |
| 4 | A Some of them I managed; some of them is |  |
| 5 | third-party management, yes. |  |
| 6 | Q What percentage of the -- what |  |
| 7 | percentage of those properties did you manage, |  |
| 8 | either through yourself or your company, West |  |
| 9 | Coast? |  |
| 10 | A Right now, I would say, it's less than |  |
| 11 | 20 percent. |  |
| 12 | Q Well, what about as of July 2017? |  |
| 13 | A About 20, 25 percent. |  |
| 14 | Q So, now, between July 7, 2017, and |  |
| 15 | August 3, 2017, did your estimate as to the -- |  |
| 16 | that the fair market value of Green Valley change? |  |
| 17 | A I didn't think about that issue; no, it |  |
| 18 | didn't change. |  |
| 19 | Q And so -- so you still -- as of the time |  |
| 20 | that -- as of the time that CLA -- let's take a |  |
| 21 | look at Exhibit 31. |  |
| 22 | As of the time that CLA made its |  |
| 23 | election to purchase your membership interest as |  |
| 24 | opposed to selling, you still believed that the |  |
| 25 | current -- that the fair market value of the Green |  |



| 1 | A Based on the language used in Page | 339 |
| :---: | :---: | :---: |
| 2 | Section 4.2, yes. |  |
| 3 | Q You understood that Mr. Golshani was the |  |
| 4 | remaining member. |  |
| 5 | Yes or no? |  |
| 6 | MR. SHAPIRO: Your Honor -- |  |
| 7 | THE WITNESS: I just answered it yes. |  |
| 8 | MR. SHAPIRO: -- this is getting |  |
| 9 | repetitive. |  |
| 10 | THE ARBITRATOR: Overruled. |  |
| 11 | THE WITNESS: I just said yes. |  |
| 12 | BY MR. LEWIN: |  |
| 13 | Q Okay. Good. Thank you. |  |
| 14 | And that as a remaining member, so he |  |
| 15 | had the option either to accept your \$5 million |  |
| 16 | and sell -- and I'm just going to say "he," |  |
| 17 | because I -- I'm conflating Mr. Golshani and CLA, |  |
| 18 | because I'm used to talking about Mr. Golshani. |  |
| 19 | But he had the option to accept your |  |
| 20 | offer and sell his interest for $\$ 5 \mathrm{million} \mathrm{or} \mathrm{to}$ |  |
| 21 | buy your interest; is that correct? |  |
| 22 | A No. He could make a counteroffer. If |  |
| 23 | he wouldn't be interested in selling it to me, he |  |
| 24 | could make a counteroffer. |  |
| 25 | Q You understood that the remaining member |  |


|  | had the right to buy your interest; isn't that Page 340 |
| :---: | :---: |
| 2 | correct? |
| 3 | A He could make a counteroffer. |
| 4 | Q You understood that Mr. -- that under |
| 5 | the -- under the -- under the operating agreement, |
| 6 | that Mr. Golshani could respond to your offer by |
| 7 | either selling to you or could buy your interest? |
| 8 | A He could buy -- again, procedurally, |
| 9 | according to Section 4.2, he could make a |
| 10 | counteroffer to buy, yes. |
| 11 | MR. LEWIN: Can I just get a straight |
| 12 | answer here, Your Honor? |
| 13 | THE WITNESS: I just answered it. |
| 14 | THE ARBITRATOR: That's his answer. |
| 15 | Let's move on. |
| 16 | MR. LEWIN: Okay. |
| 17 | THE ARBITRATOR: I think it's going to |
| 18 | take too much time and not necessarily leading to |
| 19 | a clear result. Let's just move on. |
| 20 | MR. LEWIN: I will. |
| 21 | BY MR. LEWIN: |
| 22 | Q Is there a reason why you didn't |
| 23 | consider the -- strike that. |
| 24 | Did the brokers provide you with an |
| 25 | analysis of Green Valley in conjunction with |


|  | soliciting your -- a listing agreement? Page 341 |
| :---: | :---: |
| 2 |  |
| 3 | Wakefield? |
| 4 | Q Yeah, Cushman \& Wakefield. |
| 5 | A Yeah, they did provide the analysis of |
| 6 | that. |
| 7 | $Q \quad$ Okay. And did you look at that analysis |
| 8 | before you -- before you made your offer? |
| 9 | A I just said no. |
| 10 | Q Okay. You didn't -- so you didn't look |
| 11 | at the analysis at all? |
| 12 | A I looked at the analysis of one before |
| 13 | that, yes, but not at the time of the offer. |
| 14 | Q When was the last time that you looked |
| 15 | at that analysis before you made your offer? |
| 16 | A I don't remember; maybe a month or two |
| 17 | before that. |
| 18 | THE ARBITRATOR: Off the record. |
| 19 | (Discussion off the record.) |
| 20 | BY MR. LEWIN: |
| 21 | $Q$ Would you please take a look at |
| 22 | Exhibit -- I'll withdraw that. |
| 23 | MR. LEWIN: I have nothing else. |
| 24 | THE ARBITRATOR: Okay. Off the record. |
| 25 | (Whereupon, a recess was taken.) |


1 document is not -- is not -- you know, it's not Bates-stamped and we don't know where it came from, I want to be able to point to the deposition exhibits in order to show that it is something that's a copy of what was in the LeGrand deposition. I don't want to -- I don't want to enter all the deposition exhibits into evidence, I don't think it's necessary, but $I$ don't want to be foreclosed in that in terms of closing arguments -- closing briefs if they raise that issue.
THE ARBITRATOR: I think that it's reasonable to anticipate, unless respondent's counsel waives as to that, that they're sending a signal that they intend to object. So the question $I$ think really is, absent such a -- a waiver, what are we going to do about it, if anything, including involving the chair?
The Arbitrator is of the view, I think as indicated earlier, that $I$ would prefer not to make an meet-and-confer order to go over these matters after our sessions are concluded for the purpose of ascertaining whether or not there is no material variance between what you have marked as exhibits and anything else that has been produced
1 in the case. in the case.
Is that the issue that we have?
MR. LEWIN: That's the issue. And I --
THE ARBITRATOR: And I've been trying to get counsel to cooperate. But it seems to me that in order to avoid an argument for later, which does not have that component built into it, I think that $I$-- unless under my strong encouragement you agree to such a procedure, I'm inclined to order such a procedure to avoid an unnecessary fight as to those things as to which there really is no serious dispute, after both sides have pored over documents, as to which respondent's counsel have taken exception and have a basis for asserting that there is a material variance between that -- what you're seeking to have admitted and that $I$ have admitted as evidence and what they now object to. So what are your thoughts, Mr. Shapiro? MR. SHAPIRO: My thought is that I think this can be addressed in a meet-and-confer after we conclude today, and if there's an issue, we'll bring it to your attention.
THE ARBITRATOR: I strongly suggest that you attempt to do this informally. And if either

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side or both sides say that you have not agreed on a procedure, I will set a procedure in order to avoid that. And we'll -- we'll get on the phone in a telephonic hearing or -- and/or conference and we'll work that out. Because \(I\) want to, to the extent humanly possible, minimize a fight over something that can be obviated by professional counsel getting together and working this out to the extent possible. And if there's anything left over, it's left over.
MR. LEWIN: Okay.
MR. GOODKIN: I actually don't think it will be a real problem at all.
MR. LEWIN: I don't think so either, but I -- because it's still lurking out there. That's fine with me. So what you just suggested is great for us.
THE ARBITRATOR: Okay. So it sounds like it's agreeable to both sides.
Is there anything else that we should do before having --
MR. LEWIN: No, that's --
THE ARBITRATOR: -- Mr. Bidsal testify as part of his case in chief? Let's do that.
MR. GOODKIN: May I proceed?
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THE ARBITRATOR: Direct.
MR. GOODKIN: May I proceed?
THE ARBITRATOR: Please.
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## DIRECT EXAMINATION

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BY MR. GOODKIN:
Q Good afternoon, Mr. Bidsal.
MR. GOODKIN: And -- and just for the record, you guys, I'm going to continue using the word "Ben".
Rod, we're going to use the word Ben when referring to Mr. Golshani.
MR. LEWIN: That's fine. BY MR. GOODKIN:
Q Mr. Bidsal, what do you do for a living?
A Property investment and management.
Q And when did you start doing that?
A As a full-time business, November of '96, but prior to that, \(I\) did a few other real estate things.
Q And tell us about the infrastructure you've set up for your ability to do real estate deals.
A I have a full accounting department, plus the softwares to deal with the rent rolls,
```

1 collect rent from tenants, do their CAM
2 reconciliations, create your own ledgers, do the accounting, send it to the outside CPA, do the taxes, review the taxes, and so forth. That's the accounting side.
I also have the connections with the broker community and with the lender community to -- to market properties for lease or for sale. And also to obtain loans for properties for financing or to financing. And also internally we have relationships with the contractors and subcontractors to -- to repair or do tenant improvements for the spaces so we can lease them. Q Are those things you've been doing since

## 1996 ?

A Yes.
Q Now, tell us a little about your

## educational background.

A Graduated from UCLA, bachelor's of computer science and mathematics, double major. And worked for Lockheed Corporation. Software engineer for a while. And then $I$ went into business for myself. In the computer business, I had several computer companies, starting with the company called Demo Pro, computer interface
product, real estate business products,
Edison Technology --
THE COURT REPORTER: I'm sorry?
THE ARBITRATOR: There's two things that
I would ask you, especially since you've moved across the table. It's a greater distance from our court reporter and the Arbitrator. If you could speak -- especially as we get deeper into the afternoon -- more loudly and -- and slowly. THE WITNESS: Sure. MR. GOODKIN: And I think it's better if we just change our seats. So -THE ARBITRATOR: That's fine. That's fine.

MR. GOODKIN: -- why don't you scoot over there and I'll -- I'll switch with you. THE ARBITRATOR: I think our court reporter will get it better if that's so. Now that you have gone back to the -what we've been using as the traditional witness chair, my request still stands. If you would please slow down a little bit and speak up a little bit more. Okay, Mr. Bidsal? THE WITNESS: Yes, Your Honor. THE ARBITRATOR: Okay. Very well.

BY MR. GOODKIN:
Q Now, you were asked earlier about business ventures you have with Ben.

How many business ventures do you have with Ben?

A We have a Green Valley Commerce, LLC, properties; and we have a Mission Escort, LLC, which has a property in Phoenix, Arizona; and then we have a Country Club, LLC, which owns property in Henderson, Nevada.

Q And those are LLCs that are currently in existence?

A Yes.
Q Now, when did you first meet Ben?
A Well, he's a family member. He's my cousin, so we met at his sister's house, and then subsequently we met at his house and my home.

Q Approximately what year?
A 2009, '10.
Q And who approached who?
A For investment purposes?
Q Yes.
A Ben approached me.
Q And when did Ben first approach you?
A Well, the family gatherings, we were



|  | property from the different auctions at prices Page 352 |
| :---: | :---: |
| 2 | where -- much lower than we could buy from the |
| 3 | open market. These are properties or notes that |
| 4 | are either REOs or notes that are foreclosed by |
| 5 | the special servicer, and they were auctioning |
| 6 | them off. |
| 7 | Q And just for the record, what is REO? |
| 8 | A It's the -- it's a real estate schedule |
| 9 | that is usually owned by a lender at the time. |
| 10 | Q Real estate owned it? |
| 11 | A Yeah. |
| 12 | Q Okay. Now, you guys identified the |
| 13 | property we were talking about today. |
| 14 | Who -- who identified that property |
| 15 | initially? |
| 16 | A Okay. So basically, I'm registered with |
| 17 | all these different platforms, so I looked through |
| 18 | the available auctions. The auctions are made |
| 19 | every month, every two months, as -- as they come |
| 20 | up. And based on our discussions to find out |
| 21 | what's -- we both liked, we would bid. |
| 22 | Q Bid? |
| 23 | A B-I-D, bid. We participate in the |
| 24 | auction. |
| 25 | Q We're in Vegas, you know. |


by itself. It could be adversarial or it could be in a friendly manner.

2 Now, you weren't able to fully explain when you were in cross-examination about the two deposits.

## Tell us what you meant by the two

 deposits.A So basically the procedure -- each platform has a different procedure. The procedure for auction.com is that you come up with a so-called -- either a credit card -- they have three methods of doing it. One is called indemnity agreement, one is called credit card, or you actually send them money.

And it's a small amount. It's 10-or 25 - or 50,000 to be able to participate in the auction. And if you are the winner and you don't exercise your right to buy it, then that becomes -- that's a foreclosable amount. In other words, they take your money, 10,000 or 20,000 .

So I bought a lot of properties, and every time, before 2011, dealing with Ben or even after, they performed. And so that's one component.

And you also need to have a registered

1 Page 355
1 company with them. LLC, it's all this paperwork.
2 And also you need to have a proof of funds. And you need to fill out their forms. You basically need to be a part of that platform to be able to bid at the auction.

So I was bidding and purchased a few properties prior to buying Green Valley Commerce. And for that property, I was qualified to bid, so I did bid.

Now, I don't recall whether Ben put the so-called deposit money or myself. I'm assuming he did. And then once you are the winner -- but you have to always be prequalified to bid. In other words, if you are bidding 4 million, you need to be qualified to bid 4 million. And even -- the company was qualified.

You bid, and if you win, there are two procedures if it's a note versus property. Notes are usually a short, 10-day window of closing, because there's no due diligence. If it's a property, they give you 30 days to close. This was a note purchase, so we had to close quickly.

Q Okay. So let's --
A And once you -- once you -- once they approve you, you need to wire the money for the


|  | And this was a short version, a 10-day version or Page 357 |
| :---: | :---: |
| 2 | so. So I had to go and immediately form an |
| 3 | article of organization and send it to the |
| 4 | auction.com to show that them we are taking title |
| 5 | or the vesting under this name. |
| 6 | Q Now, did you ultimately submit a |
| 7 | document with the Secretary of State showing Ben |
| 8 | to be a member? |
| 9 | A Absolutely. So what happens is, the |
| 10 | procedure in Nevada, once you form the article, |
| 11 | there is a -- the agency who has formed it for you |
| 12 | sends you something called the Initial Members |
| 13 | List of Managers/Members. So they usually send |
| 14 | that a few days later. And once they send that, |
| 15 | then I fill it out and I -- and I send it to them. |
| 16 | Q So as you sit here now, there is a |
| 17 | document with the Secretary of State identifying |
| 18 | Ben as an owner of the property? |
| 19 | A As one of the members/managers of the |
| 20 | company. |
| 21 | Q Okay. Now, after you bought the note, |
| 22 | did you ultimately subdivide the property? |
| 23 | A No. After we bought the note, we |
| 24 | engaged the borrower to see if we can convert that |
| 25 | into a property. |



| 1 | Q Now, what was your experience with what 359 |
| :---: | :---: |
| 2 | Ben was doing at this time with his own work? Was |
| 3 | he in textiles? |
| 4 | A Yes. |
| 5 | Q Tell us what that means. |
| 6 | A From what I understand, he owns a |
| 7 | company called Novatex at that time, which imports |
| 8 | linen products, fabrics. |
| 9 | 2 And in connection with this venture you |
| 10 | were working with him, what involvement did he |
| 11 | have with talking to the borrower to obtain a deed |
| 12 | in lieu? |
| 13 | A He did not talk -- I don't think he did |
| 14 | talk to the borrower. He might have, but |
| 15 | I don't -- |
| 16 | Q So tell us what you did. |
| 17 | A I found the deed through auction.com. I |
| 18 | introduced it to Ben. He was okay with it. I -- |
|  | I bid on the deal, of course. Ben was present |
| 20 | when we were bidding; and got lucky, we won. And |
| 21 | then we started the -- the purchase procedure of |
| 22 | the note, which involves getting an Article of |
| 23 | Organization, signing a purchase and sale for the |
| 24 | purchase of note, wiring the initial deposit, and |
| 25 | getting busy and understanding the deed or |


|  | absorbing the deed. $\quad$ Page 360 |
| :---: | :---: |
| 2 | And once we actually owned it, then we |
| 3 | start engaging the borrower. |
| 4 | Q And you sent this CMBS loan letter to |
| 5 | him? |
| 6 | A We sent the loan. And at that time, |
| 7 | David LeGrand was hired to be the attorney to deal |
| 8 | with the deed in lieu process. |
| 9 | Q Okay. And did you engage Mr. LeGrand to |
| 10 | be the attorney for that? |
| 11 | A So what happened is, before we even |
| 12 | start bidding on the Green Valley Commerce, I have |
| 13 | a long-term broker in Vegas called Jeff Chain. |
| 14 | Q $\mathrm{C}-\mathrm{H}-\mathrm{A}-\mathrm{I}-\mathrm{N}$ ? |
| 15 | A $\mathrm{C}-\mathrm{H}-\mathrm{A}-\mathrm{I}-\mathrm{N} . \mathrm{I}$ introduced Ben and -- to |
| 16 | Jeff in Jeff's office. So he knows that -- who |
| 17 | the broker is. And also Jeff was finding us |
| 18 | deals, too, and helping us in due diligence, |
| 19 | providing broker's opinion of value, part of |
| 20 | underlying analysis of the deal. |
| 21 | And he also is the one that when we met |
| 22 | in his office -- this is prior to any of these |
| 23 | purchases. He introduced us to -- we asked him, |
| 24 | do you have an attorney for us? And he says, yes, |
| 25 | I have a transactional attorney called David |

1 Page 361
1 LeGrand. So he provided David LeGrand's, you know, business card information and he put him on the line saying that here, here is an attorney for you guys that you can use.

Q And who was on the line with you?
A It was Jeff, Ben was there, I was there, and I think David was on the line. I mean, he just called David to introduce him.

## Q Now, let's open up the book to

## Exhibit 302 .

THE ARBITRATOR: The Arbitrator just wants to push the pause button for a second. MR. GOODKIN: Sure.

THE ARBITRATOR: Based on the testimony, it appears to the Arbitrator that the testimony of Mr. LeGrand was, was that first contact occurred on or about a document of June 27, 2011. We now have Exhibit No. 1, which are the articles of the LLC, where in the upper-right corner it appears that they were filed on 5/26/2011. It now appears, that based on what Mr . Bidsal just testified, that before the filing of the articles, he, Mr. Golshani, and Mr. LeGrand were on the phone having been introduced by Mr. Chain. That's what it appears in terms of connecting the dots.

| 1 | So we're -- we're now back at least a month. Page 362 |
| :---: | :---: |
| 2 | MR. GOODKIN: And can -- |
| 3 | THE ARBITRATOR: That's what it appears |
| 4 | to the Arbitrator at this time. I'm releasing the |
| 5 | pause button. |
| 6 | BY MR. GOODKIN: |
| 7 | Q Yeah, let's clarify what the Arbitrator |
| 8 | just said. |
| 9 | Is that chronology right? |
| 10 | Yes, it's prior to that, at least a |
| 11 | month or more, but it was prior to getting |
| 12 | involved in GVC. |
| 13 | Q So if you look at Exhibit $2, ~ d o e s ~ t h a t ~$ |



| 1 | Q And did that happen before you finally Page 364 |
| :---: | :---: |
| 2 | signed the operating agreement with Ben? |
| 3 | A That -- yes, that happened before. |
| 4 | 9 Now let's talk about what happened next |
| 5 | after you obtained title of the property. |
| 6 | What did you do next? |
| 7 | A Okay. Just very briefly, through that |
| 8 | negotiations we got a great deal of cash money |
| 9 | and -- and the -- I negotiated -- |
| 10 | $Q \quad$ Oh, yeah. |
| 11 | A -- that they pay us -- in order not to |
| 12 | deal with the unfriendly approach to foreclosure, |
| 13 | they have to give us all of the back rents they |
| 14 | collected plus other fees. And we collected a |
| 15 | good sum of money for the company, for the LLC, |
| 16 | through my negotiations. |
| 17 | Q So are you saying, then, that you were |
| 18 | able to negotiate not only getting title of the |
| 19 | property, but some money paid by the borrower to |
| 20 | the company as the lender? |
| 21 | A Correct. |
| 22 | Q Can you estimate approximately how much? |
| 23 | A I have to estimate. I do not remember. |
| 24 | Between 70,000 to maybe 150, 200. |
| 25 | $Q$ And what did you do with that money when |

## 1 you received it?

A Went to the pot in the LLC.
Q Now, after you got title of the property, what did you do next?

A Well, we worked with brokers, which the primary one was Jeff Chain, and to sell and lease the Green Valley Commerce. So we were able to lease a few of the units that were empty. We were able to also renew and save the rest of the tenants. Because as you go to a foreclosure proceeding, a lot of tenants either don't pay rent or they -- they are ignored by the borrower because the borrower is no longer there; it's a lender. And there's chaos. People do not pay much attention to the -- to the property.

So we cleaned house. We renewed leases. We leased some more. And we start selling -tried to sell the whole thing. We would not get a good price, because at that time, when you sell the whole property -- especially you're talking 2012, which the market was very low -- you wouldn't -- two reasons: Market conditions, and the other reason is the property was, like, almost half full.

So the investors would dent the price a

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    1 lot under that scenario. So I suggested to
    2 Mr. Golshani that the better and the best use of
    3 maximizing the return on investment is to
    4 subdivide this business part into each separate
    5 buildings. And there were eight buildings.
```

``` Mr. Golshani that the better and the best use of maximizing the return on investment is to subdivide this business part into each separate buildings. And there were eight buildings.
And then I started the process of subdividing it by obtaining surveys, by doing a reserve study, but creating the homeowner -- or in this case, business owner association, which I created a separate association for it. We did a service study work, we did a survey work, and through the help of the surveyor, passed it through the City to automatically subdivide it into eight buildings.
Q Well, let's turn now to Exhibit 334. Now, do you recognize what Exhibit 334
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## is?

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A Yes.
Q What is Exhibit 334?
A It's basically an e-mail from Jeff Chain. Once the buildings were subdivided, we talked of selling the buildings that are full with the reserve in tenancy. The tenant is there and it's a good tenant and it stays there for some lease term, and try to sell it to capitalize on --
```

|  | on the investment. $\quad$ Page 367 |
| :---: | :---: |
| 2 | Q Were there also some properties that |
| 3 | were empty that were more valuable empty than they |
| 4 | would be if they had tenants? |
| 5 | A There are two ways of looking at it. If |
| 6 | it's an owner/user/buyer, it has value to the |
| 7 | user. F it's a full, then it's based on a |
| 8 | capitalization rate. We call it the cap rate. |
| 9 | Q Now, how much did you buy the property |
| 10 | for if you take the eight buildings on a |
| 11 | price-per-square-foot basis? |
| 12 | A Around \$50 a foot. |
| 13 | Q Now, if you turn to Bates page 623, |
| 14 | that's an aerial view -- |
| 15 | MR. LEWIN: What -- what page are you |
| 16 | on? What page are you talking about? |
| 17 | MR. GOODKIN: I'm on Exhibit 334. |
| 18 | MR. LEWIN: Okay. |
| 19 | MR. GOODKIN: Bates page 623. |
| 20 | MR. LEWIN: Okay. |
| 21 | MR. GOODKIN: Are you there? |
| 22 | MR. LEWIN: Yep. |
| 23 | BY MR. GOODKIN: |
| 24 | Q Okay. All right. So is this an aerial |
| 25 | view of the eight buildings? |



|  | amount to sell things for? $\quad$ Page 369 |
| :---: | :---: |
| 2 | A No, but I consulted with him. |
| 3 | Q Okay. And ultimately what did you sell? |
| 4 | A We sold -- out of the eight buildings, |
| 5 | we sold three of them: Building B, C, and E. |
| 6 | Q Now, in terms of how much money you |
| 7 | received, are you able to estimate -- you said you |
| 8 | bought it for \$50 a square foot. |
| 9 | How much did you collectively sell these |
| 10 | things for? |
| 11 | A Well, this building is sold around \$121 |
| 12 | a foot, almost 240 percent return. This was a |
| 13 | full building. |
| 14 | The other two buildings, it was vacant, |
| 15 | and we sold them, again, in the neighborhood of |
| 16 | about \$100, almost doubling the money. |
| 17 | $Q$ And when the money came in, how did you |
| 18 | account for it between you and Ben? |
| 19 | A One of the buildings, I think we did an |
| 20 | exchange. If I -- I have to check the record. We |
| 21 | did a 1031 exchange. I have to revisit the |
| 22 | document. But the other buildings we basically |
| 23 | used a procedure to pay back the capital and the |
| 24 | profit to the partners. |
| 25 | Q And so when you did, in fact, return |



THE WITNESS: Sure.
THE ARBITRATOR: Are you saying,
Mr. Bidsal, that the return of capital was treated in that way on the books and records of the -what I'm thinking of as GVC?

THE WITNESS: Yes. The way it works, Your Honor, the capital is booked based on the operating agreement, which is a million 2 and change and 2 million 8 and change, roughly almost 4 million in our books, the company's ledger.

And originally there was two parcels, which we broke those two APNs and converted them into nine APNs, eight buildings and one general parking lot, the parking lot serving all eight buildings. Okay. That has the least amount of value because it's a parking lot. The real value goes to the buildings.

Accounting-wise, each building is also broken again, one more time, into two components. One, improvements, and one, the land under that particular APN. So now we are dealing with 17 valuations; 16 for eight buildings -- buildings and land -- and one general parking lot.

When we sell a building, we are not selling the parking lot. The parking lot is in
1 the control of $H O A$, homeowner's association for
2 the park. We are selling the improvements and the
3 land under it per building. So if you sold three
4 buildings, we sold six components of that, three
5 lands, three buildings; essentially, three properties. Okay?
THE ARBITRATOR: Am I still waiting to hear about how -- how the --
THE WITNESS: This was -- Your Honor,
this was required --
THE ARBITRATOR: -- the return to
capital is going to to be treated?
THE WITNESS: Yes, Your Honor.
THE ARBITRATOR: Okay.
THE WITNESS: This was required to get
to that. I'm sorry, but --
THE ARBITRATOR: That's all right.
Backstory is fine.
THE WITNESS: Backstory to get to that. So the accountant, the outside CPA, takes the total capital, and based on the square footage of each building, which is different, he assigns each APN a value. So let's say building E, $\$ 500,000$ for land, $\$ 300,000$ for building. Okay? So that initial is now broken up into all

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1 these components.
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When we sell a building, we return to
the partners, based on the \(30 / 70\) ratio, the capital portion of that sale proceed. The remaining is profit, the remaining profit is returned 50/50.
So let's say we sell building E, as an example, and we sold it for a million dollars. Let's say the base cost for that building is 500,000. We return that \(500,000,30 / 70\), two checks; one to me, one to Ben. Then we take the \(\$ 500,000\) profit remaining, we also cut two more checks, 50/50; we return that, too.
THE ARBITRATOR: I think \(I\) understand. Let's go back to your examination. MR. GOODKIN: Thank you. BY MR. GOODKIN:
Q Now, when you sold these properties, did you do it with the approval of Ben?
A Of course.
Q And why did you go to the open market as opposed to selling directly to Ben?
A We wouldn't be -- the idea or discussions we had with Ben was to maximize the profit to put in the open market.
```

| 1 | Q Now, let's talk about the creation of |
| :---: | :---: |
| 2 | the operating agreement that we were talking about |
| 3 | earlier. |
| 4 | A Okay. |
| 5 | Q Let's go to Exhibit 303. |
| 6 | There was discussion about an operating |
| 7 | agreement being sent to a Mr. LeGrand from you. |
| 8 | Tell us the circumstances which led to that being |
| 9 | sent. |
| 10 | A I asked Jeff Chain to give us -- to give |
| 11 | me and Ben a so-called draft or -- I call it a |
| 12 | draft operating agreement, a sample, a template |
| 13 | operating agreement. And Jeff e-mailed me a -- |
| 14 | one operating agreement that he calls it GC, LLC. |
| 15 | And this LLC is basically -- is a form LLC. It's |
| 16 | just -- it has all the captions and language, but |
| 17 | it doesn't have the date or anything, the |
| 18 | information about the parties. |
| 19 | So that was provided by Jeff Chain, and |
| 20 | that was forwarded -- we call it the long version, |
| 21 | investment LLC, to -- to Ben. I got it from Jeff |
| 22 | and then I forwarded it same day, ten minutes |
| 23 | later, to Ben. |
| 24 | Q So just so the record is clear, this is |
| 25 | not an LLC agreement that you used previously? |



| 1 | though. Page 376 |
| :---: | :---: |
| 2 | THE ARBITRATOR: You may want to confer |
| 3 | with Mr. Lewin. I did not hear what he said, but |
| 4 | I think his body language -- |
| 5 | MR. SHAPIRO: He said, "I want to |
| 6 | accelerate it." |
| 7 | MR. GOODKIN: He doesn't mind. |
| 8 | THE ARBITRATOR: And Mr. Shapiro, I |
| 9 | think, has also given an indication. Go ahead. |
| 10 | BY MR. GOODKIN: |
| 11 | Q All right. So, Mr. Bidsal, you |
| 12 | testified that you received Exhibit 316. |
| 13 | Do you remember that? |
| 14 | A Yes. |
| 15 | Q And if you look at the first paragraph |
| 16 | of Exhibit 316 , the second page where it says |
| 17 | "Rough draft," Section 7, it specifically says "is |
| 18 | willing to sell." |
| 19 | Do you see that in the first line? |
| 20 | A Page 2? |
| 21 | Q Yeah. |
| 22 | A Yes. |
| 23 | MR. GOODKIN: No, the -- page 2 of the |
| 24 | exhibit, page 1 of the document. |
| 25 | THE ARBITRATOR: Okay. Got it. |



| 1 | system. Page 378 |
| :---: | :---: |
| 2 | MR. LEWIN: All right. |
| 3 | MR. GOODKIN: I want this to be as |
| 4 | efficient as possible. The last exhibit we were |
| 5 | using, Exhibit 316, is the same as Exhibit 20, for |
| 6 | the record. And Exhibit 319 is the same as |
| 7 | Exhibit 22. |
| 8 | BY MR. GOODKIN: |
| 9 | Q Now, referring to Exhibit 22/319, the |
| 10 | exact same paragraphs that we're talking about |
| 11 | before with respect to the -- the rough draft, now |
| 12 | we're going to talk about rough draft two. |
| 13 | And in that first line where we said |
| 14 | "willing to sell," it now says "is willing to |
| 15 | purchase." |
| 16 | Do you see that? |
| 17 | A Yes. |
| 18 | Q Now, going down to the next paragraph, |
| 19 | do you see where it says "Who offers to purchase"? |
| 20 | A Yes. |
| 21 | Q And if you go to the first page of |
| 22 | Exhibit 319 or Exhibit 22, there's an e-mail that |
| 23 | says, "Shawn, here is the agreement we discussed." |
| 24 | Do you see that? |
| 25 | A Yes. |




|  | toward the end of the year, we were dealing with ${ }^{\text {Page } 381}$ |
| :---: | :---: |
| 2 | this plus a hard copy version of the latest |
| 3 | operating agreement. |
| 4 | Q And how did you have a conversation with |
| 5 | Ben about the hard copy version of the buy/sell? |
| 6 | A Of the buy/sell or the -- |
| 7 | Q The buy/sell. |
| 8 | How did you bring it up? Would you |
| 9 | discuss it by way of what is -- how did you |
| 10 | discuss it? |
| 11 | A We discussed it, about different rights |
| 12 | of the parties under different scenarios, the |
| 13 | so-called -- we called it what if this happens, |
| 14 | what if that happens, how would you -- how would |
| 15 | you approach it. |
| 16 | 2 And what do you remember discussing with |
| 17 | Ben about the what-ifs? |
| 18 | A So basically he wanted to have |
| 19 | protections for the other side and have a scenario |
| 20 | of, you know, fairness, equity and fairness, so |
| 21 | nobody loses out to the other one, so both people |
| 22 | are kind of protected. |
| 23 | So basically, one tries to buy under |
| 24 | this thing. So he makes an offer to buy. We call |
| 25 | it purchase. So when a person makes an offer to |

1 purchase, he has a number in mind, whatever
2 he's -- he's thinking, his estimate of value is,

The other side looks at it. If he's willing to sell at that number, we are done. That's the end of the story. There's no problem.

He basically says, okay, you know what, I'm good with it. I'm going to sell it to you at this price.

If he's not -- if he's not happy with that number and he wants to get more money or make a counteroffer, then he would go -- he would go to an appraisal process. And initially we talked about having three appraisers, MIA appraisers, qualified appraisers; and one I select, one he selects, and then there's a third person selected.

Everybody gives -- two appraisers come in first, goes to the third one, and -- and he makes the final value, and then both parties buy at that value. That was too cumbersome; that's an overkill. As Ben puts it correctly, it's an overkill.

So we said, okay, why don't we go with

1 Page 383
1 two appraisers, one you choose, one I choose. And we got two numbers, we just basically -- rather than a third one, we take the medium of those two numbers. They shouldn't be that far apart. I mean, appraisals are appraisals. And we take the medium, that becomes the appraised value, and that becomes the FMV that the other party can look at.

Okay. So we massaged the language in our conversations, and that was -- there were meetings about that. So going back to where I started, if somebody wants to buy it, he makes an offer, the other side wants to sell at that number, we are done, it's over.

If the other side says, no, I'm going to make a counteroffer to you, I disagree with you, then we go to an appraisal process to determine the FMV, the fair market value, by appraisal. And that was the procedure put in to have two appraisers to create a happy medium and go to that number. So that way parties are protected.

There was no scenario where one person gives an offer to purchase at a number and the other side says, you know what, I'm twisting it around, and I'm going to make a counteroffer at that number, and I'm going to buy that from you,

```
    1 that same number. That was not agreed on. That
```

``` was not discussed. There were safeguards put in. The safeguards, or so-called protections, was going to an appraisal.
Q Now, there is e-mail that was shown to you, Exhibit 41.
A Yes.
MR. LEWIN: It should be at the -- I
think I put it at the end of the witness book.
THE WITNESS: Thank you.
MR. LEWIN: It's not tabbed. I'm not as efficient as Mr. Shapiro. We can't afford tabs.
THE WITNESS: Yes.
MR. SHAPIRO: You're being friendlier to the environment.
MR. LEWIN: That's right.
BY MR. GOODKIN:
Q Do you remember ever telling Mr. LeGrand that you personally were doing revisions as opposed to the collective both of you doing the revisions?
A I never told him I'm doing the revisions, no.
\(Q\) And when you said the operating agreements are finished, was that saying to him
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1 that you did personally any changes to the
2 agreement?
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``` agreement?
A I did not make any changes to the operating agreement.
Q And tell us how you came to finalize the agreement with Ben.
A There were discussions when Mr. Lewin asked me that -- or actually, I think Ben testified that they used my computer to come up to the final signed draft. That is not the case. Mr. Ben brought in hard copies with him when we met. We would go over it, we would discuss it, we would comment back and forth, and he would take it back, come back a few days or a few weeks later, we would look at it another round, up to the point where it got -- we both were happy with it and it got signed in my office.
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## Q Okay.

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A Okay. So I did not -- it was not a download from a computer. It was brought in by Mr. Golshani.
Q Okay. Now, let's turn to Exhibit 343.
THE ARBITRATOR: Is it a correct
understanding of what you just testified that your computer never generated a draft or the signed
```



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    1 downloading it so you can actually save changes to
```

``` a document in your computer --
THE WITNESS: Yes, you can. You can --
THE ARBITRATOR: -- as a different
document?
THE WITNESS: You can -- you can
download the attachment and save it into your files.
THE ARBITRATOR: Did you ever save an
attachment to -- in your computer?
THE WITNESS: I open it up, and when it opens it up and saves it, yes.
THE ARBITRATOR: Did you ever make any modifications in your computer of any attachment? THE WITNESS: No.
THE ARBITRATOR: All right. That's the clarification. Thank you.
THE WITNESS: Which page?
MR. GOODKIN: We finally got there.
BY MR. GOODKIN:
Q Let's go to 343.
MR. LEWIN: Your Honor, I have an objection to this line of evidence, talking about a different agreement that's two years after the -- after this is signed. I don't see the
```

|  | relevance. This operating agreement never -- wase 388 |
| :---: | :---: |
| 2 | never changed. |
| 3 | THE ARBITRATOR: I'm permitting this to |
| 4 | go. Overruled if it's an objection on relevance. |
| 5 | Please proceed. |
| 6 | BY MR. GOODKIN: |
| 7 | Q Do you recognize this as an e-mail you |
| 8 | received from David LeGrand on June 19, 2013? |
| 9 | A Yes. |
| 10 | Q And it's referring to a operating |
| 11 | agreement for a Mission Square. |
| 12 | Do you see that? |
| 13 | A Yes. |
| 14 | Q Just for background purposes, what is |
| 15 | Mission Square? |
| 16 | A It's another LLC that I jointly own with |
| 17 | Ben. |
| 18 | Q And was the LLC agreement created after |
| 19 | the LLC agreement was created for Green Valley? |
| 20 | A Yes. |
| 21 | Q And I want to direct your attention to |
| 22 | some language in this e-mail where it says, "Ben |
| 23 | and Shawn, attached please find a new OPAG for |
| 24 | Mission Square. Apparently there was a little |
| 25 | confusion about which GVC OPAG I was to use as a |

base document. The revised version is based on the GVC OPAG that has Ben's language on buy/sell." Do you see that?

A Yes.
Q What did you understand was being put in this agreement when it says "Ben's language on buy/sell"?

A It's the language that Ben, over the course of several drafts, perfected. Ben was basically in charge of these changes. He was spearheading these corrections and these revisions. So David is referring to -- Ben's language is referring to what Ben was doing with the revisions of the Section 4.2.
$Q$ Did you ever receive any sort of e-mail objection from Ben to this being called "Ben's language on buy/sell"?

A $\quad$ No.
Q Now, when you sold properties that were part of the Green Valley group of properties, what formula, if any, did you use that was in the operating agreement to figure out how much to allocate between the two of you?

A That was Exhibit B, which is the last page of the operating agreement.

| 1 | $Q \quad$ Now, we talked a little bit about your ${ }^{\text {Page }} 390$ |
| :---: | :---: |
| 2 | offer to purchase a 5 million. |
| 3 | Now, that's not the final amount for the |
| 4 | remaining member's share, is it? |
| 5 | A No, that's the company value. |
| 6 | Q Okay. And so if that was to be accepted |
| 7 | by Ben to actually sell it to you at 5 million, |
| 8 | how would the formula work? |
| 9 | A You basically return the capital, and - |
| 10 | based on what they put in. And again, when you |
| 11 | return the capital, you return the remaining |
| 12 | capital. And the -- the balance that is left |
| 13 | over, you divide up 50/50. |
| 14 | Q Now, why did you initiate the process to |
| 15 | buy the property? |
| 16 | A Basically, I wanted to, you know, finish |
| 17 | this deal and move on to the next one. We are - |
| 18 | I didn't want to manage this property any longer. |
| 19 | Q And just so it's clear for the record, |
|  | why did you use the \$5 million number? |
| 21 | A I look at the -- I briefly looked at the |
| 22 | financials of the property. I just made a -- an |
| 23 | estimate of what I think was a fair value and came |
| 24 | up with that. |
| 25 | Q And then there was a response to the |

1 letter, and then there was another response to the
2 letter -- and we don't need to go to those because we all know what they say.
The question is, why did you say to Ben that he needed to initiate the appraisal process or that you were exercising a right to initiate the appraisal process?
A Because he made a counteroffer. And according to the operating agreement, Section 4.2, you make a counteroffer, you need to go to the FMV, and FMV is defined based on two appraisals.

Q Now, I want to make sure it's clear.
You had previously shared all this
information that you looked at that you had from past history with Ben about efforts to try and sell the property and what they were worth; right?

A Yes.
Q And let's talk about this meeting at the coffee shop.

When did the meeting at the coffee shop happen?

A It happened sometime in -- I think July or August. Actually, I think it was probably in August. It was after Ben obtained the -- the appraisal, the one that he ordered.


|  | condition of the property, yet when you asked for $\begin{gathered}\text { Page } 393\end{gathered}$ |
| :---: | :---: |
| 2 | a copy of the appraisal, what did Ben say to you? |
| 3 | A He didn't provide it. |
| 4 | Q Did he say anything to you? |
| 5 | A No. I mean, we talked about it, and I |
| 6 | asked for it, give me a copy of it, and he never |
| 7 | did. |
| 8 | MR. GOODKIN: Okay. Your Honor, can we |
| 9 | take a short break? |
| 10 | THE ARBITRATOR: Sure. Can you give me |
| 11 | the reason for the break? |
| 12 | MR. GOODKIN: I'm almost done, and so I |
| 13 | wanted to make sure with counsel that -- |
| 14 | THE ARBITRATOR: Should we stay in |
| 15 | place? |
| 16 | MR. GOODKIN: Yeah. I need two seconds. |
| 17 | THE ARBITRATOR: All right. Two |
| 18 | minutes, staying in place. Off the record. |
| 19 | MR. LEWIN: Well, I'm going to want to |
| 20 | take a five-minute break, so -- |
| 21 | THE ARBITRATOR: Let's conclude -- |
| 22 | MR. LEWIN: Okay. |
| 23 | THE ARBITRATOR: -- the direct -- |
| 24 | MR. LEWIN: Then I'll just wait here. |
| 25 | THE ARBITRATOR: -- and then take -- if |


|  | that's not asking too much. Page 394 |
| :---: | :---: |
| 2 | MR. LEWIN: No, I'm good. |
| 3 | THE ARBITRATOR: This is not a test. |
| 4 | Off the record. |
| 5 | (Whereupon, a recess was taken.) |
| 6 | THE ARBITRATOR: Back on the record. |
| 7 | MR. GOODKIN: Your Honor, I have no |
| 8 | further questions. |
| 9 | THE ARBITRATOR: Thank you. We'll now |
| 10 | take a 5-minute -- what is otherwise known as the |
| 11 | Haberfeld five. See you back in ten. |
| 12 | (Whereupon, a recess was taken.) |
| 13 | THE ARBITRATOR: All right. Back on the |
| 14 | record. |
| 15 |  |
| 16 | RECROSS-EXAMINATION |
| 17 | BY MR. LEWIN: |
| 18 | Q Okay. Good afternoon, Mr. Bidsal. |
| 19 | First of all, I want to congratulate you |
| 20 | on the great job you did on subdividing the |
| 21 | properties. |
| 22 | But would you say in terms of |
| 23 | sophistication, the -- between you and |
| 24 | Mr. Golshani, that you're much more sophisticated |
| 25 | when it comes to real estate matters? |


| 1 | A $\quad$ I don't know his limit of |
| :--- | :---: | :---: |
| 2 | sophistication. He has a lot of properties, too. |
| $\mathbf{3}$ | Q But you heard him say that one of the |
| $\mathbf{4}$ | reasons that he invested with you is because he |
| $\mathbf{5}$ | relied on your expertise and your experience and |
| $\mathbf{6}$ | your knowledge. You heard him say that; right? |
| 7 | A Yes, but also a good portion of it is my |
| 8 | infrastructure in the company, having the tools |
| 9 | and having the personnel to do the management. |

Q I see. Now, you said that right now you have about -- you only self-manage about 20 percent of your company. You hire outside management companies to manage your other properties?

A Yes, I do.
Q What is a typical management fee?
Wouldn't it be in the range of 5 percent or
6 percent of gross income?
A Correct.
Q Okay. Now, in your dealings with Mr. Golshani, he agreed to give you 20 percent; right?

A How do you calculate that?
Q Well, if it was 50/50 -- let's talk about this in net profits. You know, capital is

1 Page 396
1 one thing; everyone has their capital. But the 2 net profits, instead of being divided 70/30, are being divided 50/50; right?

A Yes.
Q And that 50 percent gives you a 20 -gives you 20 percent more of the net profits than you would -- or be entitled to if you were just basing it on capital; right?

A Correct.
Q And that was -- that 20 percent was to compensate you for your sophistication, your skill, and your infrastructure; isn't it true?

A That's only one component. The management is only one component of what $I$ did for the company.

Q That's right. So you got more than 5 percent. You got an additional 15 percent.

A Yes, but $I$ also leased the vacancies in our -- in-house without charging the 6 percent of the entire gross income of -- of a tenant. So if a tenant signs a five-year lease and he's paying, I don't know, $\$ 5,000$ a month for five years, that's -- that's a $\$ 300,000$ contract; 6 percent of that, that's $\$ 18,000$ which I'm saving the LLC. That's just one tenant. And I brought multiple


|  | on the 50 percent -- or 50 percent share of the |
| :---: | :---: |
| 2 | profit since you bought Green Valley? |
| 3 | A I don't have the numbers in front of me, |
| 4 | but -- |
| 5 | Q Yes, sir. It's approximately |
| 6 | \$1.2 million; it that correct? |
| 7 | A I don't have the numbers in front of me. |
| 8 | Q Does that sound like the right number? |
| 9 | A Honestly, I don't want to say something |
| 10 | that I don't have it in front of me. |
| 11 | Q You don't have any idea? |
| 12 | A We did good. We made a lot of money, |
| 13 | yes. |
| 14 | Q You don't have any idea? |
| 15 | A Dollar-wise, no, I don't have it. |
| 16 | Q Is it more than -- would you say it's |
| 17 | more than a million dollars, without having to |
| 18 | look at your records? |
| 19 | A For the Green Valley Commerce? |
| 20 | $Q \quad$ Yes. |
| 21 | A Might be, yes. |
| 22 | Q Okay. That's a fair estimate; right? |
| 23 | A Yes. |
| 24 | Q Okay. And -- and so -- and 20 -- and an |
| 25 | additional 20 -- so you would -- that's based on |

1 the 50/50 split; right?

A Yes.
Q Okay. Now, you talked about the two deposits, and you said that you can use a credit card, but they don't really take the money out unless you default; correct?

A Correct.
Q But they do block -- it's like when you -- when I go to check into a hotel, they'll take a, you know, in my case, an extraordinary high amount of the block on the credit card because they don't trust me. But they do block an amount, they do block an amount on the credit card; right?

A For a couple of days, yes.
Q Yeah. And you said -- and you said that it's basically somewhere between 10- and \$50,000; correct?

A The amount of the credit card is somewhere between 10 - to 50,000 for a few days, yes.

Q All right. And that credit card is at risk in the event that no one followed through; right?

A Yes.


1 You said that Mr. LeGrand -- pardon me, Mr. Chain
2 sent you an e-mail on Exhibit 302 where he gave you Mr. LeGrand's contact information.

Do you see that? And that's --
A Yes.
Q And he gave you that -- he sent you that e-mail on June 13, 2011?

A Correct.
Q That was well after your bid to Green Valley had been accepted; right?

A Yes.
Q Well after Mr. Golshani had put up his \$404,000?

A Yes, sir.
Q And after close of the escrow, which took place on June 3rd, 2011?

A Okay.
Q But I note -- so since Mr. -- can you explain why -- well, let me -- let me just say, I thought you had already been introduced to Mr. LeGrand prior to March -- or prior to May 20. Why are you getting this information now?

A We were introduced on the phone in Mr. Chain's office.



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1 ladies with less experience. ladies with less experience.
Q All right. Now, looking at the Exhibit 303, why were you -- why were you getting an operating agreement from Mr. Chain when you had many operating agreements that you were already a party to that you had used in the past?
A The operating agreements that I had are very limited, simple, which we used mostly for California properties. We wanted an operating agreement that is more comprehensive.
Q And instead of asking Mr. LeGrand for
``` a -- to prepare an operating agreement that he customarily used, you wanted him to use -- you forwarded this operating agreement of GC LLC to Mr. LeGrand and told him this was what you wanted him to use?

A We forward --
Q Is that a yes or no, sir?
A Yes, as a template, yes.
Q Did you read this operating agreement before you forwarded it to Mr. LeGrand?

A Just briefly looked at it.
Q Did you ask Mr. Golshani if you should forward this operating agreement to -- to

Mr. LeGrand?


\begin{tabular}{|c|c|}
\hline & last -- on this paragraph which is the full -- Page 407 \\
\hline 2 & last full paragraph on the page where it says, "in \\
\hline 3 & part, the offering member shall be obligated to \\
\hline 4 & sell." \\
\hline 5 & A Are you on -- \\
\hline 6 & Q I'm on page 3. \\
\hline 7 & A Page 3. Okay. \\
\hline 8 & Q Okay. See where the part -- see where \\
\hline 9 & it says -- the paragraph that starts with \\
\hline 10 & "specific intent"? Are you following me? Are you \\
\hline 11 & with me? \\
\hline 12 & A Yes. I got it. I got it. \\
\hline 13 & \(Q \quad\) Okay. If you look at -- if you look at \\
\hline 14 & the third line in that paragraph, it says, "The \\
\hline 15 & offering member shall be obligated." \\
\hline 16 & You understood what those -- you \\
\hline 17 & understood what those words meant; right? \\
\hline 18 & A Yes. \\
\hline 19 & Q Okay. And -- and not to beat a dead \\
\hline 20 & horse, but on the -- but you recognize those words \\
\hline 21 & are in the operating agreement that you signed; \\
\hline 22 & right? Yes or no? \\
\hline 23 & A The words, yes. \\
\hline 24 & Q Okay. Now, when you were meeting with \\
\hline 25 & Mr. Golshani about these rough drafts, rough draft \\
\hline
\end{tabular}
1 one and rough draft two, he was frustrated with
 the process of getting this operating agreement finished; right?
A We both wanted it to get finished.
\(Q\) Didn't he tell you that he felt vulnerable because he had \(\$ 4\) million out there and he didn't have a piece of paper that actually showed that he was an owner? Didn't he say words to that effect to you?
A I don't recall.
Q Well, did you have any questions about --
A He was frustrated and unhappy that it was not done, and I was the same, yes.
Q And didn't he tell you that he was -- he felt vulnerable, words to that effect, because he had \(\$ 4\) million out and didn't have a piece of paper showing he was an owner of Green Valley or Country Club?
A I don't -- I don't recall if he said he was vulnerable, but he had the initial members list that was filed at a later date soon after the -- this had his name, too.
Q That's also not here; right? There's not evidence of that here; right?

\begin{tabular}{|c|c|}
\hline & additional 20 percent, to put all this together; \\
\hline 2 & right? \\
\hline 3 & A Yes. \\
\hline 4 & Q Because you had all of the mechanisms, \\
\hline 5 & you had all the contacts, you had much -- all the \\
\hline 6 & experience, or much more experience; fair enough? \\
\hline 7 & A Okay. \\
\hline 8 & Q Okay. Well, my question is, why didn't \\
\hline 9 & you -- why didn't you write these -- these drafts? \\
\hline 10 & A Ben took the lead on that. He took the \\
\hline 11 & initiative to do it and continued doing it. \\
\hline 12 & Q Okay. Fair. I'll accept that. \\
\hline 13 & Oh, and when you were going over the -- \\
\hline 14 & the drafts of the language and actually the \\
\hline 15 & operating agreement, you carefully read the \\
\hline 16 & formula for the -- for the sale -- the \\
\hline 17 & disbursement on the sale; is that correct? \\
\hline 18 & A The disbursement -- you're referring to \\
\hline 19 & Exhibit B? \\
\hline 20 & Q I'm talking about the formula that is in \\
\hline 21 & Exhibit 29, about how the -- how the price is to \\
\hline 22 & be paid. \\
\hline 23 & A Which page? \\
\hline 24 & Q On page -- you know, in the section that \\
\hline 25 & we've been talking about, Section 4. There was a \\
\hline
\end{tabular}

\begin{tabular}{|c|c|}
\hline 1 & A One or 2 percent of the properties, Page 412 \\
\hline 2 & Q All right. In addition, people in your \\
\hline 3 & position sometimes make those asset management \\
\hline 4 & fees in addition to the property management fees? \\
\hline 5 & A Yes. Basically that's the -- not off \\
\hline 6 & the -- it's actually off the gross number of \\
\hline 7 & the -- the value of the property. \\
\hline 8 & Q Right. And then in addition, some \\
\hline 9 & people in your position get construction \\
\hline 10 & management fees? \\
\hline 11 & A Yes. \\
\hline 12 & Q And what are those typically running \\
\hline 13 & about? \\
\hline 14 & A Construction management is about 5 to \\
\hline 15 & 10 percent of the amount of work you do on a \\
\hline 16 & property. \\
\hline 17 & Q For construction? \\
\hline 18 & A For construction. And if it's for a \\
\hline 19 & tenant improvement, our leases have another \\
\hline 20 & 10 percent built into the leases, in addition to \\
\hline 21 & the 5 percent, which we do collect both numbers. \\
\hline 22 & We actually collect from our leases a \\
\hline 23 & 5 percent and a 10 percent, 10 percent being \\
\hline 24 & related to the actual material we buy or the \\
\hline 25 & expenditures. We collect 10 percent of that. And \\
\hline
\end{tabular}
\begin{tabular}{|c|c|c|}
\hline & then we collect an additional 5 percent management & 413 \\
\hline 2 & fee. Both of them goes into the pot of the LLC. & \\
\hline 3 & 2 And let me make that clear. & \\
\hline 4 & With respect to the 5 percent property & \\
\hline 5 & management fee, that's a fee you actually pass on & \\
\hline 6 & to the tenants; right? & \\
\hline 7 & A Yes. & \\
\hline 8 & Q And that 5 percent is paid by the & \\
\hline 9 & tenants to you? & \\
\hline 10 & A To the LLC. & \\
\hline 11 & Q And, in fact, the LLC got this 5 percent & \\
\hline 12 & to manage the property, but you didn't get that & \\
\hline 13 & 5 percent, did you? & \\
\hline 14 & A Correct. & \\
\hline 15 & Q And, in fact, the 5 percent is something & \\
\hline 16 & you get each year. & \\
\hline 17 & So you've owned this property & \\
\hline 18 & approximately six years. That would be & \\
\hline 19 & 30 percent; right? & \\
\hline 20 & A 30 percent of the collection of the & \\
\hline 21 & rent, correct. & \\
\hline 22 & Q Right. Which is greater than -- 30 is & \\
\hline 23 & greater than 20 percent? & \\
\hline 24 & A I think so. & \\
\hline 25 & Q Yeah. And so in addition to the fact & \\
\hline
\end{tabular}
\begin{tabular}{|c|c|}
\hline & that you didn't get property management fees, yage 414 \\
\hline 2 & didn't get asset management fees, you didn't get \\
\hline 3 & property -- broker commissions, and you didn't get \\
\hline 4 & any sort of construction management fees; is that \\
\hline 5 & right? \\
\hline 6 & A That is correct. \\
\hline 7 & 2 So you're incurring all of these costs \\
\hline 8 & to market the property; right? \\
\hline 9 & A Yes. \\
\hline 10 & Q And you pay them out of your own pocket; \\
\hline 11 & right? \\
\hline 12 & A From our own operation. \\
\hline 13 & Q Your operation being the -- what? \\
\hline 14 & A My company, not -- \\
\hline 15 & Q Right. And you don't charge that to the \\
\hline 16 & amounts that Ben is a part of; right? \\
\hline 17 & A Until very recently -- \\
\hline 18 & Until very recently, 2017, we weren't \\
\hline 19 & charging that. \\
\hline 20 & \(Q\) So all these years, Ben got the benefit \\
\hline 21 & of all of this marketing you did, you actually \\
\hline 22 & came out-of-pocket and never -- and didn't charge \\
\hline 23 & the LLC during all these years; right? \\
\hline 24 & A Correct. And then there's also a \\
\hline 25 & finder's fee for finding the property and go \\
\hline
\end{tabular}
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    1 through the effort of converting from -- from
    2 north of bidding low and so forth.
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Property manager also don't get 20 percent of the gain on the sale of the property, do they? I mean, you sold some of the property; you said you made a lot of money. You took 20 percent extra on the sale of the property; right? Yes or no?
A They do.
Q Okay.
A I'm doing one right now. And I'm on the other side of the equation. I'm giving somebody 15 percent right now who is going to be my property manager/profit share in the entity.

1 was your -- was any part of this part of the buy/sell agreement, whether you charge a property management fee or whether you got an asset fee or whether you got any fees whatsoever? It's not part of the buy/sell agreement; wouldn't you agree?

A Correct.
Q Okay. So is this -- is the reason you're talking about this because you want the judge to feel sorry for yourself?

MR. SHAPIRO: Objection, Your Honor. That's an inappropriate question. It's argumentative.

THE ARBITRATOR: Sustained. BY MR. LEWIN:

Q Okay. And just so -- just to make it clear, you located a property on auction.com, but you and Mr. Golshani went and visited that property and inspected it before you put a bid on it; right?

A Of course. I have to show it to my future partner what we're buying.

Q And actually, you drove from Los Angeles in his car to inspect the properties?

MR. GOODKIN: Your Honor, beyond the
scope of my redirect.
THE ARBITRATOR: What is it tied to on redirect?

MR. LEWIN: He says he's got some kind of finder's fee -- I'll withdraw it.

THE ARBITRATOR: Anything further? Any
other questions?
MR. LEWIN: Nothing further.
THE ARBITRATOR: Anything on redirect?
MR. GOODKIN: No, thank you.
THE ARBITRATOR: Are we now at the point where we may excuse the witness?

MR. LEWIN: We may.
THE ARBITRATOR: Okay. Thank you, sir.
Any other witnesses to be called on

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behalf of --
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MR. GOODKIN: No, Your Honor, we rest.
THE ARBITRATOR: Respondent rests.
Any rebuttal?
MR. LEWIN: No.
THE ARBITRATOR: No rebuttal. Let's go off the record.
(Discussion off the record.)
THE ARBITRATOR: Back on the record.
We've had an off-the-record conversation

1 Page 418
1 about post-evidentiary sessions briefing. We have not set any schedule at this time. The Arbitrator has had colloquy with counsel in the hearing room concerning the Arbitrator's intention after the last papers, which are anticipated to be reply papers concurrently served after opening briefs, including written closing argument initially concurrently served, which will be on dates in the schedule, taking into account the court reporter's estimated time for sending out the hearing transcripts in our matter, which she says will be 10 business days or approximately two weeks from tomorrow, May 10.

So on the basis of that, counsel will meet and confer and e-mail a joint -- preferably a joint report to the Arbitrator and case manager of a proposed schedule for the closing argument and other briefing for the opening briefs, reply briefs. And from that date, the Arbitrator intends to have in mind an intended target date of about 30 to 45 days from the last papers' day to render -- which is different from issuance of a merits order, which will not in any way be an award in our matter.

And then because the parties have

Page 419
1 advised the Arbitrator that there is a prevailing party attorneys' fees clause or provision, one or the other sides in our matter having been determined as a prevailing party in the merits order, which I will style as Merits Order No. 1, typically, as I mentioned off the record, there will be an order directing the counsel to immediately commence and diligently conduct, meet, and confer communications leading to a preferably joint scheduling of an application by the prevailing party for attorney fees and costs supported by substantiating documentation, being a declaration and billing records substantiating the time requested and expenses requested.

And if past is prologue, there probably will be a request for a telephonic hearing after the briefing on that is concluded, at which time you can have discussions as to whether there will be an interim or final award which will include the attorneys' fees award or whether it will be a written order on attorney fees. And then we'll decide what to do about an interim or final award after that.

But I think that conceptually was what we discussed and what is reflective of the
1 Arbitrator's thinking. And going back to the 2 difference between rendering and issuance of decisions, the Arbitrator renders written decisions by order or award typically. That means the transmission from the Arbitrator to JAMS. Issuance means the transmission by JAMS to the parties.
And typically that depends on the payment of fees, which is beyond the Arbitrator's sphere. It's just solely between JAMS and the parties. And that is what seems to be the difference, so that $I$ think that you will see that JAMS prefers -- and the Arbitrator concurs -- that we try to get the dates of rendering and issuance the same.
But for reasons that I've just alluded to, sometimes they're not, and there's a delay in the issuance having to do with not all the fees being in, but that's just between others and JAMS and not me.
Anything that anybody wants to inquire about or comment on or suggest before we end for today?
MR. GOODKIN: The only suggestion I have is that we acknowledge that what you just said

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    1 trumps -- because we're all in agreement on it -- Page 421
    2 the operating agreement, which has a day for the
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trumps -- because we're all in agreement on it -the operating agreement, which has a day for the rendering of the award. And \(I\) just want to make sure everybody is clear that we're not demanding the Arbitrator to render the award in the time frame set forth in the clause.
THE ARBITRATOR: What does the provision say?
MR. GOODKIN: It says the members shall instruct --
THE ARBITRATOR: Maybe you can get me right to it.
MR. GOODKIN: Sure.
THE ARBITRATOR: Is it 29?
MR. GOODKIN: Yeah, 29.
THE ARBITRATOR: 29. And what section says that?
MR. GOODKIN: 14.1, page 8. It says, "The members shall instruct the Arbitrator to render his award within 30 days following the conclusion of the arbitration hearing." And that we're agreeing that we're not instructing you to do that.
THE ARBITRATOR: And can we have a stipulation that that provision does not govern
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|  | anything that we just talked about? That Page 422 |
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| 2 | provision has been waived. |
| 3 | MR. LEWIN: So stipulated. |
| 4 | MR. SHAPIRO: So stipulated. |
| 5 | MR. GOODKIN: So stipulated. |
| 6 | THE ARBITRATOR: Okay. With all having |
| 7 | stipulated, and I very much appreciate that being |
| 8 | expressly brought up and waived. |
| 9 | Anything further before we close our |
| 10 | record for today? |
| 11 | MR. LEWIN: Nothing on our side, |
| 12 | Your Honor. |
| 13 | MR. SHAPIRO: Nothing on our side. |
| 14 | MR. LEWIN: Except thank you. |
| 15 | THE ARBITRATOR: Okay. Thank you for |
| 16 | that. And let's say thank you all. |
| 17 | We're off the record. |
| 18 | (Whereupon, the proceedings |
| 19 | concluded at 2:47 p.m.) |
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                CERTIFICATE OF REPORTER
    STATE OF NEVADA )
ss
County of Clark )

I, Heidi K. Konsten, Certified Court
Reporter, do hereby certify:
That I reported in shorthand (Stenotype)
the proceedings had in the above-entitled matter a the place and date indicated.

That I thereafter transcribed my said shorthand notes into typewriting, and that the typewritten transcript is a complete, true, and accurate transcription of my said shorthand notes.

IN WITNESS WHEREOF, I have set my hand i my office in the County of Clark, State of Nevada, this 25 th day of May, 2018.


Heidi K. Konsten, RPR, NV CCR \#845



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